

**EXPLANATORY MEMORANDUM TO
THE STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND)
REGULATIONS 2009**

2009 No. 1255

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Standards Committee (Further Provisions) (England) Regulations 2009 (“the Regulations”) enable the Standards Board for England (“the Standards Board”) to suspend a local authority standards committee’s power to undertake the initial assessment of an allegation that a member or co-opted member of its authority has failed to comply with the authority’s code of conduct.

2.2 The Regulations also make provision to enable two or more local authorities to establish a joint standards committee to exercise functions under Part 3 of the Local Government Act 2000 (“the 2000 Act”) and Part I of the Local Government and Housing Act 1989 (“the 1989 Act”).

2.3 The Regulations also revoke the Relevant Authority (Standards Committees) (Dispensations) Regulations 2002 (“the Dispensation Regulations”) and replace them with new provisions prescribing the circumstances in which a standards committee may grant dispensations to members or co-opted members who would otherwise be prohibited from engaging in the business of an authority, and the procedure for doing so.

2.4 The Regulations come into force on 15th June 2009.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Part 3 of the 2000 Act established the regime governing the conduct of members and co-opted members of relevant authorities in England and Wales. Section 49 of the 2000 Act defines “relevant authority” for this purpose, and enables the Secretary of State in relation to relevant authorities in England and police authorities in Wales to specify by order the principles which are to govern the conduct of members and co-opted members (which includes any person who although a member of a committee or subcommittee of the authority who is entitled to vote on any question, is not a member of the authority itself). Section 50 of the 2000 Act provides for the making by order of a model code of conduct as regards the conduct which is expected of those members and co-opted

members, the mandatory provisions of which must be adopted by relevant authorities. For the purposes of this memorandum, unless specified otherwise, the term “member” should be read as meaning a member or co-opted member of a relevant authority.

4.2 Section 57A of the 2000 Act (which along with sections 57B to 57D, was inserted by the Local Government and Public Involvement in Health Act 2007 – “the 2007 Act”) provides that written allegations that a member has failed to comply with the code of conduct are made to the standards committee of the relevant authority concerned. On receipt of an allegation, the standards committee may decide:-

- to take no action in relation to the allegation;
- to refer the allegation to the monitoring officer for investigation;
- to refer the allegation to the monitoring officer for action other than investigation; or
- to refer the allegation to the Standards Board for England.

4.3 Section 57B of the 2000 Act makes provision for a complainant to request a review of a standards committee’s decision to take no action in respect of an allegation. Section 57C of the 2000 Act makes provision for information to be given to the subject of an allegation by a standards committee.

4.4 Section 57D of the 2000 Act provides that in circumstances prescribed in regulations, the Standards Board may direct that, until such time as the direction is revoked by the Standards Board, sections 57A(2) to (4), 57B(4) and 57C(2) to (4) of the 2000 Act (“the initial assessment functions”) shall not apply to a local standards committee. Section 57D also provides that the Secretary of State may by regulations make provision regarding the circumstances where a direction to suspend a standards committee’s initial assessment functions may be revoked, and the procedures to be followed where a direction has been made or revoked. Part 2 of the Regulations prescribes the circumstances for the purposes of section 57D and makes provision for the giving and revocation of such directions.

4.5 Sections 66B and 66C of the 2000 Act confer powers on the Standards Board to monitor and obtain information from local authorities to enable it to identify situations where it would be appropriate to exercise the power to give a direction to suspend a standards committee’s initial assessment functions.

4.6 The Standards Committee (England) Regulations 2008 (SI 2008/1085) (“the Standards Committee Regulations”) make provision in relation to how local standards committees deal with misconduct allegations, the size and composition of local authority committees and sub-committees of standards committees, the validity of proceedings of such committees and sub-committees, the powers, procedures and requirements placed on local authority monitoring officers when undertaking investigations or taking action other than investigation, and the procedural rules for hearings of standards committees to determine whether an individual has failed to comply with the code of conduct.

