

## **STANDARDS COMMITTEE**

### **Minutes of a meeting of the Standards Committee held on Thursday, 18 June, 2009 at 6.00 p.m. at Civic Offices, Telford**

**PRESENT:** Councillors R. Aveley, V.A. Fletcher, C.R.P. Mollett, H. Rhodes, K.S. Sahota and A.J. Stanton  
F. Beasland and A. Selvaratnam (Independent Members)  
Councillors D. Edwards, R. Wickson and R. Williams (Parish Council representatives)

#### **ST-1            ELECTION OF CHAIRMAN FOR MEETING**

It was reported that the Chairman was unable to attend the meeting due to work commitments, and it was therefore necessary to elect a Chairman for the meeting. In accordance with the statutory requirements, the Chairman had to be an Independent Member of the Committee. It was moved, seconded and

**RESOLVED** - that Mr A Selvaratnam be elected Chairman for the duration of the meeting.

#### **ST-2            ELECTION OF CHAIRMAN FOR 2009/10**

It was reported that, at the Annual Council Meeting on 21 May, the Committee's recommendation that Mr A Simpson be re-appointed as an Independent Member of the Committee for a further 12 months was approved. Unfortunately, Mr Simpson had had to give his apologies for this meeting, but had indicated that he was willing to continue as Chairman for the ensuing year. In accordance with the statutory requirements, the Chairman had to be an Independent Member of the Committee.

**RESOLVED** - that Mr A Simpson be elected Chairman of the Standards Committee for the 2009/10 Municipal Year.

#### **ST-3            MINUTES**

**RESOLVED** – that the minutes of the meeting of the Standards Committee held on 21 April 2009 be confirmed and signed by the Chairman.

#### **ST-4            APOLOGIES FOR ABSENCE**

Councillor U.E. Sambrook (TWC); B. Bayley and A. Simpson (Independent Members); Councillor P. Picken (Parish Council representative)

#### **ST-5            DECLARATIONS OF INTEREST**

None

## **ST-6                    ANNUAL REPORT OF THE STANDARDS COMMITTEE**

The Group Solicitor: Standards & Regulatory presented a draft version of the annual report of the Standards Committee for 2008/09.

The preparation of the report was in accordance with the work plan agreed by the Committee at the last meeting. It summarised the work undertaken by the Committee over the last 12 months, detailed the outcomes of the Code of Conduct complaints that had been received and dealt with since the new system came into effect on 8 May 2008, and outlined the training that had been provided for Members.

The Monitoring Officer was required to submit an annual return to the Standards Board for England, providing information on the operation of the Standards Committee as well as on the promotion of standards; training and leadership. Some of the questions asked had raised a number of issues not recently considered by the Committee, and views were sought from Members.

In relation to the promotion of standards, the Committee was asked whether it wanted to do more to promote standards to members/officers and to the wider public. In discussion of this point, the general view was that a lot of work took place with Members in terms of training and awareness. However, perhaps the wider public was less aware of the role of the Committee, and it was suggested that a summary of the Annual Report could be published in the Council's Insight magazine.

In terms of leadership, the Committee was asked whether it wished to have meetings with the Leader of the Council and/or the Chief Executive to discuss ethical issues. Members were in favour of this suggestion, but felt that it would be more beneficial if all political Group Leaders were involved in such a meeting. This would allow messages/issues, such as the importance of elected Members attending Code of Conduct training, to be fed back through the Groups. It was suggested that a meeting with the Group Leaders could be held at the start of each Municipal Year, in order to look at the Committee's work programme for the ensuing 12 months.

In respect of the Members' Register of Interests, the Committee were asked to consider whether the Register of Interests forms and the Members' gifts and hospitality book should be available to the public via the Council's website. The Head of Legal Services & Monitoring Officer advised that there could be some information contained on the forms that Members might not wish to see put on the internet, and some form of assessment process might be needed to consider requests for information to be excluded. While appreciating the need for transparency, concerns were expressed by Members regarding data protection and the implications if some information was excluded from publication on the website. On balance, it was felt that the Members' Register of interests and the gifts and hospitality book should not be put on the Council website, but that more information could be provided to the public about the existing arrangements for inspection of the Register.

**RESOLVED –**

- (a) that the draft version of the Annual Report of the Standards Committee be approved, subject to the addition of the comments/actions referred to above and in b) to e) below;
- (b) that the current arrangement for public inspection of the Members Register of Interests be continued, but that the Monitoring Officer consider ways of raising public awareness of the access arrangements;
- (c) that the Members' gifts and hospitality book be made available for public inspection in the same way as the Register of Interests;
- (d) that a meeting with political Group Leaders be held on an annual basis in order to discuss standards and ethics issues.
- (e) that an article (from the Chairman) on the work of the Standards Committee be published annually in the Council's magazine for residents.

**ST-7            REVIEW OF MEMBER OFFICER PROTOCOL**

The Group Solicitor: Standards & Regulatory presented a report which updated the Committee with regard to an ongoing review of the Member Officer protocol .

Attached to the report for information was the current protocol on Member/Officer relations contained in the Council's Constitution. The need for a review of this protocol was reflected in the work plan established by the Standards Committee for the current municipal year. The review had commenced, and the Monitoring Officer was likely to have a first draft of an updated protocol available for consultation shortly.

To assist the Review process, Members were invited to contact the Monitoring Officer with any comments on the existing protocol.

**RESOLVED – that the contents of the report be noted.**

**ST-8            THE STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND) REGULATIONS 2009**

The Group Solicitor: Standards & Regulatory presented a report which informed the Committee of recent changes in legislation that came into force on 15 June 2009.

There were three changes. Firstly, effect was given to powers contained in the Local Government Act 2000 (as amended) for the Standards Board for England to suspend or refer to another body certain functions of standards committees, and to intervene if a standards committee was not performing

adequately. Secondly, individual standards committees could now join together to form joint standards committees. It was widely considered that the aim of this provision was to assist standards committees with the additional resource implications following the introduction of the local filtration system for considering Code of Conduct complaints. Thirdly, there were some slight changes to the dispensation arrangements to take account of the changes to the Code of Conduct which allowed members to take part in a meeting to a limited extent when they had a personal and prejudicial interest.

Some of these issues were addressed in the Standards Committee work plan, and further work would need to be undertaken as a result of the Regulations. It was expected that the Standards Board would issue guidance to supplement the new Regulations. In particular further guidance was awaited on the provisions for joint standards committees. Joint working had already been identified as an item in the Committee's work plan for 2009/10, and work could now commence on evaluating the implications and options available for joint working, including that of a joint standards committee. The Head of Legal Services & Monitoring Officer added that, as he also served as the Monitoring Officer for the Combined Fire Authority, there were obvious linkages with the Fire Authority that could be explored. It was also suggested that the new unitary Shropshire Council provided another possible opportunity for joint working.

**RESOLVED –**

- (a) that the contents of the report be noted;**
- (b) that the Monitoring Officer undertakes any work required as a result of the introduction of the new Regulations in relation to the dispensation procedure rules;**
- (c) that the Monitoring Officer undertake an investigation into the possible provision of a joint standards committee, and to report his findings to a future meeting of the Committee.**

The meeting ended at 6.50 pm

**Chairman:** .....

**Date:** .....

## **GIFTS & HOSPITALITY GUIDANCE**

**PRODUCED BY T&W Internal Audit in conjunction with Legal Services and Human Resources**

---

### **CONTENTS**

1	INTRODUCTION .....	2
2	GIFTS .....	3
3	GIVING AND RECEIVING HOSPITALITY .....	4
	APPENDIX A – CHECKLIST FOR MEMBERS .....	6
	APPENDIX B - RECORD OF GIFTS & HOSPITALITY FORM - EMPLOYEES .....	7
	APPENDIX C – LIST OF REGISTER HOLDERS & THEIR RESPONSIBILITIES.....	8

## 1 INTRODUCTION

- 1.1 The following guidance supplements the Law, the Council's Constitution and Financial Regulations, the ~~National~~ Code of ~~Local Government~~ Conduct for Members and ~~the Council's any National~~ Codes of Conduct ~~for Erelating to~~ employees.
- 1.2 This guidance applies to all Members and ~~employees~~ officers covered by the Council's main Financial Regulations. They are equally applicable to school staff and Governors covered by the Financial Regulations for Schools.
- 1.3 The principles of this guidance are:
- (A) Individuals covered by this guidance will maintain conduct of the highest standard such that public confidence in their integrity is sustained.
  - ~~(B)~~ Members and/or employees must refuse offers of gifts or hospitality where any suggestion of improper influence is possible. There can be little doubt that the acceptance of gifts or hospitality by Members or employees from persons who have, or seek to have, dealings with the authority would be viewed by the public with grave suspicion and would make the Member or employee concerned, and the Council, extremely vulnerable to criticism. This particularly applies where the offer is to an individual Member or employee.
  - ~~(B)~~
  - (C) Individuals covered by this guidance will not accept personal gifts or hospitality for their use or the use of others. Civic gifts from other public bodies or overseas study visits are acceptable.
  - ~~(D)~~ Never accept gifts or hospitality of any nature from a tenderer:
    - 1) In the immediate period before or after tenders are invited; or
    - 2) During the tender process (including between invitation to tender and acceptance).
  - ~~1)~~ (E) Individuals covered by this guidance will not use their position within the Council for their personal gain or the personal gain of others.
- 1.4 To a large extent the reputation of local government depends on the conduct of its Members and employees and what the public believes about their conduct. Members and employees are expected to use common sense in assessing any situation where improper influence could be construed and no Member or employee should do anything which could give rise to accusations of improper influence and which could not be justified publicly. Disciplinary action will be taken against employees who fail to comply with this procedure. Members' failure to comply will be referred to the Monitoring Officer ~~Chief Executive~~ who will instigate the appropriate action.
- ~~1.5~~ 1.5—If an employee is in any doubt about the right course of action to take he/she should always seek the advice of his/her Manager. If a Member is in any doubt about the right course of action he/she should seek the advice of the Monitoring Officer.

## MEMBERS

1.6 All issues in respect to gifts and hospitality for Members Head of Legal & Democratic Services or the Chief Executive will be dealt with by the Monitoring Officer. Members will inform the Monitoring Officer of any gifts or hospitality offered or received as per the requirements of their Code of Conduct. However it is the Members responsibility to update their register of interests where gifts and/or hospitality are accepted for a value of over £25.00<sup>1</sup>. A checklist is attached at Appendix A to assist members in supplying relevant information in respect to gifts and hospitality.

## EMPLOYEES

1.7 It is the responsibility of each portfolio, Chief Executive's and Policy, Performance & Partnership to set-up and maintain a register/file a record book and to inform all employees staff of its location. Appendix BA is a copy of the form that needs to be completed by employees and maintained in the register/file shows an example of the minimum information required.

1.6 Appendix BC shows a list of register holders and their responsibilities, contacts within each portfolio that hold the record books. Member Services holds the register for Members.

1.7 Schools and other decentralised establishments should set-up their own registers, record books.

1.87 This guidance does not apply where the giving is part of the recognising good performance procedure or aif the token gift received asis a token "Thank you" from a customer/client in appreciation of good customer service ("token" means an item with a value of less than £2+5.00).

## **2 GIFTS**

2.1 Employees are reminded that under the provisions of Section 117 of the Local Government Act 1972, they are forbidden under the cover of their office and employment to accept any fee or reward other than their proper remuneration. Any person who contravenes this provision would be liable on summary conviction to a fine not exceeding £2500.

2.2 Members and employees should tactfully refuse any personal gifts offered to him/her or to a member of his/her family by, or indirectly attributable to, any person or body (i.e. a contractor or supplier) who has, or may have, dealings of any kind whatsoever with the authority. This applies equally to accepting gifts from persons or a body that has applied, or may apply, to the Council for any planning or other kind of decision.

---

<sup>1</sup> Members are reminded that the threshold value of £25.00 is the cumulative value from one source i.e. several gifts or hospitality from one source with a total value over £25.00.

***The only exceptions to this rule are:***

- Small gifts of only token value (£~~2~~5.00 or less) often given by way of trade advertisements or of a promotional nature to a wide range of people, e.g. calendars, diaries, mugs, pens, office stationery (including clocks), tape measures and similar articles for use in the office.
- Small gifts of only token value given on the conclusion of a courtesy visit, e.g. to a factory or other premises.
- Gifts/token presentations from foreign visitors/dignitaries e.g. presentation wine glasses and ~~pendants~~~~pennants~~ which should be retained on Council premises.
- Small gifts (value not exceeding £25.00) where the Member or employee concerned and also perhaps his/her spouse are personal friends of the donor and where refusal would be regarded as inappropriate. In such cases however, whilst the gift may be accepted the Member/employee concerned should explain to the donor the problems of accepting such gifts in the future.

2.3 In the event of any employee receiving a gift without warning which does not fall in any of the exceptions mentioned above this should immediately be given to his/her Head of Service. The Head of Service will be responsible for deciding whether the gift should be returned or whether it could be forwarded to the Mayor's ~~Ce~~harity ~~Fund~~ (see paragraph 2.5 below) or other deserving cause. In such cases, the Head of Service concerned should inform the donor what has happened to the gift and explain the reason why gifts should not be sent in the future.

2.45 ***Acceptable but only if donated to Mayor's ~~Charity Fund~~Appeal***

Certain gifts from **suppliers/contractors** may be accepted which would either be difficult to return or which would cause offence if they were returned. These gifts should **not** be retained by the individual who received them but should be forwarded to the Head of Service who will record them in the appropriate register and organise donation to the Mayor's Appeal. These items include:

- Bottles of wine and spirits
- Boxes of biscuits, chocolates and Easter Eggs
- Books, atlases and maps
- CDs – music or computer games
- Decorative objects such as glass tankards, glass crystal, china ornaments and paperweights
- Soft / cuddly toys

2.6 **If there is any doubt about whether a gift may be accepted the gift should be politely and tactfully refused.**

2.7 **In all cases a record should be kept of all gifts offered and whether they were accepted or not.** The action taken should be recorded in the ~~appropriate portfolio's~~ Gifts and Hospitality ~~register.~~~~Book.~~

### **3 GIVING AND RECEIVING HOSPITALITY**

- 3.1 Any hospitality **given** by Members and/or employees should be justified as in the public interest. The hospitality given should be on a scale appropriate to the occasion and must not be extravagant. To ensure consistency if there is any doubt about what is appropriate, members should consult the Monitoring Officer ~~Chief Executive~~ and officers their Line Manager or the Head of Human Resources.
- 3.2 Hospitality should only be **accepted** where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and not extravagant and where it is apparent that no cause could reasonably arise for adverse criticism about the acceptance of the hospitality.
- 3.3 Wherever **hospitality is offered this must be recorded in the appropriate Gifts & Hospitality register** ~~record book for the relevant portfolio~~. The record must also show **whether the hospitality was accepted or refused**.
- 3.46 If there is any doubt about whether hospitality may be accepted then the hospitality should be politely and tactfully refused.**
- 3.57 The following are examples of hospitality that is acceptable and unacceptable: -

**Acceptable**

- Invitations to attend functions where the Member or employee represents the Council (e.g. dinners where they are invited to speak, opening ceremonies, trade shows, etc.) or functions which they attend by virtue of their position on the Council or their professional position.
- A working lunch provided to enable the parties to continue to discuss business.
- Attendance at an event held at a Council owned venue or hosted/sponsored by the Council to the extent that is reasonable and the Member/employee is representing the Council in an official capacity i.e. by virtue of their position within/on the Council.

