

**Committee:** STANDARDS

**Agenda Item**

**Date:** June 22, 2009

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**Title:** **DISPENSATIONS**

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Item for decision

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## Summary

1. The Standards Committee (Further Provisions) (England) Regulations 2009 came into force on 15 June 2009. The Regulations are drawn in four parts. Part 1 is general and deals with definitions. Part 2 deals with the power of the Standards Board to suspend the initial assessment functions of standards committees and the circumstances in which those powers will be exercised. Part 3 deals with the formation of joint standards committees and Part 4 deals with dispensations.
2. This report is to inform members of the change in law relating to dispensations and to seek members' views on how these may be applied in future.

## Recommendations

2. That members determine what circumstances they may be prepared to grant dispensations where the applicable balance of the Council or a committee is affected by the mandatory provisions of the Code.

## Background Papers

3. None.

## Impact

- 4.

Communication/Consultation	The town and parish councils have not been consulted with regard to this report as the rules relating to political balance do not apply to town or parish councils and the law relating to other dispensations has not been changed.
Community Safety	None.
Equalities	None.
Finance	None.

Human Rights	None.
Legal implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

## Situation

5. Members will be aware that under the Code of Conduct a member of a council who has a prejudicial interest must withdraw from a meeting where a matter relating to that interest is being considered. Prior to the adoption of the current Code of Conduct members were obliged to withdraw when the matter came up for consideration. Since the adoption of the new Code of Conduct members have the right (subject to the public having a similar right) to remain to make a statement, give evidence or answer questions provided that they withdraw from the Chamber immediately thereafter.
6. Standards Committees had power to grant dispensations to members of the district council or between members of town or parish councils in circumstances where because of the mandatory provisions of the Code regarding interests more than one half of the members of the Council or a Committee were prevented from taking part. That power is carried forward under the new regulations.
7. Under the Local Government and Housing Act 1989, district councils are required to apply political balance to its committees. In summary this means that not all seats on a committee may be allocated to the same group; the majority of seats on the group is allocated to the group with the majority of the authority's membership; subject to those two points the number of seats on ordinary committee which are allocated to each group bears the same proportion to the total of all the seats on the ordinary committees as is borne by the number of members of that group to the membership of the Council and subject to those points the number of seats on a committee which are allocated to a political group bears the same proportion to the number of all seats of the committee as is borne by the number of members of the group to the membership of the authority.
8. Circumstances may arise where the political balance of a committee may be affected by the mandatory provisions of the Code of Conduct. The new regulations provide that a Standards Committee may grant a dispensation to a member where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply otherwise being impeded by, or as a result of, the mandatory provisions because the number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business

upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting.

9. A dispensation may not last for more than 4 years. In practice when this Committee has granted dispensations in the past they have been expressed to expire at the date of the next ordinary election of the Council. I consider that to be good practice as the number of members affected may well change as a result of an election and it would therefore be desirable to review dispensations after an election has taken place.
10. The power to grant dispensations does not extend to authorise a member to vote at a meeting of an overview or scrutiny committee in respect of a decision of another committee of which the member was a member at the time a decision was taken.
11. Before a dispensation can be granted the member or members concerned must have made a written request for a dispensation to the Standards Committee explaining why it is desirable. Dispensations are not granted as a right. The Committee must be satisfied that having regard to the matters referred to in the regulations and having regard to any other relevant circumstances it is appropriate to grant the dispensation.
12. Although not specifically set out in the regulations (past or present) it has always been the case that the Standards Board have advised a dispensation may authorise a member to speak, vote or both. In practical terms if a dispensation were to be granted because of the effect of political balance, there would appear to be no purpose in granting the dispensation which did not include the right to vote.

### Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
There is confusion as to the circumstances in which the Standards Committee may be prepared to exercise its power to grant dispensations.	1, the definition of prejudicial interest is now so tightly drawn that is unlikely that there will be sufficient members with a prejudicial interest to affect the political balance of the Council of the Committee.	2, the regulations themselves set out the circumstances in which dispensations may be granted.	Members indicate the type of circumstance in which they would be likely to exercise their discretion in favour of granting a dispensation.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.