4.7 Section 56A of the 2000 Act provides that the Secretary of State may make regulations under which two or more relevant authorities in England may establish a joint standards committee of those authorities and arrange for relevant functions to be exercisable by that committee. Part 3 of the Regulations make such provision. In this context the term “relevant functions” means functions conferred by or under Part 3 of the

2000 Act or any other enactment on the standards committee of any (or each) of the relevant authorities concerned.

4.8 Part 1 of the 1989 Act provides that a standards committee must consider any application it receives for an exemption in respect of a post which the authority have specified or are proposing to specify in the list of politically restricted posts maintained by them under section 2(2) of the 1989 Act. If the standards committee is satisfied that the duties of the post do not fall within the section 2(3) of the 1989 Act, namely that the post does not involve giving advice on a regular basis to the authority or speaking on behalf of the authority on a regular basis to journalists or broadcasters, it may direct that the post should not be included in the authority's list of politically restricted posts.

4.9 Section 81(4) of the 2000 Act provides that participation by a member of a relevant authority in business which is prohibited by the mandatory provisions of a model code of conduct, is not a failure to comply with the code of conduct if the member has acted in accordance with a dispensation granted by the standards committee in accordance with regulations made under section 81(5). Part 4 of the Regulations makes provision for standards committees to grant such dispensations.

4.10 The Local Government and Public Involvement in Health Act 2007 (Commencement No. 2 and Savings) Order 2008 (SI 2008/172) brought into force, on 31 January 2008, the provisions of the 2007 Act necessary to make the Regulations.

5. Territorial Extent and Application

5.1 Parts 1 and 4 of the Regulations apply to relevant authorities in England and police authorities in Wales. Parts 2 and 3 of the Regulations apply to relevant authorities in England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 Part 10 of the 2007 Act, which received Royal Assent on 30 October 2007, and the Standards Committee Regulations, which came into force on 8 May 2008, largely implemented the Government's policy of introducing a more locally-based conduct regime for local authority members in England. Under this new devolved regime, local standards committees undertake the initial assessment of misconduct allegations and, in all but the most serious cases, the investigation and determination of such allegations will be undertaken locally, instead of by the Standards Board.

Part 2 – Suspension of initial assessment functions

7.2 Under the new devolved regime, the Standards Board has the role of a strategic regulator. This involves providing guidance and support to standards committees and monitoring officers on undertaking their new roles and functions. Guidance on the

existing conduct regime is published on the Standards Board's website and additional guidance covering the subject matter of the Regulations will be added when the Regulations come into force. A hard copy of the guidance, for inclusion in the Standards Board's Local Standards Framework guide for authorities will follow as soon as practicable afterwards. The Standards Board also monitors the performance of authorities in operating the conduct regime through authorities completing periodic online returns in relation to the cases they handle and producing an annual report, which the Standards Board monitors against a series of criteria. This helps to ensure that the regime is working effectively as a whole, that good practice can be shared, and allows the Standards Board to identify those standards committees and monitoring officers who are encountering difficulties in undertaking any aspect of their roles, as well as to identify how to assist them to improve their performance.

7.3 To ensure that the public and local authority members can trust and have confidence in the new devolved conduct regime, section 57D of the 2000 Act provides the Standards Board with the power to remove a standards committee's initial assessment functions. Part 2 of the Regulations makes provision to enable the Standards Board to exercise its power, under section 57D(1) of the 2000 Act, to direct that a local authority's standards committee's initial assessment functions are suspended, where:

- the standard committee has failed to comply with guidance on the conduct regime available on the Standards Board's website and contained in the Local Standards Framework guide for authorities, issued by the Standards Board;
- the standards committee has failed to comply with a direction given by the Standards Board;
- the standards committee or the monitoring officer has failed to carry out functions in relation to the conduct of members in a timely or appropriate manner; or
- the authority or the standards committee has invited the Standards Board to give a direction.

7.4 The Standards Board's decision on whether to suspend a standards committee's initial assessment functions will be taken on a case-by-case basis and informed by information gathered by the Standards Board about the performance of standards committees and the authority's monitoring officer. If the Standards Board is satisfied that any of the circumstances mentioned above apply, it may suspend the initial assessment function of that authority, even if the authority in question is not failing in the discharge of that initial assessment function. Essentially, the Standards Board has the power to "turn off the tap" – since it is at the initial assessment of allegations stage that the decision is made as to how that allegation is to be treated. Once an allegation has been allocated in a particular manner, the Standards Board has no power to intervene further.