**Unacceptable**

- Personal invitations to sporting events or other entertainment with representatives from a company or organisation which has dealings with the Council. Examples: tickets for football matches (including AFC Telford), ~~senior officers of the Council pay for AFC Telford Tickets although their attendance could be deemed as representing the Council~~, cricket games, music concerts, golf days, boxing matches, fashion shows and after dinner speaker celebrity events.
- Tickets for other non-work related event or venue, examples: the cinema, the theatre, entry to exhibitions, Granada TV Studios tour, Blackpool Pleasure Beach and Alton Towers.
- Holidays, weekend breaks, air or rail travel or the use of a company's own holiday accommodation.

- Non-working lunches/evening meals e.g. entertainment by outside bodies or organisations involving expensive meals where work is not discussed, cabarets, nightclub entertainment etc.
- The provision of any service. Any approach should be politely but firmly refused and if required an explanation provided to the person or organisation who offered the service.

**APPENDIX A**

**CHECKLIST FOR THE INFORMATION MEMBERS SHOULD RECORD IN RESPECT TO GIFTS OR HOSPITALITY OFFERED, ACCEPTED OR REJECTED**

<b>Members Name:</b>	
<b>Contact no:</b>	
<b>Date of offer</b> (gift or hospitality):	
<b>Offer made by and relationship to T&amp;W:</b> (e.g. current supplier, prospective supplier, contractor):	
<b>Reason:</b> details of & reason for offer:	
<b>Approximate cost :</b>	
<b>If Hospitality</b> - list any alcoholic drinks included:	
<b>Gift/hospitality accepted:</b> (YES/NO)	
<b>If GIFT</b> Action taken: (e.g. donated to Mayors Charity fund)	

**APPENDIX B**

**RECORD OF GIFT OR HOSPITALITY FORM - EMPLOYEES**

Name of Officer/s:	
Job title, Business Unit & Portfolio/Service area:	
Contact no:	
Date of offer (gift or hospitality):	
Offer made by and relationship to T&W: (e.g. current supplier, prospective supplier, contractor) :	
<b>Gift</b> : details of & reason for offer:	
<b>Hospitality</b> : details of & reason for offer (including details of meeting/event and duration e.g. working lunch, networking)	
Approximate cost (if applicable):	
<b>If Hospitality</b> - list any alcoholic drinks included:	
<b>Gift/hospitality accepted:</b> (YES/NO)	
<b>If GIFT</b> Action taken: (e.g. donated to Mayors Charity fund, shared between staff, etc)	
<b>Signature of Officer :</b>	
<b>If GIFT</b> Signature of officer receiving on behalf of Mayors Charity fund	
Authorised by Line Manager (or next in their absence):	
Checked & signed by Register Holder that in compliance with the policy & guidance: (If not then please detail action taken)	

**APPENDIX C****LIST OF REGISTER HOLDERS**

<b>AREA</b>	<b>RESPONSIBLE OFFICER</b>
Children & Young Peoples Services	Kay McClean
Environment and Regeneration	Becky Pritchard
Adult Social Care	Sue Wright
Resources /Chief Executive	Robyn Hill
Policy, Performance & Partnership	Heather Randall
Members Services	Monitoring Officer (Jonathan Eatough)

**RESPONSIBILITIES OF REGISTER HOLDERS**

- To ensure they understand the Gifts & Hospitality Policy in the Constitution and guidance;
- To provide general advice & guidance to appropriate employees/members and when necessary to refer any queries to Internal Audit, Human Resources or the Monitoring Officer;
- To ensure that Register Forms for employees have been completed correctly in full and authorised by the Line Manager;
- To check that register entries are being completed correctly in accordance with the Gifts & Hospitality Policy and guidance ;
- To refer any queries back to the line manager who has authorised the form, Internal Audit or Human Resources.
- To have the Registers available for examination and spot checks by Internal Audit or the Monitoring Officer.
- Registers should be held securely and retained for 3 years

## **TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 17<sup>th</sup> SEPTEMBER 2009**

**UPDATE OF THE COUNCIL'S GIFTS & HOSPITALITY GUIDANCE**

**REPORT OF THE INTERIM CORPORATE DIRECTOR: RESOURCES**

### **1. PURPOSE**

- 1.1 To obtain the approval of the Standards Committee to the updated Gifts and Hospitality Guidance to support the Constitution and maintain the high standards operating within the Council.

### **2. RECOMMENDATIONS**

- 2.1 That the Committee endorses the updated Gifts and Hospitality Guidance attached at Annex 1 and recommend its adoption by the Council.**

### **3. SUMMARY**

- 3.1 The Gifts and Hospitality Guidance was last updated in March 2006 and agreed by the Standards and Audit Committee in April 2006. Good governance promotes that appropriate policies and guidance should be subject to regular review.
- 3.2 In 2007 the Members Code of Conduct was updated to include revised requirements for members in respect to registering gifts and hospitality. The requirements of the updated code have been incorporated into this guidance.
- 3.3 In the CAA Use of Resources KLOE 2.3 - "Does the organisation promote and demonstrate the principles and values of good governance?" the Council has to demonstrate that there are proper gifts and hospitality procedures which employees and members are aware of and how these procedures are reviewed and monitored.
- 3.4 Employees and members are reminded of the gifts and hospitality guidance on an annual basis and during induction. However there have been some minor queries raised since the last review and the latest internal audit of gifts and hospitality is recommending that the current guidance requires clarification and the format of the information held is updated.

### **4. PREVIOUS MINUTES**

- 4.1 Standards and Audit Committee 4<sup>th</sup> April 2006.

### **5. INFORMATION**

- 5.1 Within the Constitution - Part 4 – Rules of Procedure, Section 6 – Financial Regulations, paragraphs 10.3 and 10.4, the Council sets out its broad policy on gifts and hospitality. The Gifts and Hospitality Guidance has been developed to support and to provide more detailed practical help in its implementation.
- 5.2 The key change is the introduction of a form for employees to complete when registering the offer of gifts or hospitality. This is being introduced to ensure there is a consistent and

full record of what has been offered and the action taken. The employee form is attached as Appendix B to the guidance. The employee will sign the form along with their line manager. The register holder will review the completed forms and retain them on a file or register within each Portfolio or Chief Executive/Policy, Performance and Partnership for 3 years.

- 5.3 Members will be required to provide information to the Monitoring Officer but only to the level required by their statutory Members Code of Conduct and this guidance. Appendix A is a checklist for Members to identify the relevant information that will be required. Where Members have been offered gifts/hospitality of a value over £25.00<sup>1</sup> they should inform the Monitoring Officer. It is their responsibility to update their register of interests with the nature of the gift/hospitality and the person/organisation who offered it. Information will be held for 3 years (as required by statute).
- 5.4 Other minor changes (in the tracked changes version of Annex 1) have been made as summarised below:
- a) Increase the token gift value to £25.00 to be consistent with the legal requirements of the Members Code of Conduct.
  - b) The restatement of the requirement to record details of gifts and hospitality that have been refused (paragraph's 2.7 and 3.3).
  - c) Clarifications to paragraph's 1.3, 1.6, 1.7, 1.8, 3.1 and 3.5.
  - d) Updates to reflect organisational changes and changes to other policies and procedures.
- 5.5 This revised guidance has been presented to and agreed by Group Leaders and the Corporate Management Team (CMT).
- 5.6 When agreed the updated guidance will be communicated to all members and officers and will be available on the intranet. Register holders will be separately briefed and trained.
- 5.7 There will continue to be an annual reminder in the Autumn to all employees and members. Internal audit will also continue to review application of the guidance.

## 6. OTHER CONSIDERATIONS

AREA	COMMENTS
Equal Opportunities	This guidance operates within the Council's Equal Opportunities Policy.
Environmental Impact	None
Legal Implications	The policy relating to gifts and hospitality will supplement the statutory provisions already in place. Accordingly it should be noted that the process proposed in the report does not replace the statutory obligations which remain. For example, elected members are required to register details of any gifts and/or hospitality received (over £25.00) in their capacity as an elected member with the Monitoring Officer within 28 days of receiving it. Failure to do so will amount to a breach of the Members' Code of Conduct.

<sup>1</sup> Members are reminded that the threshold value of £25.00 is the cumulative value from one source i.e. several gifts or hospitality from one source with a total value over £25.00.

Links with Corporate Priorities	This guidance links to the Council's Priority 7 - An efficient, effective and customer-focused council that delivers value-for-money for the community". Within this specifically sub priority 5 which is concerned with "Robust corporate management arrangements that are based on the principles of good governance".
Financial Implications	Any implications arising from the update and awareness/ communication of this guidance will be met from existing budgets.
Opportunities and Risks	The risks of not having proper guidance and awareness across the Council would impact greatly on the Council's reputation and high standards that it promotes. Proper guidance and recording provides an opportunity to demonstrate that offers made are accepted and rejected in line with the guidance
Ward Implications	District wide implications.

## 7. BACKGROUND PAPERS

Constitution March 2009 and Gifts and Hospitality Guidance 2006

Various similar procedures from other local authorities (Accessed from the internet)

The Local Authorities (Model Code of Conduct) Order 2007

**Report prepared by Jenny Marriott – Audit & Risk Manager telephone: 01952 383101 and Jonathan Eatough – Monitoring Officer telephone 01952 383200.**



# **JOINT STANDARDS COMMITTEES GUIDANCE**

# contents

<b>Introduction</b>	<b>2</b>
Why might a joint standards committee be a good idea?	2
Potential benefits of forming a joint standards committee	2
Potential problems/issues	3
Model Structures	3
<b>Composition of joint standards committees</b>	<b>5</b>
Choosing an independent member	5
Ceasing to be an independent member	7
Remuneration for members of a joint standards committee	7
Indemnities for independent members	7
Complying with the Code of Conduct and the register of members' interests	8
Town and parish representatives	8
Choosing parish and town council representatives	8
Executive members on the joint standards committee	8
Elected members on the joint standards committee	9
Substitute members	9
Training	9
<b>Operation of a joint standards committee</b>	<b>10</b>
Functions	10
Lead authority	10
Sub-committees	10
Meetings	10
Preparation of agendas and minutes	11
Standing orders/Procedure rules	11
Financial arrangements	11
Withdrawal from joint arrangements	12
Suspension from joint arrangements	12
Providing information to the Standards Board under sections 66B&C of the Local Government Act 2000	13
<b>Schedule 1</b>	<b>14</b>
<b>Appendix 1 - Functions to be exercised by the joint standards committee</b>	<b>21</b>
<b>Appendix 2 - Rules for the conduct of meetings and proceedings</b>	<b>24</b>
<b>Appendix 3 - Protocol for the exercise of Monitoring Officer functions</b>	<b>27</b>
<b>Appendix 4 - Allocation of expenses</b>	<b>30</b>
<b>Schedule 2</b>	<b>31</b>

# introduction

This guidance on the establishment of joint standards committees reflects the Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations). The regulations which enable authorities to establish joint standards committees are not mandatory.

The guidance is aimed primarily at members of standards committees and monitoring officers but will also provide a useful reference tool for all members and officers.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- integrated transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Members of parish and town councils may also find this guide useful.

The Local Government Act 2000 says that your authority must set up a standards committee. The Standards Committee (England) Regulations 2008 set out the rules governing the size and composition of a standards committee and should be read alongside this guidance.

Throughout this guidance we use the term

‘independent member’ to describe members appointed by the authority under Section 53(4)(b) of the Local Government Act 2000, and Regulation 5 of the Standards Committee (England) Regulations 2008.

You may also like to consult our *The role and make-up of standards committees* and *The local assessment of complaints* guidance.

## Why might a joint standards committee be a good idea?

The regulations enable joint standards committees to carry out any of the functions of a standards committee granted to them by or under Part III of the Local Government Act 2000 or Part 1 of the Local Government and Housing Act 1989.

Joint arrangements are likely to be most useful where additional flexibility to deal with cases is needed, or where resources are limited and sharing them would benefit the successful management of the standards framework in that area.

## Potential benefits of forming a joint standards committee

We have identified a number of potential benefits of forming a joint standards committee. In addition, they may have some bearing on the type of joint working structure adopted. These are:

- avoidance of conflicts of interest through a wider pool of members
- consistency of procedures
- public confidence in the complaints process enhanced through a greater

# introduction

'distance' between standards committees and complainants/subject members

- greater capacity to meet the increased role and workload of standards committees under the local standards framework
- efficient and effective use of resources through sharing of resources and pooling expertise
- increased ability to promote high ethical standards through a raised profile of the standards committee
- the ability to jointly commission and fund mediation, training and investigations
- the opportunity to create stronger support and advisory functions

**Note:** These are just some of the potential benefits and we acknowledge that some authorities may have their own reasons for forming a joint standards committee that are specific to their own circumstances and requirements.

## Potential problems/issues

We have also identified a number of potential problems or issues with joint arrangements, which we think are important to consider in conjunction with the benefits listed above:

- the possibility that it could become an overly bureaucratic and more complex process, leading to a lack of clarity for the general public
- member resistance to joint standards committees
- differing resource implications for authorities within the same joint

working arrangement

- loss of local ownership of standards and ethical issues

The standards framework became fully localised on 8 May 2008. This reflected a general desire – which was supported by the Standards Board – among those in the field to be able to manage their own complaints. The local standards framework also recognised that a knowledge of the local area and local situation can have a positive impact on finding the right solutions.

## Model Structures

We understand that authorities will each have different reasons for wanting or needing a joint standards committee. As a result, we have identified three model structures for joint standards committees which we think offer the most practical ways of operating joint arrangements.

The model structures are:

### Model A

A joint standards committee to receive written allegations and requests for a review, and to decide what action to take in relation to them.

The defining feature of this model is that authorities will be able to retain their own standards committee. Furthermore, aside from receiving and assessing allegations and reviews, the authority's own standards committee will perform all other functions independently.

An advantage of this model structure is that it will help reduce the likelihood of standards committee members being

# introduction

conflicted out of a stage of the complaints process. The regulations state that standards committee members who have been involved in decision making on the initial assessment of a complaint must not take part in the review of that decision. Forming a joint standards committee will increase the number of standards committee members, and so reduce the chance of conflicts of interests occurring.

This model also allows standards committees to share resources when assessing allegations, yet at the same time allows them to retain ownership of all other functions, including the hearing and determination processes. This will ensure that individual standards committees are applying sanctions based on their own local knowledge and are taking responsibility for implementing standards in their own local authorities.

## Model B

A joint standards committee to carry out the functions in Model A along with receiving and considering final investigation reports and conducting hearings, making findings and imposing sanctions.

This model is an extension of Model A and will therefore also help to reduce the likelihood of standards committee members being conflicted out of a stage of the complaints process for the same reason. In addition, Model B offers an increased opportunity to reduce costs through holding joint hearings.

However, when considering whether to adopt such a structure, authorities should bear in mind that the ability to draw on

local knowledge when applying sanctions may be diminished. This potential lack of local knowledge becomes more important at this stage, given that much more information is available to the standards committee once an investigation has been conducted.

## Model C

A joint standards committee to carry out all of the functions of a standards committee granted by or under Part III of the Local Government Act 2000 and Part 1 of the Local Government and Housing Act 1989.

Model C is most appropriate for single purpose authorities such as police or fire authorities. These authorities usually have less contact with the public than local authorities and are the source of fewer complaints, so they tend to need to meet less frequently to exercise their specific complaint-handling functions. A joint working arrangement could therefore be a more sensible use of resources.

Establishing a joint standards committee in such situations should not lead to a weakening of the local standards framework in individual authorities. The same high levels of input expected of a single standards committee should also be applied to ensure that a culture of high standards is still developed within each participating authority.

We do not generally recommend that local authorities adopt Model C because it remains an important role of an authority's standards committee to promote and maintain high standards within its own authority.