7.5 Where a direction under section 57D(1) of the 2000 Act is in place either the Standards Board or, with its consent, the standards committee of another relevant authority in England will undertake the initial assessment functions on behalf of the standards committee who is the subject of the suspension.

7.6 Regulations 4 to 8 of the Regulations make procedural arrangements in relation to the suspension of a standards committee's initial assessment functions, including a requirement for the Standards Board, before giving a direction to suspend, to give notice to the authority concerned that it intends to give such a direction. Section 231 of the Local Government Act 1972 makes provision as to how such service is effected. Copies

of the notice must be sent to the chair of the standards committee and to the monitoring officer of the authority concerned. The Regulations also make provision regarding the service and content of a direction to suspend a standards committee's initial assessment functions and the procedure for revoking a direction to suspend issued by the Standards Board.

7.7 Section 57A(1) of the 2000 Act provides that where a standards committee's initial assessment functions are suspended, written allegations that a member has failed to comply with the code of conduct of that authority are still to be made to the suspended standards committee. The direction to suspend a standards committee's initial assessment functions, in accordance with the provisions in Regulation 6, specifies the body to which allegations of misconduct received by the suspended standards committee must be sent.

7.8 In order to limit confusion regarding the procedures which apply when the Standards Board or the standards committee of another relevant authority undertakes the initial assessment functions on behalf of a suspended standards committee, the Regulations provide that, as far as practicably possible, the existing rules and procedures which apply to local standards committees and monitoring officers when considering allegations of misconduct apply, with certain modifications, to the Standards Board or the other standards committee, as the case may be. This includes the provision of information to the complainant and the subject of an allegation and a complainant's right to request a review to take no action in respect relation of an allegation.

7.9 Regulation 9 of the Regulations applies, with modifications, certain sections of the 2000 Act and the Standards Committee Regulations to make provision in relation to the procedures which apply where a direction to suspend a standards committee's initial assessment functions, under section 57D(1) of the 2000 Act, has not been revoked and the Standards Board has been identified in the direction as the body which will consider misconduct allegations on behalf of the suspended standards committee, whilst the suspension is in place.

7.10 On receipt of a written allegation from a suspended standards committee, the Regulations provide that the Standards Board must either:

- refer the allegation to one of its ethical standards officers for investigation;
- decide that no further action should be taken in respect of the allegation; or
- refer the allegation to the monitoring officer of the relevant authority (or, if appropriate, of another relevant authority) for investigation or action other than investigation.

7.11 Where the Standards Board has suspended a standards committee's initial assessment functions, the Standards Board may still refer an allegation to be considered by the monitoring officer of an authority. However, if the Standards Board has concerns both about the performance of a standards committee and the authority's monitoring officer, the Standards Board has the option of referring the allegation to one of its ethical standards officers to investigate. The Regulations enable the Standards Board to refer an allegation to the monitoring officer of another relevant authority, where it considers appropriate, for instance, where the subject of the allegation is a member of that other relevant authority and it would be more appropriate for that authority's monitoring officer to consider the matter.

7.12 Regulation 9 of the Regulations applies regulations 13 and 14 of the Standards Committee Regulations, with modifications, to allegations referred to a local authority monitoring officer by the Standards Board where a suspension is in place. The modifications to regulation 13 of the Standards Committee Regulations enable the Standards Board to refer a matter to a monitoring officer for action other than an investigation, whilst the modifications to regulation 14 of the Standards Committee Regulations enable the Standards Board to refer a matter to a monitoring officer for investigation. Regulation 9 of the Regulations also applies regulation 16 of the Standards Committee Regulations, with modifications, to address circumstances where the monitoring officer decides to refer a matter referred to it either by the Standards Board or the suspended standards committee, before its initial assessment functions were suspended, as the case may be, back to the Standards Board to undertake a further assessment of the allegation.

7.13 Regulation 10 of the Regulations applies, with modifications, certain sections of the 2000 Act and the Standards Committee Regulations to make provision in relation to the procedures which apply where a direction to suspend a standards committee's initial assessment functions, under section 57D(1) of the 2000 Act, has not been revoked and the standards committee of another relevant authority in England has been identified as the body which will consider misconduct allegations on behalf of the suspended standards committee, whilst the suspension is in place.

7.14 On receipt of a written allegation from a suspended standards committee, the Regulations provide that the other standards committee must either:

- refer the allegation to the monitoring officer of the authority of the suspended standards committee for investigation or action other than investigation;
- refer the allegation to the monitoring officer of its authority for investigation or action other than investigation;
- refer the allegation to the monitoring officer of any other relevant authority of the which the subject of the allegation is or has been a member for investigation or action other than investigation;
- refer the allegation to the Standards Board; or
- decide that no action should be taken in respect of the allegation.

7.15 The above options reflect those available to a standards committee under section 57A(2) of the 2000 Act, where it has received a misconduct allegation. However, where a suspension is in force and the other standards committee is undertaking the initial assessment of misconduct allegations, the Regulations give the other standards committee the option to refer the allegation to the monitoring officer of its authority to investigate the matter or take action other than investigation, rather than the monitoring officer of the authority of the suspended standards committee.

7.16 Regulation 10 of the Regulations applies regulations 13 and 14 of the Standards Committee Regulations, with modifications, to allegations referred to a local authority monitoring officer by the other standards committee, instead of a suspended standards committee. Regulation 13 of the Standards Committee Regulations is modified to enable the other standards committee to refer a matter to a monitoring officer to take action other than investigation, for instance, training or a process of conciliation. Regulation 14 of the Standards Committee Regulations is modified to enable the other standards committee to refer a matter to a monitoring officer for investigation. Regulation 9 of the Regulations

also applies regulation 16 of the Standards Committee Regulations, with modifications, to address circumstances where the monitoring officer decides to refer a matter referred to him or her either by the other standards committee or the suspended standards committee, before its initial assessment functions were suspended (as the case may be), back to the other standards committee to undertake a further assessment of the allegation under section 57A(2) of the 2000 Act, as modified by the Regulations. At the conclusion of an investigation, the monitoring officer must produce a report of findings in relation to the matter and refer it to either the suspended standards committee or the other standards committee, as the monitoring officer considers appropriate, to hold a hearing to determine whether the individual has failed to comply with the authority's code of conduct.

7.17 Regulation 12 of the Regulations makes provision regarding the arrangements which apply where a suspension is in place and either the Local Commissioner, under Part 3 of the Local Government Act 1974, or the Public Services Ombudsman for Wales, under Part 2 of the Public Services Ombudsman (Wales) Act 2005, forms the opinion that a complaint it is considering relates to an investigation under the conduct regime for local authority members. In such circumstances, the regulations provide that the suspended standards committee shall inform the Local Commissioner or Public Services Ombudsman for Wales, as the case may be, of the body which is considering the allegations on its behalf.

Part 3 – Joint standards committees

7.18 In order to promote more effective ways of working locally, the Government believes that two or more relevant authorities should be able to establish a joint standards committee to exercise their functions under the devolved conduct regime, which might, for instance, allow for more efficient use of common resources and aid the sharing of information, expertise, advice and experience.

7.19 In line with the wishes of those standards committees who were involved in the Standards Board's pilot exercise on joint working, Regulation 14 of the Regulations provides that two or more relevant authorities may establish a joint standards committee to exercise any, or all, of the functions under Part 3 of the 2000 Act, and associated regulations, or the function of the granting and supervision of exemptions from political restrictions imposed under Part 1 of 1989 Act. Regulation 14 provides relevant authorities with the flexibility to decide for themselves which functions they wish to be exercised by a joint standards committee, based on their own needs and circumstances. This may involve discharging only the initial assessment functions jointly, which was the preference of the majority of the participants in the Standards Board's joint working pilot; or all of the standards committee's functions, as was the preference of some police authorities and fire authorities. Relevant authorities will be assisted in reaching this decision by guidance published by the Standards Board on the Standards Board's website when, or just before, the Regulations come into force. A hard copy of the guidance, for inclusion in the Standards Board's Local Standards Framework guide for authorities will follow as soon as practicable afterwards.