# Composition of joint standards committees

The general rule is that a joint standards committee is composed in the same way as an ordinary standards committee but with the changes necessary to reflect the fact that it is a joint committee.

It must include at least one elected member of each authority involved in the joint arrangement.

At least 25% of the members of the joint standards committee must be independent members.

At least three people must attend any joint standards committee meeting.

The chair of the joint standards committee must always be an independent member. Therefore, you may also want to appoint an independent member to act as vice chair of the committee in case the chair is unable to attend.

If any of your authorities has executive arrangements, you are permitted to have one executive member on the joint standards committee. The authorities involved in the joint arrangement will decide which authority that member comes from. However, the executive member must not be the elected mayor or leader.

If your joint standards committee is responsible for any parish or town councils, at least two representatives from those parish or town councils covered by the authorities involved in the joint arrangement must be appointed to your standards committee. They cannot also be members of any of the authorities involved in the joint arrangement.

A parish or town council representative must be present on the standards committee at all times when parish matters are being discussed.

There is no limit to the number of independent members you can have on your joint standards committee

You will need to decide how to select independent members and how long an independent member should sit on the joint standards committee for. These arrangements will need to be set out in the terms of reference of the joint standards committee.

We recommend that you set a fixed period of four years. This will be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that they could be perceived as losing their independence.

When reappointing an independent member, you should bear in mind that we recommend that independent members should serve no longer than two terms, which is a maximum of eight years. It may be helpful for independent members to be appointed for differing lengths of time so that the experience they gain is not all lost simultaneously. The usual rules apply about advertising and appointing if you wish to reappoint an independent member.

## Choosing an independent member

The arrangements for appointing independent members under a joint arrangement will be decided by the authorities involved in that arrangement and will be set out in its terms of reference.

# Composition of joint standards committees

Authorities have two choices. Each authority can appoint its own independent members or the authorities involved in the joint arrangement can appoint independent members jointly.

Where each authority appoints its own independent members, the requirements of paragraph 5(1) of the Standards Committee (England) Regulations 2008 apply. This means:

- the vacancy must be advertised in a local newspaper and such other publications as the authority deems appropriate
- the person must have submitted an application to the authority
- the person's appointment must be approved by the majority of the members of the authority

If an authority's standards committee has any independent members, it can appoint them to be independent members of a joint standards committee. The Standards Board believes that the regulations do not require the authority to comply with the requirements of paragraph 5(1) again for its existing independent members in order to appoint them to a joint standards committee.

An authority may not have any independent members to appoint to the joint standards committee if it is setting up a committee as set out in Model C (see page 4) and therefore is not also operating its own standards committee.

Where the authorities appoint jointly:

- the appointment must be approved by each authority
- the vacancy must be advertised in a

newspaper local to each authority area and in such other publications as each authority deems appropriate

- the person must have submitted a joint application, sent to the lead authority

Where more than a couple of authorities are involved in a joint arrangement it is likely that it will take some time for the authorities to each approve the appointment of the independent members.

Similarly coordinating the advertisement for the vacancy or vacancies in more than one local newspaper may take time. Formal and evidenced arrangements would need to be made for one authority to act on behalf of all the others involved in the joint arrangement. This is in order to accept application forms from candidates – otherwise any applicant would need to submit a separate form to each authority. This application, managed by the lead authority, would need to make it clear that it is to all of the authorities involved in the joint arrangement, and those authorities should be named on the form. The lead authority should then send a copy of the application to the other authorities.

Given the practical difficulties of joint appointments, we recommend that each authority arrange to appoint its own independent members. We also recommend this because there is some uncertainty in the legislation over the process for independent members appointed jointly on whether they should sign an undertaking to be bound by a code of conduct.

Whatever arrangements are used, the following factors need to be taken into account:

# Composition of joint standards committees

- 1) A person can only be an independent member if that person:
  - has not been a member or employee of any of the authorities involved in the joint arrangement within the five years before the date of appointment
  - is not a member or officer of any relevant authority
  - is not a relative or close friend of a member or employee of any of the authorities involved in the joint arrangement
- 2) The regulations say that a 'relative' means:
  - a partner (a spouse, civil partner or someone a person lives with in a similar capacity)
  - a parent
  - a parent of a partner
  - a son or daughter
  - a stepson or stepdaughter
  - the child of a partner
  - a brother or sister
  - a brother or sister of a partner
  - a grandparent
  - a grandchild
  - an uncle or aunt
  - a nephew or niece
  - the partners of any of the people mentioned above

The regulations do not provide a specific definition of a close friend. Please refer to our publication the *Case Review 2007*, which includes a section on defining a close associate. This might be helpful in identifying a close friend. The *Case Review 2007* is available on our website.

## Ceasing to be an independent member

Under the regulations, either of the following will no longer be able to be an independent member of the joint standards committee:

- any person appointed as an independent member who becomes a member or officer of an authority
- any person appointed as an independent member who becomes a relative of a member or officer of any of the authorities involved in the joint arrangement

## Remuneration for members of a joint standards committee

Authorities in a joint arrangement will need to ensure that their joint arrangement specifies what provisions, if any, are to be made for the payment of allowances to members of the joint standards committee.

## Indemnities for independent members

Where independent members are carrying out their statutory duties, they may be protected by their authority's indemnity arrangements under the Local Authorities (Indemnities for Member and Officers) Order 2004. We recommend that any joint arrangement includes consideration of what indemnity arrangements should be in place for independent members.

# Composition of joint standards committees

## Complying with the Code of Conduct and the register of members' interests

Members of a joint standards committee must sign an undertaking to comply with the Code of Conduct of the authority that appointed them to that committee. They must also disclose their interests in the register of members' interests maintained by the monitoring officer of the authority that appointed them. Independent members must do so in the same way as other members.

## Town and parish representatives

If your joint standards committee is responsible for parish or town councils we recommend you have a minimum of three parish or town council representatives on your standards committee, though the legal minimum is two.

Three parish or town council representatives will provide you with flexibility. It should allow the local assessment of complaints to be carried out if a parish or town council representative is unavailable or conflicted out.

Your council must consult parish and town councils within the area covered by the joint arrangement to help decide if there should be a parish sub-committee to deal with some of the joint standards committee's functions about parish and town councils.

Any parish sub-committee must include at least one parish or town council representative and at least one independent member. In addition, you must consult parish and town councils

within the area covered by the joint arrangement to determine how many parish and town council representatives are needed and how long they should serve on the sub-committee.

## Choosing parish and town council representatives

The authorities involved in the joint arrangement must decide how to recruit and appoint parish or town council representatives. Your parish and town council representatives should have the trust of town and parish councils in the area covered by the joint arrangement, so you should involve them in the selection procedure.

## Executive members on the joint standards committee

If the authorities are operating executive arrangements, the standards committee does not need to include any executive members. However, you should consider whether it is appropriate to appoint an executive member and, if so, how that member is to be chosen from among the authorities in the joint arrangement. There can only be one executive member on a joint standards committee, regardless of how many authorities are involved in the joint arrangement.

Appointing an executive member might show that the committee is supported and respected by all parts of the authorities. Not having an executive member could reflect a degree of independence from the political leadership of the authorities. This is ultimately a decision for the authority.

# Composition of joint standards committees

## Elected members on the joint standards committee

A joint standards committee does not need to reflect the political balance of the authorities involved in the arrangement. This is because the joint standards committee should be independent of party politics. Its members need to have the respect of all the members of the authorities. It may be helpful to remind elected members of this when committee appointments are being made.

In the same way that independent members need to be appointed by a majority of the authority, it would be useful for your joint committee to include members who are supported by all political parties. This is particularly when the local assessment of complaints is carried out. This is so that greater trust and confidence can be established in the decision-making process among all political members.

Standards committees should be seen as making judgments impartially and without regard to party loyalty. Elected members should consequently be mindful of this when serving on a standards committee and should not be told how to vote on matters. Members should also remember that they must adhere to the Code of Conduct when serving on a standards committee.

**Note:** Where police authorities are included in joint arrangements, any reference above to an elected member needs to be read as a reference to an authority member.

## Substitute members

Some authorities operate a substitute system. This allows a substitute member to attend a meeting of the committee or sub-committee whenever a regularly appointed member cannot be present. However, we do not recommend the use of substitutes for joint standards committees.

In instances where all your independent members are unavailable, you would be able to substitute your independent members with independent members from another authority. You should also note that nothing in the regulations requires a sub-committee of a standards committee to have fixed membership or chairmanship.

## Training

It is important when assessing complaints, reviewing assessment decisions and holding determination hearings that the sub-committee is properly constituted and that members are trained on the Code and the relevant legislation. We recommend that you keep a clear record of the training of all standards committee members. Some authorities provide refresher training before hearings.

# operation of a joint standards committee

Paragraph 15(2)(a) and (b) require the terms of reference of a joint standards committee to include the functions and administrative arrangements under which the joint committee will operate.

## Functions

The joint standards committee can carry out any of the functions of a standards committee granted by or under Part III of the Local Government Act 2000 or Part 1 of the Local Government and Housing Act 1989. Some authorities have conferred other functions on standards committees under Section 54 of the act. These include:

- overview of the whistle blowing policy
- advising on the content of the authority's officer code of conduct
- overview of complaints handling and Ombudsman investigations
- oversight of the constitution

These functions may not be allocated to a joint standards committee as they are not granted by Part III of the Local Government Act 2000 or any regulations made under that Part. They therefore need to remain with the authority's standards committee, or be reallocated elsewhere.

If a joint standards committee exercises a certain function – that function cannot also be exercised by a standards committee of any of the authorities involved in the joint arrangement. Therefore, the authorities involved in a joint standards committee arrangement must **all** agree which of their functions they wish the joint standards committee to have.

An authority cannot assign functions to a joint standards committee only to deal with

particular complaints. For example, a complaint might be made about a dual-hatted member, or any member who belongs to more than one authority. In such cases, the authority cannot set up a joint assessment sub-committee with the other authority or authorities that the member belongs to but also continue to use its own assessment sub-committee for complaints about single-hatted members. The functions assigned to a joint standards committee are applicable for all complaints received by the authority.

## Lead authority

In any joint standards committee arrangement there should be one authority with responsibility for making the administrative arrangements necessary for it to operate. This responsibility may rotate over time.

## Sub-committees

Where a joint standards committee arrangement has been set up just to carry out initial assessments or initial assessments and reviews, it will be necessary to set up sub-committees to carry out those functions under regulation 6 of the Standards Committee (England) Regulations 2008. Membership of these sub-committees will need to be drawn from the joint standards committee.

## Meetings

Meetings of the joint standards committee and its sub-committees should be arranged by the lead authority's monitoring officer in consultation with the monitoring officers of the other authorities involved in the joint arrangement.

# operation of a joint standards committee

Any committee or sub-committees should have a minimum of three members. However, ensure you pay attention to the detailed requirements of paragraph 7(3) of the Standards Committee (England) Regulations 2008 as amended by paragraph 14(5)(e) of the Standards Committee (Further Provisions)(England) Regulations 2009.

A committee or sub-committee must have at least one elected member on it, where it is dealing with any of the following:

- making an initial assessment of a case
- reviewing an assessment
- considering what to do with a monitoring officer's report on an investigation
- holding a hearing

If the case concerns a parish member or former parish member then the committee or sub-committee must also have a parish representative present. The elected member and parish representative do not have to be from the same authority as the member whose case is being considered.

## Preparation of agendas and minutes

The monitoring officer of the lead authority should prepare the agenda for meetings of a joint standards committee or its sub-committees. This can be done in consultation with the monitoring officers of the other authorities involved in the joint arrangement who would normally be expected to prepare reports about cases from their own authorities.

Any joint arrangements will need to clearly identify who will have responsibility for:

- notifying the parties of any decisions made
- for preparing the minutes of the meeting
- for preparing the summary of proceedings under regulation 8(5) of the Standards Committee (England) Regulations 2008
- the summary under Section 57C(2) of the Local Government Act 2000 to the member complained about

Ultimate responsibility for these tasks lies with the monitoring officer of the authority the subject member comes from. However, the monitoring officer of the lead authority could carry out those tasks on their behalf as long as the joint arrangements make this clear.

## Standing orders/procedure rules

As with any other committee of a local authority, you will need rules to govern the way in which meetings are administered and conducted. See Appendix 2 of the model constitution, attached at the end of this document, which sets out a suggested format for those rules.

## Financial arrangements

Any joint standards committee arrangements should be clear about how the financial expenses of the arrangements will be met. We recommend that the joint committee should have a budget which is held separately from that of the constituent authorities by the chief financial officer of the lead authority. We also recommend that the budget is

# operation of a joint standards committee

managed by the lead authority's monitoring officer.

The basis on which the expenses are shared should be clearly set out in the joint standards committee's terms of reference. Much will depend on the functions carried out under the joint arrangement. For instance, where the joint standards committee has been set up to deal with initial assessment and review cases, the expenses might be shared based on the number of cases submitted for consideration by an authority as a proportion of the total cases considered. So an authority submitting 30 cases in a year from a total of 50 considered under the joint arrangement would pay 60% of the expenses incurred.

Any disagreement about the proportion of expenses that should be met by an authority involved in the joint arrangement must go to a single arbitrator agreed between the authorities. This is as required by paragraph 15(3) of the regulations.

## Withdrawal from joint arrangements

Under paragraph 15(2)(g) of the regulations, the authorities entering into a joint arrangement must make sure that there is a procedure set out in the terms of reference to enable an authority to withdraw from the arrangement.

Any such procedure should ensure that any authority which wants to withdraw has to give sufficient notice before doing so. This is to enable the remaining authorities involved in the joint arrangements to:

- 1) consider what changes they need to make to the terms of reference and have time to implement those changes
- 2) decide how to deal with the financial consequences of the authority withdrawing.

We suggest a minimum notice period of six months in order to achieve this.

The terms of reference should make it clear what financial consequences flow from a decision by an authority to leave a joint arrangement. For example, six months' notice expiring on the 31 March might be required to withdraw from a joint arrangement. If this were the case, it would enable the authorities left in the joint arrangement to make proper budgetary provision for the joint arrangement in the following financial year, as part of their normal annual budget preparation process. It would also give them time to agree and implement any changes to the joint arrangements that they wish to make. They would additionally be able to sort out how to deal with forthcoming cases when the joint arrangement is disbanded or altered.

## Suspension from joint arrangements

Under paragraph 3(3) of the regulations, the Standard Board for England can use its powers under Section 57d of the Local Government Act 2000 to suspend the initial assessment functions of a joint standards committee in the same way as it can a normal standards committee.

# operation of a joint standards committee

## **Providing information to the Standards Board under sections 66B&C of the Local Government Act 2000**

The Standards Board can demand periodic returns from authorities and information from them relating to the functions of standards committees and monitoring officers. Therefore any joint arrangements should ensure that responsibility for compiling returns and responding to requests for information is properly identified within the administrative arrangements agreed between the authorities.

Where there is a joint arrangement in place, the monitoring officer of the lead authority will be required to submit information about the composition of the standards committee.

Case information, even where the case was dealt with by a joint standards committee, must be submitted by the monitoring officer at the authority to which the subject member belongs.

# Schedule 1

## MODEL TERMS OF REFERENCE FOR JOINT STANDARDS COMMITTEES IN ENGLAND

*[This document provides the terms of reference for a joint standards committee of relevant authorities in the form of a template for a model constitution. It is written in broad terms so that it can be used by authorities of the same type, or by authorities of different types. In some instances alternative approaches are offered, or authorities may wish to use this model as the basis for discussions leading to the production of a different document.]*

### 1) Definitions

In this Constitution:

“the Act” means the Local Government Act 2000

“the Constituent Authorities” means

(a) *[insert name]*

(b) ... *[etc]*

“Executive”, “Executive Member”, “Elected Mayor” and “Executive Leader” have the same meaning as in the Act

“Independent Member” has the same meaning as in the Standards Committee Regulations

“the Joint Standards Committee” means the *[insert name]*

“Monitoring Officers” means the officers designated by the Constituent Authorities under section 5 of the Local Government and Housing Act 1989 and any deputy nominated by them acting

where they are unable to do so owing to absence or illness

“Proper Officer” has the same meaning as in the Local Government Act 1972

“the Regulations” means the Standards Committee (Further Provisions) (England) Regulations 2009

“Relevant Authority” has the same meaning as in the Act

“Scheme of Allowances” means any scheme of allowances made under the Local Authorities (Members Allowances) Regulations 2003

“the Standards Committee Regulations” means The Standards Committee (England) Regulations 2008

### 2) Constitution and Terms of Reference

**2.1)** The Constituent Authorities, in exercise of their powers under the Regulations, have each determined to establish a joint standards committee, to be known as the *[insert name]* to exercise those functions conferred by or under Part 3 of the Act or Part 1 of the Local Government and Housing Act 1989 set out in this Constitution.

**2.2)** The Joint Standards Committee is the standards committee to which written allegations under section 57A (1) of the Act may be sent *[either]* for all the Constituent Authorities *[or]* for the following Constituent Authorities: *[insert names]*.

# Schedule 1

*[It is important that each constituent authority is clear about whether it, or the joint committee, will receive written allegations, and that the process for publicising, receiving and submitting written allegations is clear and effective.]*

- 2.3)** This Constitution contains the Terms of Reference of the Joint Standards Committee for the purposes of Regulation 15 of the Regulations and section 53 (9) of the Act.
- 3)** Functions to be exercised by the Joint Standards Committee
- 3.1)** The Joint Standards Committee may exercise the functions set out in Appendix 1.
- 3.2)** Any Standards Committee established by any of the individual Constituent Authorities may not exercise any function set out in Appendix 1.
- 4)** Membership of the Joint Standards Committee
- [The following version is for a joint committee where at least one constituent authority is responsible for parish councils. If no constituent authority has this responsibility then 4.1 (b) and 4.5 should be deleted and the other sub-paragraphs renumbered]*
- 4.1)** The Joint Standards Committee shall consist of:
- a)** *[insert number]* members of the Constituent Authorities, appointed by those authorities in accordance with paragraph 4.2;
- b)** *[insert number]* members of parish councils for which any of the Constituent Authorities is responsible, appointed in accordance with paragraph 4.5;
- c)** *[insert number which must be at least 25% of the total membership of the committee]* Independent Members, appointed in accordance with paragraph 4.6.
- 4.2)** Subject to paragraphs 4.3 and 4.4, the following Constituent Authorities shall appoint the following numbers of members of those authorities to be members of the Joint Standards Committee:
- a)** *[Name of Constituent Authority]* : *[number]* members
- b)** *[etc]*
- 4.3)** Appointment of Executive Members
- a)** No more than one of the members of the Constituent Authorities appointed under paragraph 4.2 shall be a member of the Executive of any of the Constituent Authorities.

# Schedule 1

b) If an Executive Member has previously been appointed to and is still a member of the Joint Standards Committee then no further appointment of an Executive Member will be valid.

c) Otherwise, if the Constituent Authorities seek to appoint more than one Executive Member then only one appointment will be valid and the other Constituent Authorities will be required to make a new appointment. The valid appointment shall be agreed between the Constituent Authorities or in default of agreement shall be made annually in turn by each of the Constituent Authorities in the order set out in paragraph 4.2 starting with the Constituent Authority named in paragraph 4.2 (a).

*[Alternative: provide as follows but amend annually – Only [insert name of Constituent Authority] may appoint a member of the executive of any of the Constituent Authorities as a member of the Joint Standards Committee.]*

4.4) None of the members of the Constituent Authorities appointed under paragraph 4.2 shall be the Elected Mayor or

Executive Leader of any of the Constituent Authorities.

4.5) The Constituent Authorities that are responsible for parish councils shall each appoint [insert number] members of the parish councils for which they are responsible, who are not also members of any of the Constituent Authorities, to be members of the Joint Standards Committee.

*[Alternatively – The following Constituent Authorities shall appoint the following numbers of members of the parish councils for which they are responsible, who are not also members of any of the Constituent Authorities, to be members of the Joint Standards Committee:*

a) *[Name of Constituent Authority] : [number] members*

b) *[etc]*

4.6) The following Constituent Authorities shall appoint the following numbers of Independent Members (in accordance with the provisions of the Standards Committee Regulations) to be members of the Joint Standards Committee:

a) *[Name of Constituent Authority] : [number] members*

# Schedule 1

- b)** [etc]
- 4.7)** A person who is disqualified under Part 5 of the Local Government Act 1972 or by the decision of a Case Tribunal under Part 3 of the Act for being a member of a relevant authority shall be disqualified for membership of the Joint Standards Committee.
- 5)** Tenure of office and casual vacancies
- 5.1)** A member of the Joint Standards Committee will hold office until one of the following occurs:
- a)** He or she resigns by giving written notice to the proper officer of the Constituent Authority that appointed him or her;
  - b)** He or she is removed or replaced by the Constituent Authority that appointed him or her;
  - c)** He or she is disqualified for membership of the Joint Standards Committee;
  - d)** He or she ceases to be eligible for appointment to the Joint Standards Committee in the capacity in which he or she was appointed;
  - e)** The Constituent Authority which appointed him or her ceases to participate in the Joint Standards Committee.
- [Options – We recommend that the appointing authority be given the power to replace a member under (b) but it is not essential. It is possible, instead, for all members, or a class of members such as independent members, to be appointed for a fixed term. In that case (b) would read:
- b)** He or she [option – , being an independent member/parish council member/member of a constituent authority] has held office for a period of [insert period] years.]
- 5.2)** A casual vacancy shall be filled as soon as possible by the Constituent Authority which appointed the member of the Joint Standards Committee whose membership has ceased.
- 6)** Sub Committees
- 6.1)** The Joint Standards Committee shall appoint Sub Committees in so far as is necessary to exercise its functions under Part 3 of the Act and may establish Sub Committees for other purposes in the exercise of its functions.
  - 6.2)** Each person appointed as a member of a Sub Committee must be a member of the Joint Standards Committee.
  - 6.3)** The Joint Standards Committee will determine the membership and terms of reference of the Sub Committee, and the

# Schedule 1

- quorum for its meetings, when it is appointed.
- 6.4)** If the Joint Standards Committee appoints more than one Sub Committee to exercise one or more of its functions then it shall ensure that the Proper Officer of the Constituent Authority providing support to the Joint Standards Committee allocates particular matters to a Sub Committee first on the basis of the availability of the members required to constitute the Sub Committee, and thereafter by rotation, and summonses meetings accordingly.
- 7) Meetings and proceedings**
- 7.1)** The meetings and proceedings of the Joint Standards Committee shall be conducted in accordance with the rules set out in Appendix 2.
- 7.2)** The Joint Standards Committee will adopt standing orders or rules of procedure for the conduct of its meetings. The standing orders or rules of procedure must be consistent with the requirements of the Act, the Standards Committee Regulations and the rules set out in Appendix 2. They may provide for different procedures to be followed when the Joint Standards Committee or a Sub Committee is exercising different functions.
- 8) Monitoring Officers**
- 8.1)** The Monitoring Officers will agree and keep under review a protocol about how they will exercise their functions in relation to the matters dealt with by the Joint Standards Committee.
- 8.2)** The initial protocol is set out in Appendix 3. The Monitoring Officers will inform the Joint Standards Committee and the Constituent Authorities of any changes to the protocol.
- 9) Support**
- 9.1)** The Joint Standards Committee will appoint one of the Constituent Authorities to provide accommodation and professional, technical, administrative and clerical support for its meetings.
- 9.2)** The Joint Standards Committee will keep the appointment under review and may from time to time make a new appointment having regard to the geographical area that it covers and to the interests of economy, efficiency and effectiveness.
- [Alternatively the Constitution may provide for the rotation of the support function. Where this is done appropriate arrangements will need to be made for dealing with on-going cases]*

# Schedule 1

For the period stated in column 1 of the following table, the Constituent Authority identified in Column 2 shall be appointed to provide accommodation and professional, technical, administrative and clerical support for its meetings.

Table	
Column 1	Column 2
Period	Constituent Authority
<i>[insert period, eg 1 June 2009 to 31 May 2009. Consider whether to rotate quarterly, six monthly, annually or less frequently.]</i>	<i>[Insert name]</i> <i>[etc]</i>
[etc]	

**9.3)** The Proper Officer appointed by the Constituent Authority for the time being providing such support will discharge the proper officer functions under the Local Government Act 1972 that relate to the meetings of the Committee. He or she will therefore prepare agendas and minutes and summaries of meetings and arrange for notices and other communications to and from the Joint Standards Committee to be given and received, save in so far as one of the Monitoring Officers agrees to undertake this activity.

**10)** Expenses of Joint Standards Committee

**10.1)** The expenses of the Joint Standards Committee and of the discharge of functions relating to matters dealt with by the Joint Standards Committee will be defrayed by the Constituent Authority providing support and by any Constituent Authority whose Monitoring Officer has dealt with or exercised his or her functions in relation to such matters.

**10.2)** The other Constituent Authorities will make payments to the Constituent Authority that has incurred expenses under paragraph 10.1, to defray them in such proportions as the Constituent Authorities shall all agree or in the case of disagreement as shall be determined by a single arbitrator agreed on by the Constituent Authorities, or, in default of agreement, appointed by the Secretary of State for Communities and Local Government.

**10.3)** In determining the allocation of expenses the Constituent Authorities or any arbitrator appointed under paragraph 11.2 will have regard to the principles set out in Appendix 4.

**10.4)** The Constituent Authority for the time being providing support will report to the Joint Standards Committee at least annually on such expenses, on their

# Schedule 1

allocation between the Constituent Authorities and on the financial provision made by the Constituent Authorities to cover present and future expenses. The Joint Standards Committee may notify the Constituent Authorities if it considers that the financial provision is or is likely to be inadequate.

## 11) Allowances

**11.1)** The Constituent Authorities will review the Schemes of Allowances for their members, will consult each other for the purposes of the review, and will seek [*Option* - (with a view to ensuring that all members of the Joint Standards Committee of the same type and whose responsibilities are, in principle, the same, should have broadly the same entitlement)]:

- a)** To reach agreement as to which members of the Joint Standards Committee should receive allowances, the level of allowances, and whether related attendance or activity should affect, either directly or by reason of any calculations that are performed, the entitlement to allowances;
- b)** [*Option, if the joint committee appoints Independent Members* – To determine which Constituent Authority will pay any

allowances to Independent Members appointed by the Joint Committee;]

- c)** To ensure that no member of the Joint Standards Committee is paid more than one allowance, or more than one enhanced allowance, on account of such attendance or activities;
- d)** To ensure that the agreement reached is reflected in the Constituent Authorities' Schemes of Allowances.

**11.2)** An agreement reached under paragraph 11.1 shall not bind the Constituent Authorities so as to prejudice the legality of their decisions, or compromise their decision-making processes, under the Local Authorities (Members Allowances) Regulations 2003.

## 12) Withdrawal from the Joint Standards Committee

**12.1)** A Constituent Authority may cease to participate in the Joint Standards Committee by resolution to that effect taking effect on the date of the next annual meeting of the Constituent Authority, and communicated in writing to the Proper Officer the time being providing support to the Joint Standards Committee at least six [alternative – nine or twelve] months before the date on which it is to take effect.

# Appendix 1

## [Part 1]

### Functions to be exercised by the Joint Standards Committee

#### [Option 1: all functions]

The Joint Standards Committee may exercise all the functions of a standards committee of a Constituent Authority conferred under Part 3 of the Act and Part 1 of the Local Government and Housing Act 1989.

#### [Option 2: some functions]

[Select from, or adapt, the following list. The phrase “all related actions and determinations” includes decisions about how meetings should be held and all the pre and post meeting paperwork, notifications and publicity.]

The Joint Standards Committee may exercise all the functions of a standards committee of a Constituent Authority relating to:

- 1) The general and specific functions set out in section 54 of the Act, namely:
  - a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority;
  - b) assisting members and co-opted members of the authority to observe the authority’s code of conduct;
  - c) advising the authority on the adoption or revision of a code of conduct;
  - d) monitoring the operation of the authority’s code of conduct, and
- e) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority’s code of conduct
- 2) Publishing the address or addresses to which written allegations should be sent and the procedures to be followed (under Regulation 10 of the Standards Committee Regulations).
- 3) Receiving written allegations under section 57A of the Act and deciding what action, if any, to take, in relation to them, and all related actions and determinations.

[The Committee that “received” the complaints must decide how to respond to them. Administratively, other constituent authorities may provide an address to which complaints are sent, but they must then forward them directly to the Committee that will decide them.]
- 4) Receiving requests for a review under section 57B of the Act, deciding what action, if any, to take, and all related actions and determinations.
- 5) Receiving a report from a Monitoring Officer under Regulation 13 of the Standards Committee Regulations on the actions taken or proposed to comply with a direction to take steps other than carrying out an investigation, determining whether it is satisfied with the action specified in the report, and all related actions and determinations.
- 6) Receiving references back from a

# Appendix 1

Monitoring Officer under Regulation 16 of the Standards Committee Regulations in relation to a matter referred for investigation, deciding what action, if any, to take, and all related actions and determinations.

- 7) Receiving reports from a Monitoring Officer under Regulation 14 of the Standards Committee Regulations, following investigation by the Monitoring Officer (as defined in the Standards Committee Regulations), considering the report and making findings under Regulation 17, and all related actions and determinations.
- 8) Receiving reports from a Monitoring Officer under Regulation 15 of the Standards Committee Regulations, following investigation by or on behalf of an Ethical Standards Officer, considering the report and making findings under Regulation 17, and all related actions and determinations.
- 9) Conducting hearings under Regulation 18 of the Standards Committee Regulations, making findings, imposing sanctions (if it finds that a sanction should be imposed), and all related actions and determinations including determining what action, if any, to take if there is an appeal and whether (and if so, how) to be represented at an appeal hearing.
- 10) In relation to written allegations made before the 8 May 2008, receiving reports from a Monitoring Officer under Regulation 5 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 , following investigation by or on behalf

of an Ethical Standards Officer or Monitoring Officer, deciding whether to accept a Monitoring Officer's finding of no failure to comply with the Code of conduct, conducting a hearing under Regulation 6, making findings, imposing sanctions (if it finds that a sanction should be imposed), and all related actions and determinations including determining what action, if any, to take if there is an appeal and whether (and if so, how) to be represented at an appeal hearing if the opportunity is given.

- 11) Considering recommendations of Case Tribunals and taking related action.
- 12) Receiving requests for dispensations from members and co-opted members wishing to take part in the business of a Relevant Authority despite having a prejudicial interest, under Part 4 of the Regulations, deciding whether to grant a dispensation, and all related actions and determinations.
- 13) Receiving any other notices or notifications, determining what action, if any, to take and all related actions and determinations.
- 14) Considering applications for exemption from political restriction or for directions to include a post in a list of politically restricted posts under section 3 of the Local Government and Housing Act 1989, making determinations and taking all related action.