7.20 Regulation 14 applies, with all necessary modifications, the provisions in Part 3 of the 2000 Act and associated regulations and Part 1 of the 1989 Act, which apply to standards committees, to joint standards committees. The necessary modifications have the effect of requiring, as is the case with standards committees, that joint standards committees must be chaired by an independent member and that joint standards

committees must establish a sub-committee to consider allegations of misconduct under section 57A of the 2000 Act and a different sub-committee made up of different members to consider any requests, under section 57B of the 2000 Act, to review a decision to take no action in respect of an allegation, both of which must be chaired by an independent member.

7.21 Regulation 14(4) makes clear that where a relevant authority has decided to discharge all of its functions via a joint standards committee, the requirement to establish a standards committee at section 53(1) of the 2000 Act does not apply. In order to ensure that each component relevant authority in these circumstances takes an active interest in conduct issues affecting their members and the agenda of promoting and maintaining high standards of conduct within its authority, the regulation 14(5)(c) requires each component relevant authority to have at least one elected member on the joint standards committee.

7.22 Regulation 15 requires those authorities which establish a joint standards committee to agree the terms of reference of the joint standards committee, which are to be sent to the Standards Board. Regulation 15(2) provides that the terms of reference must:

- identify the functions which are to be discharged by the joint standards committee;
- make provision for the administrative arrangements of the joint standards committee, such as the procedures for conducting meetings, a protocol setting out the role of each authority's monitoring officer and the financial arrangements adopted by the joint standards committee;
- specify for each authority involved in the joint standards committee the body which is to be regarded as the standards committee to which written allegations under section 57A(1) of the 2000 Act should be sent;
- specify the number of members to be appointed to the joint standards committee by the authorities establishing the committee and the terms of office of those members, and make provision for the appointment of members to sub-committees of the joint standards committee;
- specify the provisions, if any, which will apply regarding the payment of allowances for members of joint standards committees; and
- make provision for the procedures for an authority to withdraw from the joint standards committee.

7.23 Regulation 15(3) provides that the expenses incurred by the joint standards committee shall be defrayed by the component relevant authorities in such proportions as they agree. If there is disagreement amongst the component authorities the expenses shall be defrayed as decided by a single arbitrator agreed by the component authorities.

Part 4 - Dispensations

7.24 In light of concerns raised by some relevant authorities about the provisions of the current Dispensation Regulations, the Regulations revoke the Dispensation Regulations and replace them with new provisions to clarify the rules which apply to standards committees when granting dispensations to local authority members.

7.25 Part 4 of the Regulations prescribe the circumstances in which a standards committee may grant dispensations to members of relevant authorities in England, and police authorities in Wales. If a member acts in accordance with the grant of a dispensation, any participation in business prohibited by the mandatory provisions of a model code of conduct issued under section 50(1) of the 2000 Act would not constitute a failure to comply with the authority's code of conduct.

7.26 The circumstances where a standards committee may grant a dispensation to a member or co-opted member of an authority are:

- where more than 50% of the members who would, but for the granting of any dispensations in relation to that business, 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, but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

7.27 The provision in regulation 17(1) ensures that any previously granted dispensations are disregarded for the purposes of working out whether the two circumstances above apply. Thus if there were 10 members on a committee, six of whom would be prohibited from voting on some business, all 6 are to be entitled to claim a dispensation. If previously granted dispensations were not disregarded, a situation could arise where once four people had been granted dispensations, the remaining two would be ineligible to seek dispensation – since at that point there would be less than 50% of the committee prohibited from voting.

7.28 In order to obtain a dispensation a member must submit a written request for a dispensation to his or her authority's standards committee, and that standards committee must conclude that having regard to the above circumstances and all other circumstances of the case, it is appropriate to grant the dispensation. Regulation 17(2) provides that a dispensation can only be granted in respect of business arising in the period of four years following the grant of the dispensation. It also specifies that a dispensation cannot be granted to allow a member of an overview and scrutiny committee to participate in the scrutiny of the decision of another committee in which he or she was involved or to allow an individual member of the executive of an authority to exercise executive functions solely. Regulation 18 makes provision as to keeping records of the dispensations an authority has granted.