# Appendix 1

## **[Other functions]**

*In addition to the specific and general functions, section 54 of the Local Government Act 2000 allows a Standards Committee to exercise such other functions as the authority consider appropriate. These then become Standards Committee functions which may be exercised by Joint Standards Committees under the Regulations. In so far as these functions are conferred by or under Part 3 of the Act, or Part 1 of the Local Government and Housing Act 1989, they may be allocated to the Joint Standards Committee.*

*Some authorities have conferred other functions on Standards Committees under section 54, such as overview of internal and external audit (now more likely to be an Audit Committee function, overview of the whistle blowing policy, overview of complaints handling and Ombudsman investigations, and oversight of the constitution. These functions may not be allocated to a Joint Standards Committee and may remain with the Constituent Authorities Standards Committee, or be reallocated.]*

The Constituent Authorities have decided that it is appropriate that the Joint Standards Committee should exercise the following additional functions:

*[Select from, or adapt, the following list]*

- 1)** Sending returns to the Standards Board for England under section 66B of the Act in relation to the functions of the Joint Standards Committee.
- 2)** Providing information to the Standards

Board for England under section 66C of the Act in relation to the functions of the Joint Standards Committee.

- 3)** Considering recommendations from a case tribunal under section 80 of the Act that relate to the functions of the Joint Standards Committee.

# Appendix 2

## Rules for the conduct of meetings and proceedings

### 1) Meetings

- 1.1) The Joint Standards Committee shall in every year hold an annual meeting.
- 1.2) The first Meeting held after the 31 May in any year shall be the annual meeting.
- 1.3) The Joint Standards Committee may hold such other meetings as they may determine.
- 1.4) The provisions of the Local Government Act 1972 and the Standards Committee Regulations (and transitionally the Relevant Authorities (Standards Committee) Regulations 2001 and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003), relating to giving a summons to attend the meeting, giving notice of time and place of the meeting, admission of the public and press to meetings, access to agendas and reports, preparation of and access to minutes of the meeting (or a written summary), access to background papers and the timing and conduct of hearings, that apply to a standards committee of a Relevant Authority, shall apply to the Joint Standards Committee.

### 2) Appointment of chair and vice-chair

*[The style “chair” or “chairman” is a matter of choice.]*

- 2.1) Subject to paragraph 2.4, the Joint Standards Committee shall at their annual meeting appoint a chair and a vice-chair from among the independent members of the Joint Standards Committee.
- 2.2) The chair and vice-chair shall, unless they resign their office or cease to be independent members of the Joint Standards Committee, continue in office until their successors become entitled to act.
- 2.3) In the case of an equality of votes in respect of the appointment of a chair or the appointment of a vice-chair, the person presiding at the meeting shall give a casting vote in addition to any other vote he or she may have.
- 2.4) The chair and vice-chair must be independent members.
- 2.5) Subject to paragraph 2.4, if a casual vacancy occurs in the office of chair or vice-chair of the Joint Standards Committee the vacancy shall be filled by the appointment by the Joint Standards Committee of one of their members at the next meeting and the person so appointed shall hold office until the next annual meeting.

### 3) Conduct of meetings



# Appendix 2

**6.3)** Sub Committees will not hold an annual meeting.

**6.4)** The chair and vice chair of the Sub Committee may be appointed by the Joint Standards Committee when it appoints the Sub Committee or at any time thereafter but if it does not do so then the Sub Committee will make the appointments at its first meeting.

[*Alternative - The Sub Committee will not appoint a chair or vice chair to hold office for more than one meeting but will appoint an independent member to chair each meeting as the first item of business at that meeting. In the case of an equality of votes in respect of the appointment of a chair lots will be drawn.*]

**6.5)** The quorum for a Sub Committee meeting will be determined by the Joint Standards Committee when it appoints the Sub Committee but shall not be less than three.

**6.6)** For the avoidance of doubt, by virtue of Regulation 8 (5) (a) of the Standards Committee Regulations the provisions of Part 5 A of the Local Government Act 1972 do not apply to a Sub Committee considering an allegation received under section 57A (1) of the Act or reviewing a

decision under section 57B of the Act, and the provisions of Regulation 8 (5) (b) and (c) do apply.

*[The joint committee may wish to draw up its own more detailed rules of procedure for meetings, following a model with which one of the Constituent Authorities is familiar. This might include the arrangements for substitute members. It should also draw up rules of procedure for hearings, taking into account the advice given by the Standards Board for England.]*

# Appendix 3

## Protocol for the exercise of Monitoring Officer functions

- 1) This protocol has been agreed by the Monitoring Officers of the Constituent Authorities as a way of defining their relationship with the Joint Standards Committee and describing how they will exercise their statutory functions.
- 2) The objective is to ensure that the Constituent Authorities, the Joint Standards Committee, any other Standards Committee appointed by the Constituent Authorities, and the Monitoring Officers all:
  - 1) exercise their functions as effectively, efficiently and economically as possible
  - 2) demonstrate a strong ethical framework and structure within the authorities
  - 3) demonstrate innovation and best practice, strong outcomes for the community (including through partnership working), performance well above minimum accepted levels, and excellent value for money.
- 3) The Monitoring Officers necessarily retain personal responsibility for their statutory functions under sections 5 and 5A of the Local Government and Housing Act 1989 and Part 3 of the Local Government Act 2000. They may arrange for their functions under sections 5 or 5A to be performed by a member of their staff, nominated as their deputy for the purposes of those sections, but only if they are unable to act owing to absence or illness. It appears that such nomination is also effective for the purposes of Part 3, and therefore in these protocols “Monitoring Officer” includes a deputy acting in those circumstances.
- 4) Under section 82A of the Local Government Act 2000 the Monitoring Officer may delegate some, but not all, Part 3 functions (“the Delegable Functions”) to a person whom he or she has nominated. The criterion is that the Monitoring Officer considers that in a particular case he or she ought not to perform those functions.
- 5) The Delegable Functions are:
  - 1) Receiving a reference from a Standards Committee under section 57A of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the Standards Committee.
  - 2) Receiving a reference from a Standards Committee under section 57A of the Act and dealing with it by conducting an investigation, making a finding and reporting to the Standards Committee.
  - 3) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and a direction to take steps other than an investigation, dealing with it and reporting further to the ESO.
  - 4) Receiving a reference from an ESO under section 60 (2) or (3) of the Act and dealing with it by

# Appendix 3

- conducting an investigation, making a finding and reporting to the Standards Committee.
- 5) Receiving a reference from an ESO under section 64 (2) or (4) of the Act following an investigation by the ESO, sending a copy of the ESO's report to the subject member and referring the report to the Standards Committee.
  - 6) The other functions under Part 3 cannot be delegated to a nominated person (the "Non-delegable Functions"). These include:
    - 1) Receiving a reference from an ESO following a finding of "no failure to comply" or "no action" and deciding whether to send it to any member or officer of the authority.
    - 2) Receiving a copy of an ESO's interim report and deciding whether to send it to the Standards Committee and/or any member or officer of the authority.
    - 3) Receiving notice of a decision of an interim case tribunal.
    - 4) Maintaining the register of interests.
  - 7) The Monitoring Officer also has "Non-statutory Functions": activities that are incidental to the specific statutory duties and help promote good standards of conduct, including:
    - 1) Giving general advice to members and officers of the authority.
    - 2) Ensuring that the authority complies with its responsibilities under Part 3 of the Act.
  - 8) The Monitoring Officer also has "Standards Committee Functions": activities to assist the Standards Committee in the exercise of its functions, including:
    - 1) Advising the Standards Committee on the exercise of its general and specific functions under section 54 of the Act (promoting and maintaining high standards of conduct, assisting members to observe the Code of Conduct, advising on the Code, monitoring the operation of the Code and advising and training members on it).
    - 2) Advising the Standards Committee on the exercise of its specific functions under the Act.
    - 3) Attending and advising at meetings of the Standards Committee or a Sub Committee:
      - i) Assessing a written allegation
      - ii) Reviewing the assessment of a written allegation
      - iii) Considering reports from Monitoring Officer following (a) and ESO investigation (b) a MO investigation (c) other action by the MO

# Appendix 3

- iv) Conducting a hearing
  - v) Considering requests for dispensations
  - vi) Exercising other functions.
- 9) The Monitoring Officers have agreed that these functions will be allocated in the following way:
- 1) They will each exercise the Non-delegable and Non-statutory functions relating to their authority.
  - 2) They will consider in each case whether or not they ought to perform the Delegable Functions personally, and if they decide that they will not:  
  
[Insert text - Options include a lead authority offering this service, pooling spare capacity or joint procurement of external assistance.]
  - 3) In so far as the Standards Committee functions relate to the Joint Standards Committee [or list the functions in question] then they will be discharged by  
  
[Option 1 - the Monitoring Officer for [insert name of Lead Authority].  
  
Option 2 – the Monitoring Officer for the Constituent Authority which the Joint Standards Committee has appointed to provide accommodation and technical, professional, administrative and

clerical support for its meetings.

Option 3 – for the period stated in column 1 of the following table, the Monitoring Officer for the Constituent Authority identified in Column 2.

Table	
Column 1	Column 2
Period	Constituent Authority
[insert period, eg 1 June 2009 to 31 May 2009. Consider whether to rotate quarterly, six monthly, annually or less frequently.]	[Insert name] [etc]
[etc]	

- 10) The Monitoring Officers will cooperate to achieve the objectives of this protocol. They recognise that the operation of this protocol will need to be amended and refined and will keep it under review. Any changes will be reported to the Joint Standards Committee and the Constituent Authorities.

# Appendix 4

## Allocation of expenses

The Constituent Authorities will have regard to the following principles in determining the allocation of expenses:

*[Select from the following. Delete references to parish councils if not relevant.]*

- Any expenses directly attributable to:
  - an investigation or other action taken following a reference to a Monitoring Officer
  - consideration of a report by an ESO or a Monitoring Officer following an investigation or other action
  - any hearing
  - any appealwill be allocated to the Constituent Authority of which the subject member or co-opted member is a member, or which is responsible for the subject parish council member or co-opted member.
- Expenses directly attributable to the assessment or review of assessment of written allegations will be allocated pro rata to the number of written allegations received against members or co-opted members of each Constituent Authority (or for which the Constituent Authority is responsible).
- Expenses relating to allowances paid to members of the Joint Standards Committee *[Option, if the joint committee appoints Independent Members – ,* apart from allowances paid to Independent Members appointed by the Joint Standards Committee] by reason of their attendance at meetings

and other related activities will be allocated pro rata to the number of members appointed by the authorities *[Or will be allocated to the Constituent Authority which appointed the member to whom the allowance was paid].*

- Expenses *[Or Other expenses]* will be shared equally between the Constituent Authorities.  
*[Or ]*
- Expenses *[Or Other expenses]* will be shared in the following proportions:  
*[Name of authority] : [insert] %*  
*[etc]*  
*[Or ]*
- Expenses *[Or Other expenses]* will be shared pro rata to the number of written allegations received against members or co-opted members of each Constituent Authority (or for which the Constituent Authority is responsible).

# Schedule 2

## CHECKLIST (NOT TO FORM PART OF CONSTITUTION)

In order to decide which options to select, the Constituent Authorities will need to decide:

- 1) The name of the Joint Standards Committee.
- 2) Whether the Joint Standards Committee is to receive written allegations for assessment.
- 3) Whether any of the Constituent Authorities is responsible for parish councils.
- 4) The number of members of the Joint Standards Committee.
- 5) The number of members appointed from each of the Constituent Authorities.
- 6) The number of parish council members appointed by each of the Constituent Authorities.
- 7) Whether the Joint Standards Committee or the Constituent Authorities will appoint Independent Members, and, in either case, how many.
- 8) Whether any of the Constituent Authorities is to have the sole right to appoint an executive member, or whether this right is to be allocated by agreement (or in default, in turn on an annual basis), or by some other means.
- 9) Whether a Constituent Authority should be able to replace a member they have nominated, or whether the appointment should be for a period of time (subject to continuing eligibility).
- 10) Which Constituent Authority is to provide support and proper officer functions, and whether this is for an indefinite period or by rotation.
- 11) Whether, in principle, all Joint Standards Committee members of the same type, and with the same responsibilities, should be entitled to the same allowance.
- 12) What period of notice is needed to withdraw from the joint committee.
- 13) Whether the joint committee is to exercise all relevant functions, and, if not, which it is to exercise.
- 14) Whether the joint committee is to exercise the same functions for all Constituent authorities.
- 15) Whether the joint committee is to exercise other Part 3 functions, and, if so, which.
- 16) The quorum for Committee meetings.
- 17) Whether Sub Committees are to have standing or ad hoc chairs/chairmen.
- 18) How expenses are to be shared: in particular whether:
  - 18.1) the authority concerned should bear the whole cost of their investigations, hearings and appeals;
  - 18.2) assessment costs should be allocated pro rata to the number of complaints per authority;
  - 18.3) allowances should be paid by the nominating authority;
  - 18.4) other expenses (e.g. training) are to be shared equally or in some other proportion.

# Schedule 2

The Monitoring Officers will need to decide:

- 1) Which options for the discharge of delegable functions by nominated officers they prefer.
- 2) Who is to advise the Joint Standards Committee, and for how long.

The Joint Committee will need to decide:

- 1) The number, composition and terms of reference of sub committees.
- 2) The quorum for Sub Committee meetings
- 3) Whether it should have more detailed procedural rules for meetings, and if so which.
- 4) The procedural rules for hearings.
- 5) Assessment and review criteria and other policies.

**Checklist for consideration of Joint Standards Committees and their Constitution**

**1) The name of the Joint Standards Committee**

To be confirmed.

**2) Whether the Joint Standards Committee is to receive written allegations for assessment**

Members need to consider whether written allegations should be received by each respective Authority. This may allow for a clearer process for members of the public to follow in order to identify which Authority their complaint relates to. Alternatively it may be seen as more efficient to have one address for the receipt of the complaint.

**3) Whether any of the Constituent Authorities are responsible for parish councils.**

Shropshire & Wrekin Fire Authority has no responsibility for parish councils; Telford & Wrekin Council has responsibility for twenty six parish and town councils with approximately two hundred and seventy parish and town councillors.

**4) The number of members of the Joint Standards Committee**

To be confirmed.

**5) The number of members appointed from each of the Constituent Authorities**

Currently Telford & Wrekin Council has four independent members, eight elected members and four parish council representatives. The Fire Authority currently has two independent members (with two vacant independent member posts) and four elected members.

**6) The number of parish council members appointed by each of the Constituent Authorities**

There are no parish representatives to be appointed from Shropshire & Wrekin Fire Authority. There are currently four parish council representatives for Telford & Wrekin Council. It is suggested that all four parish council representatives are appointed to the Joint Standards Committee in order to meet the obligations for a parish council representative to be involved in all parish council matters including the assessment and review of complaints concerning parish councillors.

**7) Whether the Joint Standards Committee or the Constituent Authorities will appoint Independent Members, and, in either case, how many.**

This depends on whether the Standards Committees will retain their own separate functions or whether the Joint Standards Committee will undertake all Standards Committee functions for each respective Authority. If the former is the case it is suggested that Standards Committee's retain their own Authority to undertake a selection process and recommend the appointment of an independent member from their own respective main Authority. If however, the Joint Standards Committee is to undertake all Standards functions for each respective Authority then it is suggested that the Joint Standards Committee is made responsible for undertaking the interview process and making the recommendation which will need to be accepted then by each of the respective main Authorities as a joint appointment.

**8) Whether any of the Constituent Authorities is to have the sole right to appoint an executive member, or whether this right is to be allocated by agreement (or in default, in turn on an annual basis), or by some other means.**

The Telford & Wrekin Council operates executive arrangements and the terms of reference state that a maximum of one member of the executive may be appointed to Telford & Wrekin Councils Standards Committee. Shropshire & Wrekin Fire Authority do not have an executive system. It is suggested that there is no change to the current process adopted by Telford & Wrekin Council of the appointment of up to one member of the executive on the Standards Committee and accordingly that executive member would also form part of any Joint Standards Committee.

**9) Whether a Constituent Authority should be able to replace a member they have nominated, or whether the appointment should be for a period of time (subject to continuing eligibility).**

It is suggested that either of the constituent Authorities should be able to replace a member they have nominated as and when they wish to do so. Any appointment should be for that current municipal year or the remainder there of.

**10) Which Constituent Authority is to provide support and proper officer functions, and whether this is for an indefinite period or by rotation.**

The Committee may decide that there should be one Authority to undertake the administrative functions for the Committee, in all probability this would be Telford & Wrekin Council. There may be resource issues as a result which would need to be examined. This

would also depend upon the terms of reference of the Joint Standards Committee as to how much work was to be undertaken on a joint basis and how much undertaken by respective individual Standards Committees.

**11) Whether, in principle, all Joint Standards Committee members of the same type, and with the same responsibilities, should be entitled to same allowance.**

The Committee's views are sought on this; ultimately it will be a matter for Independent Remuneration Panel.

**12) What period of notice is needed to withdraw from the Joint Committee**

We do not recommend that there is any set notice period, but we would recommend that a period of no less than three months notice is given in order to allow each respective Authority to undertake the necessary changes to their constitution and structures to perform the functions which would previously have been undertaken by the Joint Standards Committee.

**13) Whether the Joint Committee is to exercise all relevant functions, and, if not, which it is to exercise.**

This is a matter for the Committee.

**14) Whether the Joint Committee is to exercise the same functions for all Constituent Authorities**

This is a matter for the Committee to make recommendations and for the respective Authorities to decide.

**15) Whether the Joint Committee is to exercise Part 3 functions, and, if so, which.**

This is a matter for the Committee to make recommendations and for the respective Authorities to decide.

**16) The quorum for Committee meetings.**

The quorum should reflect the legal requirements in terms of the size of the Committee, to ensure that an independent member is the Chairman of the Committee, that an elected member is present and that if the matter relates to parish council issues that a parish council representative is also present. It may also be the case that members may wish to add that there must be at least one member from each respective Authority present at the Joint Committee meetings.

**17) Whether Sub Committees are to have standing or ad hoc chairs/chairmen.**

Officers recommend that ad hoc Chairman of the Committees are selected. This is in order to ensure that the added resources provided the Joint Committee can be fully utilised and accordingly that timescales for hearings can be met.

**18) How expenses are to be shared: in particular whether:**

**18.1) the authority concerned should bear the whole cost of their investigations, hearings and appeals;**

It is suggested that the costs of investigation should be born by whichever respective Authority the member was acting for when the alleged conduct took place.

**18.2) assessment costs should be allocated pro rata to the number of complaints per authority;**

It is suggested that assessment costs should be allocated pro rata to the number of complaints per Authority.

**18.3) allowances should be paid by the nominating authority;**

It is suggested that allowances should be paid by the nominating authority.

**18.4) other expenses (e.g. training) are to be shared equally or in some other proportion.**

It is suggested that the current arrangement is continued whereby Telford & Wrekin Council will continue to provide training and the Shropshire & Wrekin Fire Authority will make payment per member for the training or one payment if the training is provided separately by Legal Services.

**The Monitoring Officers will need to decide:**

- 1) which options for the discharge of delegable functions by nominated officers they prefer.**
  
- 2) Who is to advise the Joint Standards Committee, and for how long.**

**The Joint Committee will need to decide:**

- 1) The number, composition and terms of reference of sub committees.**

- 2) The quorum for sub committee meetings**
  
- 3) Whether it should have more detailed procedural rules for meetings, and if so which.**
  
- 4) The procedural rules for hearings.**
  
- 5) Assessment and review criteria and other policies.**

# **Article 1 The Standards Committee The Audit Committee**

## **Explanatory Comment**

The Standards Committee has an important role in ensuring and promoting good ethical conduct of Councillors and officers. The Audit Committee has an important role in overseeing financial processes, audit and risk management. They both support good governance in the public sector, with particular reference to local government.

**(Section 53-55 and Sections 81(5), Local Government Act 2000)**  
(CIPFA Position Statement –“Audit Committee Principles in Local Government”)

### **9.01 Standards Committee**

The full Council will establish a Standards Committee.

### **9.02 Composition**

#### **Political Balance**

The Standards Committee will be politically balanced as per the political balance rules in **section 15 of the Local Government & Housing Act 1989**.

- (a) **Membership:** The Standards Committee will be composed of:-
- eight Councillors, excluding the Leader and only one of whom may be a member of the Cabinet;
  - four persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (independent members);
  - at least three parish council representatives (who are not members of the Council)
- (b) **Independent Members** – Independent members will be appointed in accordance with guidance issued. Independent members will be entitled to vote at meetings;
- (c) **Chairing the Committee** – The Chairman must be an Independent Member of the Committee and should either have previous knowledge or have received training on standards, regulation and ethical issues.
- (d) **Quorum** – The quorum for a meeting of the Standards Committee shall be three which must include one of the independent members.
- (e) **Training** – In addition to the Chairman’s training outlined above, all members of the Committee should be properly trained to fulfil their role, including awareness of standards, ethics and governance.
- (f) **Sub-committees** –

#### **Terms of Reference of the Referrals Sub-Committee**

#### **As approved by the Standards Committee**

1. Terms of Reference

- a. The Referrals Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct.
- b. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
  - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
  - ii. refer the allegation to the Standards Board for England;
  - iii. decide that no action should be taken in respect of the allegation; or
  - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
  - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
  - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
  - iii. the matter should be referred to the Adjudication Panel for determination.
- d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) or 2(c) above, the Sub-Committee shall state its reasons for that decision.
- d. The Sub-Committee shall consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- e. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

## 2. Composition of the Referrals Sub-Committee

The Referrals Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the Sub-Committee), and at least 2 elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

## **Terms of Reference of the Review Sub-Committee**

### **As approved by the Standards Committee**

1. Terms of Reference

- a. The Review Sub-Committee is established to review, upon the request of a person who has made an allegation that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Referrals Sub-Committee that no action be taken in respect of that allegation.
- b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Referrals Sub-Committee and shall then do one of the following:
  - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations;
  - ii. refer the allegation to the Standards Board for England;
  - iii. decide that no action should be taken in respect of the allegation; or
  - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition of the Review Sub-Committee

The Review Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the sub-committee), and at least two 2 shall be elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

#### 4. Frequency of Meetings

The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Referrals Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.

#### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, parish councillors and co-opted members, (including church and parent governor representatives);
- (b) assisting the Councillors, parish councillors and co-opted members (including church and parent governor representatives) to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging training in relation to the Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members (including church and parent governor representatives) from requirements relating to interests set out in the Members' Code of Conduct;
- (g) receiving allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct
- (h) establish sub-committees of the standards committee to make initial assessments of complaints received by the Standards Committee alleging a breach of the Members' Code of Conduct;
- (i) establish sub-committees to consider requests received by the Standards Committee to review decisions to take no action in relation to a complaint made to its sub-committee set out at paragraph (g) above
- (i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by a sub-committee of the Standards Committee or an ethical standards officer to the Monitoring Officer and setting up hearings sub-committees to deal with those reports as and when required
- (k) in conjunction with the operation of the Standards Board for England, the Standards Committee will work within the existing policy and procedures for handling of issues relating to probity and matters of an ethical nature.
- (l) consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a

politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act

- (m) advising the Council on the appointment of independent members taking account of guidance issued by the Standards Board for England
- (n) selecting and recruiting Parish Council representatives to serve on the Standards Committee taking account of guidance issued by the Standards Board for England

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 17<sup>TH</sup> SEPTEMBER 2009**

**JOINT STANDARDS COMMITTEES**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To provide further information relating to Joint Standards Committees and to set out issues and proposals for consideration by the Committee.

**2. RECOMMENDATIONS**

- 2.1 That the Committee recommend to the Council that a Joint Standards Committee is established with Shropshire & Wrekin Fire Authority**
- 2.2 That the Committee express a preference for the model to be adopted for the Joint Standards Committee.**
- 2.3 That the Committee set out the responses to the checklist attached at Appendix 2 regarding the likely format for the Joint Standards Committee.**
- 2.4 That the Monitoring Officer is instructed to prepare the Joint Standards Committee structures and procedures for the further consideration and approval of the Standards Committee.**

**3. SUMMARY**

New regulations are in force that allow for a Joint Standards Committee to be established between Authorities. Officers are now reporting back on options available in relation to establishing a Joint Standards Committee (which is most likely to be with Shropshire & Wrekin Fire Authority). The options available and proposals suggested by officers are contained for consideration by members.

**4. PREVIOUS MINUTES**

Standards Committee – 18<sup>th</sup> June 2009

**5. INFORMATION**

## 5.1 Background

At the meeting of this Committee on 18<sup>th</sup> June information was provided with regard to a Standards Committee (Further Provisions) (England) Regulations 2009 (“the Regulations”). Part of the Regulations allows provision for Joint Standards Committees to be set up in accordance with the provisions of the Local Government and Public Involvement in Health Act 2007. The Committee asked officers to look into the options available for the provision of a Joint Standards Committee and it was considered that the most likely partner for this venture would be Shropshire & Wrekin Fire Authority.

Standards for England (the new operating name of the Standards Board for England) have now issued guidance with regards to Joint Standards Committees. This document is attached at Appendix 1.

The Committee will see from the guidance that there are various points in favour of setting up a Joint Standards Committee including the avoidance of conflict of interests through using a wider pool of members when assessing and determining complaints and a greater capacity to meet the increased role and workload of Standards Committees under the local standards framework. However, the committee will also note that there are potential issues which also need to be looked at when considering whether a Joint Standards Committee is appropriate. These include the possibility of a Joint Standards Committee becoming overly bureaucratic and a more complex process leading to a lack of clarity for the general public and a loss of local ownership of standards and ethical issues. Accordingly, in deciding whether or not to proceed with a project to set up a Joint Standards Committee the Committee in the first instance has to balance benefits against potential problems.

Currently the proposed option for a Joint Standards Committee would be to approach Shropshire & Wrekin Fire Authority. The Fire Authority, including the Standards Committee of the Fire Authority, has not yet considered the Joint Committee proposals. However it is worth considering some important issues that would have to be addressed if a joint Standards Committee was established with the Fire Authority. These are identified below-

- Telford & Wrekin currently provides the Monitoring Officer the function for Shropshire & Wrekin Fire Authority together with the provision of most of the Fire Authority’s legal advice. Therefore, whilst this arrangement continues, there will be no issue with regard to who would provide the Monitoring Officer advice for the complaint to the Joint Committee as this would continue to be undertaken from Telford & Wrekin Council Legal Services.
- There is already joint working between the Fire Authority Standards Committee and this Committee. Both Committees’ receive the same training, and both Authorities benefit from the

same ethical standards bulletin (although there may be minor variations for the ones sent out to Fire Authority members.) Many of the systems in place for this Committee in respect of Standards procedures are also followed by the Fire Authority.

- Telford & Wrekin Council receives a significantly higher number of complaints than the Fire Authority. Since the introduction of the new system for the local filtration of complaints this Authority has received complaints against 13 Councillors, Shropshire and Wrekin Fire Authority have received no complaints under the new system. Accordingly there may be an issue with regards to where administrative work is undertaken and the costs that would be born by each respective Authority.
- Travel issues may be a concern if members from one of the Authorities would have to travel a significant distance to attend a Committee meeting if it was held in the area of the other Authority from the Joint Committee. The potential for members from a different area to make decisions with regard to members from the local area could be a concern for some elected members although for others it may indicate independence which may be beneficial when making assessments or decisions at a final hearing.

## **5.2 Possible models for a Joint Standards Committee**

Standards for England have set out three possible models for a Joint Standards Committee these are as follows-

- Model A - A Joint Standards Committee to receive written allegations and requests for a review, and to decide what action to take in relation to them.
- Model B - A Joint Standards Committee to carry out the functions in model A along with receiving and considering final investigation reports and conducting hearings, making findings and imposing sanctions.
- Model C – A Joint Standards Committee to carry out all of the functions of a Standards Committee granted by or under Part III of the Local Government Act 2000 and Part 1 of the Local Government and Housing Act 1989.

If the Committee were in favour of proceeding with a Joint Standards Committee, officers would point out that there may be some benefits. It has sometimes caused some difficulties in convening a sub committee within the appropriate space of time due to member either being unavailable at short notice or more particularly having some conflict which will prevent them from taking part. In that respect officers consider that a Joint Standards Committee may alleviate that problem by

producing a more varied pool of members from which to invite to attend the sub committee.

In respect of Model C members will need to consider carefully whether or not a joint committee for all of the functions is appropriate. Attached at Appendix 3 are the current terms of reference from the Committee outlining the work is due to be undertaken. The Committee would need to consider carefully whether or not to have this work undertaken by just one Committee which includes Fire Authority Members or alternatively whether some matters should be retained specifically for a Standards Committee solely made up of members from Telford & Wrekin Council.

In considering these points Standards for England have helpfully provided a checklist to consider some of the main points. The checklist which is contained on page 31 of the guidance notes is repeated at Appendix 2 of this report. The Committees views on the responses attached are requested.

The Committee is asked to consider all the points raised above and to provide an indication to officers as how they wish to proceed. If the Committee are in favour of joint working the next stage is for officers to make further contact with Shropshire & Wrekin Fire Authority and to proceed with making more detailed arrangements for consideration by the Committee. Subsequently the matter will need to be put before the Council Constitution Committee with a view to having the Joint Standards Committee agreed by full council. Due to the practical aspects of establishing any Joint Standards Committee it is suggested that the joint standard functions would not commence until the new municipal year.

### **5.3 Equality and Diversity**

The processes and procedures for the standards process including the operation of the Standards Committee will need to meet all equality and diversity legislation and regulations.

### **5.4 Environmental Impact**

None

### **5.5 Legal Comment**

The legal comment is contained within the main body of this report.

### **5.6 Links with Corporate Priorities**

Combining the work of two Standards Committees may assist efficiency and accordingly assist the Council in meeting the objective of being an effective, effective and customer focused Council.

## **5.7 Opportunities and Risks**

There are potential risks with the provision for a Joint Standards Committee but also many potential benefits. If a Joint Standards Committee is established the Monitoring Officer will ensure that all risks are identified and are managed and any efficiency will be maximised.

## **5.8 Financial Implications**

At present there are 4 independent members on the Standards Committee who are paid a basic allowance of £514 per annum to undertake this role. It is not anticipated that the number of independent members would change if a Joint Standards Committee were to be established. However, it would be advisable to seek a review of the basic allowance of £514 per member by the Independent Remuneration Panel to ensure that this rate of payment is still valid.

The Joint Standards Committee guidance states that the joint standards committee terms of reference should be clear about how the financial expenses of the arrangement will be shared. This will need to be worked up in detail with Shropshire Fire Authority should a Joint Standards Committee be established. At this point in time it is envisaged that existing budgets allocated for Standards Committee functions would be sufficient to meet Telford & Wrekin Council's share of future costs of the Joint Committee. This would need to be examined in further detail when the terms of reference under which the Committee operates are drawn up.

## **6. WARD IMPLICATIONS**

District wide implications.

## **7. BACKGROUND PAPERS**

None

## **End of Report**

***Report prepared by Matthew Cumberbatch, Group Solicitor, Legal Services***

***Tel: 01952 383255***



# DISPENSATIONS



# contents

<b>Introduction</b>	<b>2</b>
<b>Dispensations</b>	<b>3</b>
Granting dispensations under the new regulations	3
Legal requirements for granting dispensations	4
Issues and criteria to consider when granting dispensations	5
Considerations for dealing with dispensation requests	5
Practical guidance on the process for granting dispensations and recording them	6

# introduction

This guidance on dispensations is aimed at standards committees. It is not mandatory but has been written to help describe when standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest.