Consolidation

7.29 Not applicable

8. Consultation outcome

Public consultation

8.1 The Department published, on 3 January 2008, its consultation paper '*Orders and Regulations Relating to the Conduct of Local Authority Members in England*'¹. The consultation paper was sent to all local authorities in England, local government representative bodies, including the Local Government Association ("LGA"), and other key partners and stakeholders identified as having an interest in the conduct regime for local authority members. A list of those consulted is provided at Annex A to this memorandum. Consultees were asked to comment on the Department's proposals:

- regarding the circumstances where the Standards Board should have the power to suspend a standards committee's initial assessment powers and the procedures for doing so;
- to enable relevant authorities to enter into joint arrangements with other relevant authorities to discharge their functions; and
- to clarify the rules and procedures which govern the granting of dispensations by local authority standards committees.

8.2 The consultation ran for six weeks until 15 February 2008. This reflects the period normally allowed for consultation with local government in the 'Framework for Partnership' between the Government and LGA, and the previous extensive consultation undertaken by the Department, including consultation, in the Local Government White Paper, '*Strong and Prosperous Communities*', published on 26 October 2006, on the policy principles underpinning the establishment of a new devolved conduct regime for members of relevant authorities in England.

8.3 The Department received 571 responses to its consultation paper. The Department has published a summary of the consultation responses it received and its responses to them². The general view of respondents was that the appropriate criteria where the Standards Board may suspend a standards committee's initial assessment functions had been identified in the consultation paper. However, respondents considered that the Standards Board should not be able to suspend a standards committee's initial assessment functions, unless the Board had been in prior consultation with the relevant parties in the authority concerned and the authority concerned was given a reasonable opportunity to respond to the Standards Board's comments and take remedial action before any suspension was put in force. Respondents also stressed the need for the Standards Board to provide support to those authorities who were underperforming and that the decision to suspend a standards committee's initial assessment functions should only be taken as a last resort.

8.4 Almost all of those authorities who responded to the consultation paper expressed an interest in pursuing joint arrangements. However, some authorities felt that the decision to enter into joint arrangements would be best considered once the new devolved conduct regime had had the opportunity to bed down within an authority and time had been allowed for some practical operation of the regime locally. Respondents also expressed the view that regulations should not restrict the number of relevant authorities who may enter into joint arrangements.

¹ This document is available on the Department's website at <http://www.communities.gov.uk/publications/localgovernment/laconduct>.

² Also available on the Department's website at <http://www.communities.gov.uk/publications/localgovernment/lamembersconduct>

8.5 Most respondents also supported the Department's proposals to amend the Dispensation Regulations to clarify the circumstances where a local authority standards committee may grant a dispensation, and the procedure for doing so.

Consultation with panel of experts

8.6 Following the Department's consultation, the LGA convened an informal panel of experts to consider the Department's proposals. The panel consisted of officials from the Department, the Standards Board, the Adjudication Panel and local government representative bodies. In the drafting of the Regulations the Department has received assistance from the Standards Board, and provided an early draft of the Regulations to the members of the informal panel and participants in the Standards Board's joint working pilot for their consideration.

8.7 The majority of members of the informal panel considered that the circumstances where the Standards Board may suspend a standards committee's initial assessment functions should be broad enough to enable it to suspend a standards committee's initial assessment functions, where the Standards Board considered that it was in the public interest to do so. It was also considered important for the criteria by which the Standards Board would judge whether to suspend a standards committee's initial assessment functions should be made public, so that standards committees were aware in advance of the standards expected of them. Panel members echoed the comments of consultees that the Standards Board should only use its suspension power as a last resort, and after giving the relevant authority concerned an opportunity to improve its performance.

8.8 Panel members supported the principle of enabling two or more standards committees to enter into joint working arrangements with other authorities' standards committees. They also agreed that the regulations should be flexible enough to enable standards committees to select which functions under Part 3 of the 2000 Act and Part I of the 1989 Act they wished to discharge via joint arrangements, and to enter into arrangements involving any combination of those functions, which made sense to them based on local circumstances. Attendees were also in agreement that the Standards Board should issue guidance to advise authorities on the options open to them and how to comply with the provisions set out in regulations.