# dispensations

## Granting dispensations under the new regulations

The legislation states standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest. The criteria for granting these dispensations changed in June 2009

Concerns were raised by some authorities, as well as the Standards Board for England, about the provisions of previous dispensation regulations. Due to these concerns, the Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations) revoke the previous regulations. They replace them with new provisions to clarify the grounds on which standards committees may grant dispensations to local authority members.

Under Section 54A(1) of the Local Government Act 2000 an authority's standards committee can set up a sub-committee to consider requests for dispensations. Any reference in this guidance to the standards committee includes any sub-committee which has this function.

Dispensations may be granted for speaking only, or for speaking and voting. The 2007 Code of Conduct (the Code) relaxed the provisions for restricting members from speaking. Therefore, the need to request a dispensation in this respect is now limited to circumstances where the public do not have the right to speak, or to where a parish or police authority has not adopted paragraph 12(2) of the Code.

Part 4 of the regulations sets out the

circumstances in which a standards committee can grant dispensations to members of relevant authorities in England, and police authorities in Wales. If a member acts in accordance with the granting of a dispensation, taking part in business otherwise prohibited by an authority's code of conduct would not result in a failure to comply with that code.

A standards committee may grant a dispensation to a member or co-opted member of an authority in the following circumstances:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting **OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

**Note:** Although the Regulations are not explicit, political balance is a legal formula, set out in the Local Government and Housing Act 1989 and associated regulations. It applies only to relevant authorities and places an obligation on them to reflect the political balance of their elected members when determining who should sit on certain committees. It does not apply to parish councils.

Standards committees must ignore any dispensations that have already been given to others at the meeting to decide whether either of these criteria apply.

There are two **exceptions** to this:

- Members cannot be given a dispensation allowing them to vote in

# dispensations

overview and scrutiny committees about decisions made by any body they were a member of at the time the decision was taken.

- A dispensation cannot be given to allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

The dispensation granted may apply to just one meeting or it may be applicable on an ongoing basis. However, the dispensation cannot be used to allow participation in the business of the authority if it was granted more than four years ago.

## Legal requirements for granting dispensations

- 1) Standards committees can grant a dispensation if more than 50% of members have a prejudicial interest in an item of business to be discussed at a meeting which is covered by their code of conduct. They must ignore any members who have already been granted dispensations when doing this (see paragraph [\*]). The list of meetings is set out in paragraph 1(4) of the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007. These are meetings of:
  - the authority
  - its executive and its committees and sub-committees
  - any other committees, sub-committees, joint committees, joint sub-committees or area committees

of the authority.

- 2) Standards committees can grant a dispensation for an item of business if the political balance of a meeting would be upset enough to prejudice the outcome of the vote. They must ignore any members who have already been granted dispensations when doing this (see paragraph [\*]). This means that due to the number of members who are prevented from voting the political balance of the committee is changed. This is similar to a provision that has been in existence in Wales for some time. As before, this does not apply to parish councils as they are not bound by the political balance rules.

[\*]The requirement to ignore any members who have already been granted dispensations means that standards committees should disregard any previously granted dispensations in order to work out whether the two circumstances above apply.

So, if there were ten members on a 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, once two people had been granted dispensations, the remaining four would be ineligible because at that point 50% of the committee would be able to vote.

In addition it is necessary to consider if any of the exceptions set out above apply.

# dispensations

## Issues and criteria to consider when granting dispensations

The number of members in each political group on an authority could affect the eligibility to apply for a dispensation.

In situations where one political party has a large majority on an authority, and therefore on its committees, members of that political party will not be eligible to apply for a dispensation frequently under the criterion for political balance (see page 3). Where an authority has two or more political parties, and the number of members that each party has is fairly evenly balanced, the eligibility to apply for a dispensation will rise.

Clearly there is a difference between being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. We recommend that the standards committee considers the need for criteria to be applied to requests for dispensations. The committee will need to balance the prejudicial interest of the member seeking the dispensation to vote on an item of business, against the potential effect on the outcome of the vote if the member is unable to do so.

## Considerations for dealing with dispensation requests

**Q. Is the nature of the member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

For instance, it is unlikely that it would be appropriate to grant a dispensation

to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative. The adverse public perception of the personal benefit to the member would probably outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially where an authority has well-established processes for members on committees to be substituted by members from the same political party.

However, the prejudicial interest could arise from the financial effect the decision might have on a public body of which they are a member. In such cases, it is possible that any public interest in maintaining the political balance of the committee making the decision might be given greater prominence.

**Q. Is the interest common to the member and a significant proportion of the general public?**

For example, the member might be a pensioner who is considering an item of business about giving access to a local public facility at reduced rates for pensioners. Some cautious members might regard this as a possible prejudicial interest. However, as a significant proportion of the population in the area are also likely to be pensioners, it might be appropriate to grant a dispensation in these circumstances.

# dispensations

**Q. Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

For instance, a member might represent the authority on another public body – such as a fire or police authority – and have particular expertise in the work of that body. Therefore it may be appropriate for that member to be allowed to address the decision-making body, even where there is no right for the public to do so. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

**Q. Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee? And is the member's interest not a financial one?**

In circumstances such as these, the standards committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

**Practical guidance on the process for granting dispensations and recording them**

The process for making requests for dispensations, the criteria that will be applied and the process that will be followed when the request is considered should all be clearly understood by those

concerned. Therefore, standards committees should set all this out and make it available to members.

A member must submit an application in writing explaining why a dispensation is desirable. Only the member can do this – they can't ask somebody else to do it on their behalf. It is sensible to send that application to the monitoring officer so that they can arrange for it to be considered by their standards committee.

A standards committee meeting must be convened to consider the application for a dispensation. Therefore, it is not possible to grant a dispensation as a matter of urgency to deal with emergency business.

The committee must consider the legal criteria set out on pages 3–4, including the exceptions. They must also consider any other relevant circumstances. These can include any local criteria they have adopted.

The committee will need to consider whether the member making the request will be allowed to make oral representations to the committee or whether the application will be dealt with only through written representations.

A standards committee has the discretion to decide the nature of any dispensation. For example, the committee may consider that it is appropriate that the dispensation allows the member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

It is our view that the regulations do not

# dispensations

allow standards committees to issue general dispensations to cover members for any situation where a prejudicial interest may arise. The regulations refer to circumstances that arise at “a meeting”. Therefore, we would expect most dispensations to cover a specific item of business at one meeting of the authority.

The decision must be recorded in writing and must be kept with the register of interests established and maintained under Section 81 (1) of the Local Government Act 2000.

Standards committees can refuse to grant a dispensation. The regulations allow for standards committees to use their discretion rather than impose an obligation for them to grant dispensations.

**TO THE STANDARDS COMMITTEE OF TELFORD AND WREKIN  
COUNCIL**

**REQUEST FOR A DISPENSATION**

Please complete the following details and give as much information as possible (you can attach separate sheets of paper if required). Before completing this form please refer to the guidance attached.

1. **Full Name**

.....

2. **Address**

.....  
.....

3. **Telephone No.**

.....

4. **Ward or Parish/Town Council**

.....

5. **Is your request for a dispensation because (please tick):-**

• it is a matter where more than 50% of members who would be entitled to vote at a meeting are prohibited from voting.

Or;

• Where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of the voting would be prejudiced.

(NOT AVAILABLE TO PARISH COUNCILLORS)

6. **Please set out details of the matter for which you are requesting this dispensation.**

.....

.....

.....

.....

.....

.....

7. **Please set out the nature of your interest.**

.....

.....

.....

.....

.....

.....

.....

.....

8. **How long do you require the dispensation for, and why have you requested this timescale (please set out any details of specific meetings or otherwise)**

.....

.....

.....

.....

9. **Please set out the reason why you believe you should be granted a dispensation in this matter (please provide full details).**

.....

.....

.....

.....

.....

.....

Signed .....

Dated .....

ON COMPLETING THIS FORM PLEASE SEND IT TO:-

Jonathan Eatough, Head of Legal Services, Legal Services, Telford & Wrekin Council, Po  
BOX 215, Civic Offices, Telford TF3 4LF

NOTE: Your request will be placed before the Standards Committee at the earliest opportunity. A written copy of the decision made by the Committee will be provided to you as soon as possible thereafter.

IF YOU NEED ASSISTANCE COMPLETING THIS FORM PLEASE CONTACT US ON 01952  
383220

## **GUIDANCE ON APPLYING FOR A DISPENSATION**

1. A dispensation allows elected members to take part in meetings of the Authority when they would normally not be able to do so because they have a personal and prejudicial interest in the business being discussed.
2. A dispensation can be applied for by any elected member of Telford & Wrekin Council (this includes independent members and co-opted members in relation to meetings where the Code of Conduct applies in relation to their participation) and to elected members of the Parish and Town Councils in the Borough of Telford & Wrekin.
3. A dispensation can only be granted by Telford & Wrekin Council's Standards Committee (or appropriate sub-committee of the Standards Committee).
4. A dispensation can be obtained in relation to items of business to be discussed at meetings covered by the Code of Conduct. The types of meetings for which a dispensation can be applied for are as follows.  
Meetings of:-
  - the Authority
  - its executive and its Committees and sub-committees
  - any other Committees, sub-committees, joint committees, joint sub-committees or area committees of the Authority.
5. In order to apply for a dispensation elected members have to demonstrate that by not participating in a meeting of the Authority one of the two following circumstances may occur:-
  - i. More than 50% of the members who would be entitled to vote at the meeting would be prohibited from voting or;
  - ii. The number of members that will be prohibited from voting would upset the political balance of the meeting to the extent that the outcome of the voting would be prejudiced (this particular circumstance does not apply to Parish and Town Councils)
6. Applications for dispensations must be made by the member who is making the application it cannot be made on their behalf. For applications to Telford & Wrekin Council's Standards Committee, it has been agreed that all applications can be forwarded to the Head of Legal Services and Monitoring Officer who will receive the applications

on behalf of the Standards Committee and put it for the attention of the Committee as at the earliest available opportunity.

7. When making an application for a dispensation please consider the following:-
  - i. The application should be made as soon as possible. In order for the dispensation to be considered a Committee has to be convened. It is not always possible to convene a Committee at short notice and accordingly if a late application for a dispensation is submitted it may not be considered prior to the meeting for which the dispensation has been requested.
  - ii. In order to assist with an application the Standards Committee have approved the use of a dispensations form which is available from Telford & Wrekin Council's website ([www.telford.gov.uk](http://www.telford.gov.uk)), Telford & Wrekin Council's Head of Legal Services (01952 383220) or the Parish/Town Clerk. The form has been produced to assist with ensuring that all the appropriate information is included. However, you do not need to use the form if you do not wish to do so.
  - iii. Advice and guidance in respect of a dispensation application can be obtained from Telford & Wrekin Council's Legal Services. If Parish/Town Councillors wish to make a dispensation application then they should first seek advice from their Parish/Town Clerk.
  - iv. In most cases (depending on timing) the applicant will be informed as to when the dispensation application will be considered by the Standards Committee. The applicant is welcome to attend that meeting and, at the discretion of the Chairman of the Committee, may make representations in support of their application. If a number of Councillors are applying for a dispensation and those applications are to be considered at the same time then each individual Councillor must consent to a joint hearing and joint representations.
  - v. A dispensation can be applied for to last up to 4 years. However, it is unlikely that such a dispensation will normally be granted. It is important that the applicant states specifically what meetings, subject etc the dispensation is being applied for.
  - vi. If the dispensation application is allowed then it will be confirmed to the applicant in writing. A copy of the dispensation will also be attached to the members' register of interest form. In the event that the dispensation relates to a Parish/Town Councillor the Clerk will also be provided with a copy of the dispensation. It is advisable that when attending the meeting for which the dispensation has been allowed, the applicant brings a copy of

the dispensation and makes specific reference to it at the point in the meeting when declarations of interest are set out. This is the responsibility of the member who has obtained the dispensation.

8. There is no obligation upon the Standards Committee to grant the dispensation. In the event that the dispensation application has been refused the elected member can seek advice as to ways in which they may make representations in respect of the matter whilst ensuring they do not breach the requirements of the Code of Conduct.

## **STANDARDS COMMITTEE GUIDANCE** **DISPENSATION APPLICATIONS**

- A dispensation allows elected members to take part in meetings of the Authority when they would normally not be able to do so because they have a personal and prejudicial interest in the business being discussed.
- A dispensation can be applied for by any elected member of Telford & Wrekin Council (this includes independent members and co-opted members in relation to meetings where the Code of Conduct applies in relation to their participation) and to elected members of the Parish and Town Councils in the Borough of Telford & Wrekin.
- A dispensation can only be granted by Telford & Wrekin Council's Standards Committee (or appropriate sub-committee of the Standards Committee).

### **Set out below is a checklist of what the Standards Committee has to consider when determining an application for a dispensation.**

- i. Has the application been made in writing by the member who is requesting the dispensation?

Applications for dispensations must be made in writing by the member who is making the application; it cannot be made on their behalf. For applications to Telford & Wrekin Council's Standards Committee the Head of Legal Services and Monitoring Officer will have received the application(s) on behalf of the Standards Committee. Accordingly this aspect should have been dealt with by the time the Standards Committee considers the application. Whilst the Standards Committee have approved the use of a standard form to apply for the dispensation the applicant is not under an obligation to use the form.

The applicant may decide to attend the meeting of the Standards Committee where his application is to be considered. If he/she decides to do so the chairman of the committee can allow the applicant to speak or answer questions from the committee. If there is more than one applicant the chairman can ask for a nominated representative from those applicants who are present to speak on their behalf. This is entirely at the discretion of the chairman. An important consideration for the committee should be that there is a fair determination of the application and that the committee has as much relevant information available to them when making the decision.

- ii. Does the application relate to an item of business to be discussed at meeting covered by the Code of Conduct?

The types of meetings for which a dispensation can be applied for are as follows. Meetings of:-

- the Authority
- its executive and its Committees and sub-committees
- any other Committees, sub-committees, joint committees, joint sub-committees or area committees of the Authority.

If the application does not relate to any of the above you should refer the matter back to the Monitoring Officer and direct that he contacts the applicant to provide further advice.

- iii. Has the applicant demonstrated that by not participating in a meeting of the Authority one of the two following circumstances may occur:-
  - a. More than 50% of the members who would be entitled to vote at the meeting would be prohibited from voting or;
  - b. The number of members that will be prohibited from voting would upset the political balance of the meeting to the extent that the outcome of the voting would be prejudiced (this particular circumstance does not apply to Parish and Town Councils)

If the applicant cannot demonstrate this then the Standards Committee should not allow the application. When considering the "50%" issue the Standards Committee should disregard any dispensations already granted for the same meeting.

- iv. How long does the applicant require the dispensation for? Any grant of a dispensation has to be confirmed in writing and should clearly set out the meeting(s), subject and/or dates when it will apply. A dispensation cannot be granted for more than four years in duration. It is not expected that dispensations will be granted for lengthy periods of time.
- v. If the Standards Committee refuses the application, have reasons been given? There is no obligation upon the Standards Committee to grant the dispensation. In the event that the dispensation application has been refused the committee should set out the reasons why. The applicant can be invited to seek advice from the Monitoring Officer as to ways in which they may make representations in respect of the matter whilst ensuring they do not breach the conditions of the Code of Conduct

## **APPENDIX 3**

1. Proposed change to the terms of reference of the Standards Committee

### **Article 1 The Standards Committee The Audit Committee**

#### **Explanatory Comment**

The Standards Committee has an important role in ensuring and promoting good ethical conduct of Councillors and officers. The Audit Committee has an important role in overseeing financial processes, audit and risk management. They both support good governance in the public sector, with particular reference to local government.

#### **(Section 53-55 and Sections 81(5), Local Government Act 2000)**

(CIPFA Position Statement –“Audit Committee Principles in Local Government”)

#### **9.01 Standards Committee**

The full Council will establish a Standards Committee.

#### **9.02 Composition**

##### **Political Balance**

The Standards Committee will be politically balanced as per the political balance rules in **section 15 of the Local Government & Housing Act 1989**.

- (a) **Membership:** The Standards Committee will be composed of:-
- eight Councillors, excluding the Leader and only one of whom may be a member of the Cabinet;
  - four persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (independent members);
  - at least three parish council representatives (who are not members of the Council)
- (b) **Independent Members** – Independent members will be appointed in accordance with guidance issued. Independent members will be entitled to vote at meetings;
- (c) **Chairing the Committee** – The Chairman must be an Independent Member of the Committee and should either have previous knowledge or have received training on standards, regulation and ethical issues.
- (d) **Quorum** – The quorum for a meeting of the Standards Committee shall be three which must include one of the independent members.
- (e) **Training** – In addition to the Chairman’s training outlined above, all members of the Committee should be properly trained to fulfil their role, including awareness of standards, ethics and governance.
- (f) **Sub-committees** –

## **Terms of Reference of the Referrals Sub-Committee**

### **As approved by the Standards Committee**

1. Terms of Reference
  - a. The Referrals Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct.
  - b. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
    - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
    - ii. refer the allegation to the Standards Board for England;
    - iii. decide that no action should be taken in respect of the allegation; or
    - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
  - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
  - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
  - iii. the matter should be referred to the Adjudication Panel for determination.
- d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) or 2(c) above, the Sub-Committee shall state its reasons for that decision.
- d. The Sub-Committee shall consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.

- e. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.
2. Composition of the Referrals Sub-Committee

The Referrals Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the Sub-Committee), and at least 2 elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

## **Terms of Reference of the Review Sub-Committee**

### **As approved by the Standards Committee**

1. Terms of Reference
  - a. The Review Sub-Committee is established to review, upon the request of a person who has made an allegation that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Referrals Sub-Committee that no action be taken in respect of that allegation.
  - b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Referrals Sub-Committee and shall then do one of the following:
    - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations;
    - ii. refer the allegation to the Standards Board for England;
    - iii. decide that no action should be taken in respect of the allegation; or
    - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition of the Review Sub-Committee

The Review Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the sub-committee), and at least two 2 shall be elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

#### 4. Frequency of Meetings

The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Referrals Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.

### Terms of Reference of the Dispensations Sub-Committee

#### As approved by the Standards Committee

##### 1. Terms of Reference

The Dispensations Sub-Committee is established to determine applications from members of the authority for a dispensation in accordance with the provisions of the Local Government Act 2000 (as amended) and the Standards Committee (Further Provisions) (England) Regulations 2009.

##### 2 Composition of the Dispensations Sub-Committee

The Dispensations Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee and at least two 2 shall be elected members of the Authority. When the Dispensations Sub-Committee considers an application from a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative. The Chairman of the Dispensations Sub-Committee must be an independent member of the Standards Committee.

##### 3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering an application from a Parish or Town Councillor.

### 9.03 **Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, parish councillors and co-opted members, (including church and parent governor representatives);
- (b) assisting the Councillors, parish councillors and co-opted members (including church and parent governor representatives) to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;

- (e) advising, training or arranging training in relation to the Code of Conduct;
- (f) [establish sub-committees of the standards committee to determine applications for granting](#) dispensations ~~from~~ Councillors, co-opted members (including church and parent governor representatives) from requirements relating to interests set out in the Members' Code of Conduct;
- (g) receiving allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct
- (h) establish sub-committees of the standards committee to make initial assessments of complaints received by the Standards Committee alleging a breach of the Members' Code of Conduct;
- (i) establish sub-committees to consider requests received by the Standards Committee to review decisions to take no action in relation to a complaint made to its sub-committee set out at paragraph (g) above
- (i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by a sub-committee of the Standards Committee or an ethical standards officer to the Monitoring Officer and setting up hearings sub-committees to deal with those reports as and when required
- (k) in conjunction with the operation of the Standards Board for England, the Standards Committee will work within the existing policy and procedures for handling of issues relating to probity and matters of an ethical nature.
- (l) consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act
- (m) advising the Council on the appointment of independent members taking account of guidance issued by the Standards Board for England
- (n) selecting and recruiting Parish Council representatives to serve on the Standards Committee taking account of guidance issued by the Standards Board for England

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 17<sup>TH</sup> SEPTEMBER 2009**

**DISPENSATIONS**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To provide the Committee with details of the new rules for dispensations and to update the process for making dispensation applications.

**2. RECOMMENDATIONS**

**2.1 That the Committee approve the new dispensation application form and guidance attached at Appendix 2 of this report.**

**2.2 That the Committee agree that a recommendation is made to the Council Constitution Committee to establish a dispensations sub-committee to consider dispensation applications as set out at Appendix 3 of this report.**

**3. SUMMARY**

New legislation has changed the criteria for obtaining dispensations. This has required a change to be made to the dispensation forms which are currently available to elected members. There is also a proposal that a new system is set up to consider dispensation applications.

**4. PREVIOUS MINUTES**

Standards Committee – 30<sup>th</sup> April 2002  
Standards and Audit Committee – 4<sup>th</sup> October 2005  
Standards and Audit Committee – 4<sup>th</sup> April 2006  
Standards and Audit Committee – 21<sup>st</sup> June 2006  
Standards Committee – 21<sup>st</sup> April 2009

**5. INFORMATION**

**5.1 Background**

At the Standards Committee on 21<sup>st</sup> April 2009 the Committee were informed about the changes introduced by the Standards Committee (Further Provisions) (England) Regulations 2009. These new regulations made changes to the dispensation rules. Standards for England have

now released guidance on how Standard Committees can deal with dispensation applications. The guidance is attached to this report at Appendix 1.

The Regulations replaced the procedure for applying for dispensation which was previously contained in the relevant authorities (Standards Committee) (Dispensations) Regulations 2002. Previously this Committee has approved a standard application form for elected members to use when applying for a dispensation. The use of a standard application form is not compulsory but the Committee has previously considered it to be helpful to both the applicant and the Committee in ensuring the appropriate information is provided in the dispensation application. If this committee wishes to continue to provide such support and assistance to elected members then the standard form will need to be revised and updated. In addition, guidance to both the applicant and the Standards Committee has been prepared. A copy of the new revised form and guidance is attached to this report at Appendix 2. The Committee are asked to consider the contents of both the form and guidance and provide approval for their use.

The Committee are also asked to consider establishing a dispensations sub-committee. The provision of a sub-committee to consider dispensation applications is allowed for under Section 54A (1) of the Local Government Act 2000. The benefits of using a sub-committee would be the ability to quickly consider applications which are sometimes made at relatively short notice. It would also fit in with the structure already established to assess Code of Conduct complaints. Proposals for seeking a change to the terms of reference and also to establish the sub-committee are set out at Appendix 3. If the Committee are in agreement to establish a sub-committee in the terms set out then this will be subsequently put for the consideration of the Council Constitution Committee before being considered by the Council.

The forms and new structure for considering dispensations can be publicised to elected members by way of directly contacting the Clerks to the Parish Councils, by direct correspondence with elected members, and via the Ethical Standards Bulletin.

## **5.2 Equality and Diversity**

The Monitoring Officer will ensure that the procedure for dispensation applications take into account the equality and diversity policies of the Council.

## **5.3 Environmental Impact**

No implications.

#### **5.4 Legal Comment**

The legal comment is contained within the main body of the report.

#### **5.5 Links with Corporate Priorities**

Providing a dispensation application form together with guidance to both the applicant and the Standards Committee combined with a smaller sub-committee to consider the applications will assist the Council and meeting its aim of being an efficient and effective Council that provides value for money.

#### **5.6 Opportunities and Risks**

The opportunities and risks associated with updating the dispensation application process have been identified and assessed. Arrangements have been put in place to manage the risks and maximise the opportunities that have been identified.

#### **5.7 Financial Implications**

The costs will be met within the existing budget provision

### **6. WARD IMPLICATIONS**

District wide implications

### **7. BACKGROUND PAPERS**

Local Government Act 2000 (as amended)

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

Standards Board Guidance in relation to Dispensations (issued July 2009)

#### **End of Report**

***Report prepared by Matthew Cumberbatch, Group Solicitor, Legal Services***

***Tel: 01952 383255***



**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 17<sup>th</sup> SEPTEMBER 2009**

**UPDATE REPORT ON ACTION UNDERTAKEN BY THE MONITORING OFFICER FOLLOWING A CODE OF CONDUCT COMPLAINT - COUNCILLOR LINDA BAKER-OLIVER AND WATERS-UPTON PARISH COUNCIL**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To update the Standards Committee concerning action undertaken at the direction of the Standards Committee Referrals Sub-Committee following a complaint alleging a breach of the Code of Conduct

**2. RECOMMENDATIONS**

- 2.1 That the Standards Committee confirm that they are satisfied with the outcome of the action undertaken by the Monitoring Officer following the decision of the Referrals Sub-Committee on 23 February 2009**

**3. SUMMARY**

Following a complaint to the Standards Committee, the Referrals Sub-Committee directed that the Monitoring Officer invite both the Councillor subject to the complaint and all other Councillors from the Parish Council concerned to attend Code of Conduct training. The Committee are required to consider whether they are satisfied with the action undertaken by the Monitoring Officer in accordance with the direction given.

**4. PREVIOUS MINUTES**

Standards Committee Referrals Sub-Committee – 23 February 2009  
Standards Committee – 21<sup>st</sup> April 2009 (ST – 41)

**5. INFORMATION**

**5.1 Background**

On the 23 February 2009 the Referrals Sub-Committee of the Standards Committee met to consider a complaint made by a member of the public alleging a breach of the Code of Conduct by Councillor Linda Baker-

Oliver of Waters-Upton Parish Council. Having considered the complaint, and taken advice, the Sub-Committee decided that they would direct the Monitoring Officer to invite Councillor Linda Baker-Oliver to undertake Code of Conduct training. They also decided that it would be appropriate to offer training to all Members of Waters-Upton Parish Council.

Training was provided to Cllr Baker-Oliver individually on the 30<sup>th</sup> April and to the Parish Council as a whole on the 24<sup>th</sup> June 2009 when all but one member of the Parish Council attended. Discussions regarding the application of the code of conduct and the procedures to be followed were positive.

It is a requirement that the Standards Committee have to confirm whether or not they are satisfied with the outcome achieved. Accordingly, the Committee are required to consider the action undertaken following the decision made by the Referrals Sub-Committee on 23 February and decide whether the matter can be considered closed.

## **5.2 Equality and Diversity**

The Monitoring Officer will ensure that any equality and diversity issues are addressed in respect of Code of Conduct training.

## **5.3 Environmental Impact**

No implications

## **5.4 Legal Comment**

In accordance with the Standards Committee (England) Regulations 2008 Act Regulation 13 (4) (c) the Standards Committee are required to make a decision as to whether or not they are satisfied with the action taken as a result of the referral to the Monitoring Officer. If no further action is required notification is to be given to the Member who is subject to the report, the person who made the allegations and the Parish Council concerned (in accordance with the Standards Committee (England) Regulations 2008 Act Regulation 13 (7)).

## **5.5 Links with Corporate Priorities**

Processing complaints in accordance with statutory guidelines together with ensuring that appropriate action is taken in order to resolve issues raised by the complaints assist the Council in meeting the corporate priority of being an efficient and effective Council.

## **5.6 Opportunities and Risks**

The opportunities and risks associated with providing this Code of Conduct training in complying with the direction from the Referrals Sub-Committee as being identified and assessed. Arrangements have been put in place to manage the risks and maximise the opportunities that have been identified.

## **5.7 Financial Implications**

The cost of the training was funded from within existing budget provision.

## **6. WARD IMPLICATIONS**

District wide implications

## **7. BACKGROUND PAPERS**

Local Government and Public Involvement in Health Act 2008

The Standards Committee (England) Regulations 2008

**End of Report**

***Report prepared by Matthew Cumberbatch, Group Solicitor  
Tel: 01952 383255***

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 17<sup>th</sup> SEPTEMBER 2009**

**CODE OF CONDUCT COMPLAINTS MADE TO THE STANDARDS  
COMMITTEE – QUARTERLY UPDATE 1 APRIL 2009 – 30 JUNE 2009**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To provide the Committee with details of the Code of Conduct complaints received by the Standards Committee during the period 1<sup>st</sup> April 2009 – 30 June 2009.

**2. RECOMMENDATION**

**That the contents of this report are noted.**

**3. SUMMARY**

From 1<sup>st</sup> April to the 30 June 2009 the Standards Committee received complaints about three elected members which proceeded to the referrals sub-committee. A quarterly return has been forwarded to the Standards for England.

**4. PREVIOUS MINUTES**

Standards Committee – 9 December 2008 (ST-16).  
Standards Committee -18 December 2008 (ST- 25)  
Standards Committee -11 February 2009 (ST- 31)  
Standards Committee – 21<sup>st</sup> April 2009 (ST-37)

**5. INFORMATION**

**5.1 Background**

Under Section 186 of the Local Government and Public Involvement in Health Act 2008 (amending the Local Government Act 2000) there is a requirement that the Council provide regular returns to the Standards Board for England confirming the number

of Code of Conduct complaints received by the Authority for local assessment.

The return period was 1<sup>st</sup> April 2009 – 30<sup>th</sup> June 2009. During that period the Standards Committee received complaints about three elected members which proceeded to local assessment. The complaints were made by members of the public. Complaints were generally concerning aspects of the code that relate to failing to treat others with respect and disrepute.

The complaints were considered by the Referrals Sub-Committee. In one case it was decided that a local investigation was required. In the two remaining cases the sub-committee decided to take no further action.

During the return period the review sub-committee considered one review application made by a member of the public concerning a Telford & Wrekin Borough Councillor (also when acting as a Parish Councillor). The sub-committee decided to uphold the original decision and that no further action was required.

The return was sent electronically to the Standards Board for England confirming this information. At the time of preparing this report there is no up to date information regarding the overall complaints received throughout England during this quarter period.

## **5.2 Equal Opportunities**

There are no issues to be addressed.

## **5.3 Environmental Impact**

No implications

## **5.4 Legal Comment**

The legal comment is contained within the main body of this report.

## **5.5 Links with Corporate Priorities**

It is important that this Committee is provided with up to date information as to the nature of the complaints received and the elements of the Code it relates to. This can assist the Committee in looking at areas where further work needs to be done, for example in respect of specific topics to be dealt with during Code of Conduct training. All of these actions contribute to assisting the Council in meeting corporate priorities of being an efficient and effective and customer focussed Council.

## **5.6 Opportunities and Risks**

The opportunities and risks associated with providing this information to the Committee have been identified and assessed. Arrangements have been put in place to manage the risks and maximise the opportunities that have been identified.

## **5.7 Financial Implications**

Code of Conduct Complaints are dealt with within existing resources and any over spends will be reported as part of the routine financial monitoring process.

## **6. WARD IMPLICATIONS**

District wide implications.

## **7. BACKGROUND PAPERS**

None

***Report prepared by Matthew Cumberbatch, Group Solicitor, Legal Services  
Tel: 01952 383255***