8.9 In relation to the Department's proposals to amend the provisions of the existing Dispensation Regulations to clarify their effect, panel members suggested that similar provisions to the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI 2001/169) should be adopted as they were considered to be clearer and easier to understand the current provisions in the Dispensation Regulations.

Outcome of consultation

8.10 The Secretary of State has considered the responses received to the consultation paper and comments from the informal panel of experts in the drafting of the Regulations. In response to the key concerns and views raised, the Secretary of State has decided that:

- the circumstances in which the Standards Board may suspend a standards committee's initial assessment functions should be sufficiently broad to enable

the Standards Board to take action where it considers appropriate and it is in the public interest to do so.

- the Standards Board shall, before suspending a standards committee's initial assessment functions, serve on the relevant authority concerned a notice stating that it intends to suspend the authority's standards committee's initial assessment functions before it may serve a suspension. The notice of intention to suspend must set out the reasons why the Standards Board intends to suspend the standards committee's initial assessment functions, and the authority concerned must be given no less than 28 days to respond to the Standards Board's comments;
- given that the devolved conduct regime has now been in force for over a year, it is now appropriate to make provision in the Regulations to enable relevant authorities to enter into joint arrangements with other relevant authorities in England, should they choose to do so;
- relevant authorities in England may enter into arrangements to discharge any, or all, of their standards committee's functions under Part 3 of the 2000 Act and Part I of the 1989, or any combination of those functions, jointly with another relevant authority in England's standards committee. The Regulations provide that certain of the provisions in the Standards Committee (England) Regulations 2008 which apply to standards committees and their sub-committees, apply to joint standards committee with the necessary modifications. In light of the comments received, the Regulations do not impose any restrictions on the maximum number of relevant authorities which may establish a joint standards committee; and
- the Regulations should revoke the existing Dispensation Regulations and replace them with provisions which are easier for practitioners to understand and put into practice, based on the provisions and the lessons learnt from the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (SI 2001/169).

9. Guidance

9.1 The Standards Board will issue guidance to relevant authorities and practitioners on the issues a relevant authority may wish to consider when considering whether to enter into joint arrangements and template documents to use when agreeing the terms of reference of the joint standards committee. The Standards Board will also issue guidance to standards committees to assist them in their consideration of applications for dispensations. This will be disseminated initially via the Standards Board's website with a hard copy to follow. Additionally, the Standards Board will produce a quick reference guide for members on Dispensation, which will be available on the Standards Board's website.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. The Regulations will result in administrative savings for those relevant authorities who choose to discharge some or all of their functions via a joint standards committee.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring and review

12.1 The Department maintains close dialogue and liaison with the Standards Board which monitors local authority standards committees. This includes monthly meetings with officials at the Standards Board which provide an opportunity for the Department to keep abreast of issues relating to the conduct regime for local authority members. Any issues relating to these Regulations will be identified through these channels.

13 Contact

Stephen Mcallister at the Department for Communities and Local Government Tel: 020 7944 4277 or e-mail: stephen.mcallister@communities.gsi.gov.uk can answer any queries regarding the instrument.

ANNEX A

List of consultees

Adjudication Panel for England
Association of Council Secretaries and Solicitors
Association of Larger Local Councils
Association of Police Authorities
Audit Commission
Broads Authority
City of London
Combined Fire and Rescue Authorities
Commission for Local Administration in England
Commission for Local Administration in Wales
Committee for Standards in Public Life
Communities and Local Government Committee
Council of the Isles of Scilly
County and District Councils in England
Electoral Commission
The Greater London Authority
INLOGOV
Joint Waste Disposal Authorities in England
London Borough Councils
Local Government Association
Local Government Employers
Local Government Independent Adjudicator
National Assembly for Wales
National Association of Local Councils
National Park Authorities
Parish and Town Councils in England
Police Authorities in England and Wales

Political parties
Society of Local Authority Chief Executives
Society of Local Council Clerks
Standards Board for England
Trades Union Congress
UNISON