

## REPORT OF THE CLERK AND MONITORING OFFICER

### **ACCESS TO INFORMATION RELEVANT AUTHORITIES (STANDARDS COMMITTEE) (AMENDMENT) REGULATIONS 2006**

#### **1 Purpose**

To inform the Committee about the changes made by the Relevant Authorities (Standards Committee) (Amendments) Regulations 2006.

#### **2 Recommendations**

The Committee is asked to agree that:

- a) The contents of this report are noted; and
- b) The Clerk and Monitoring Officer make any amendments as appropriate to the practice and procedures of this Committee in order to ensure that there is compliance with the new legislation relating to access to information.

#### **3 Summary**

The Relevant Authorities (Standards Committee) (Amendments) Regulations 2006 came into force on 1 March 2006. The Order makes changes in respect of the Rules on Access to Information to reflect the amendments made by the Local Government (Access to Information) (Variation) Order 2006.

#### **4 Impact of the New Legislation**

The Government has introduced three new Statutory Instruments, which came into effect on 1 March 2006, with the aim of bringing the categories of Exempt Information relating to local authority meetings and documentation in line with the legal requirements governing Freedom of Information.

These changes have been brought in principally by the Local Government (Access to Information) (Variation) Order 2006 (SI 2006/88), which has replaced the previous criteria of Exempt Information with seven new descriptions.



The seven new descriptions are as follows:

- Information relating to any individual;
- Information which is likely to reveal the identity of an individual;
- Information relating to the financial or business affairs of any particular person (including the Authority holding any Information);
- Information relating to any consultations or negotiations, or contemplating consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority;
- Information in respect of which a claim to legal professional privilege can be maintained in legal proceedings;
- Information which reveals that the Authority proposes – (a) to give under any enactment a Notice under or by virtue of which requirements are imposed by a person; or (b) to make an Order or Direction under any enactment; and
- Information relating to any action taken or to be taken in connection with the prevention or investigation or prosecution of crime.

The consideration as to whether or not the above categories are exempt and accordingly should not be disclosed to the public is subject to a public interest test, provided that in all circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The rules in relation to Standards Committees are slightly different in that there are supplemental descriptions of potentially exempt items, which were previously set out in the Relevant Authorities (Standards Committee) Regulations 2001. The changes to the principal rules on exempt information have led to additional changes to the rules relating to Standards Committees and these have been set out in the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006. The principal changes are to remove the previous additional description of a potentially exempt category of information, that being “information relating to the personal circumstances of any person” and leave the following three remaining criteria.

- a) Information which is subject to any obligation of confidentiality.
- b) Information which relates in any way to matters concerning national security.
- c) The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provision of Section 60 (2) or (3), 64 (2), 70 (4) or (5) or 71 (2) of that Act.

On the 2 March 2006 the Head of Policy and Guidance at the Standards Board for England wrote to all monitoring officers with regard to the changes in the rules. The letter (attached as an appendix to this report) states “we [the Standards Board for England] remain of the view that it is in the public interest that hearings should generally be held in public and recommend that they are held in public where possible to ensure a fairness and openness of the procedure”.



The letter also states that the Standards Board will not be changing their guidance for Standards Committee determinations in light of the Regulations but goes on to confirm that they will be revising their guidance for Standards Committees, when producing guidance on the revised Code of Conduct.

Whilst the Standards Board Guidance establishes that rules in relation to the determination of complaints should not be altered, it is recommended that both the procedures for investigation and determination of complaints locally (which have been approved by this Committee) are reviewed in light of these procedural changes and that any appropriate amendments are made to ensure that the procedures are compliant with the new legislation.

## 5 Legal Comment

The legal comment is contained within section 4 of this report.

## 6 Appendix

Letter from the Standards Board for England dated 2 March 2006

## 7 Background Papers

The Relevant Authorities (Standards Committee) (Amendment) Regulations 2006  
 The Local Government (Access to information) (Variation) Order 2006  
 The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004  
 The Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003  
 The Relevant Authorities (Standards Committee) Regulations 2001  
 The Local Government Act 2000

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

|                                      |  |   |   |
|--------------------------------------|--|---|---|
| Balance Score Card                   |  | Integrated Risk Management Planning     |   |
| Business Continuity Planning         |  | Legal                                   | * |
| Capacity                             |  | Member Involvement                      |   |
| Civil Contingencies Act              |  | National Framework                      |   |
| Comprehensive Performance Assessment |  | Operational Assurance                   |   |
| Equality and Diversity               |  | Retained                                |   |
| Efficiency Savings                   |  | Risk and Insurance                      |   |
| Environmental                        |  | Staff                                   |   |
| Financial                            |  | Strategic Planning                      |   |
| Fire Control/Fire Link               |  | West Midlands Regional Management Board |   |

For further information about this report please contact Matthew Cumberbatch, Group Solicitor on 01952 203068.





the  
**Standards Board**  
for England

2 March 2006

Mr Alan Taylor  
Shropshire and Wrekin Fire Authority  
Shropshire Fire Service Headquarters  
St Michaels Street  
Shrewsbury  
SY1 2HJ

- 7 MAR 2006

1<sup>st</sup> Floor  
Cottons Centre  
Cottons Lane  
SE1 2QG

Enquiries: 0845 078 8181  
Fax: 020 7378 5001

[enquiries@standardsboard.co.uk](mailto:enquiries@standardsboard.co.uk)  
[www.standardsboard.co.uk](http://www.standardsboard.co.uk)

Dear Mr Taylor

**Re: The Local Government (Access to Information) (Variation) Order 2006**

The Standards Board for England is contacting all monitoring officers in relation to changes to legislation, which come into force on 1 March 2006, so far as they relate to hearings of standards committees. The changes are contained in the Local Government (Access to Information) (Variation) Order 2006 and the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006; Parts 1 to 3 of the Schedule to the Order replace the existing Schedule 12A. It is intended that the descriptions of information listed in Part 1 of Schedule 12A are clearer and simpler, and some of the qualifications in Part 2 of the Schedule are replaced by a public interest test.

The additional categories of exempt information introduced by the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 are largely unaffected, although regard will have to be had to the renumbering contained in the amendments. The relevant paragraphs from the 2003 regulations are set out below, with the updated paragraph numbering shown in bold:

*"[Removed by the 2006 regulations see paragraphs 1 and 2 in particular of the amended Part 1 to Schedule 12A 46.—Information relating to the personal circumstances of any person]*

**7A.** *Information which is subject to any obligation of confidentiality*

**7B.** *Information which relates in any way to matters concerning national security.*

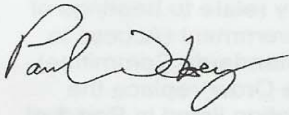
**7C.** *The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act."*

The main alteration is that the new regulations no longer contain a specific provision of "Information relating to the personal circumstances of any person" (paragraph 16 of the 2003 regulations refer). It is considered that this provision is essentially covered by the provisions contained in paragraphs 1 and 2 of Part 1 of the updated provisions. For ease of reference, paragraph 1 refers to "Information relating to any individual", whilst paragraph 2 refers to "Information which is likely to reveal the identity of an individual".

The current Standards Board for England guidance for standards committee determinations was written prior to the 2006 Order/Regulations coming into force. We have reviewed the guidance in light of the changes and consider that the substance does not need to be altered. However the wording of Schedule 12A currently set out in the Appendix 3 of the guidance should be read in accordance with the amendments. We remain of the view that it is in the public interest that hearings should generally be held in public and recommend that they are held in public where possible to ensure fairness and openness of the procedure. Standards Committees will have a continuing obligation to consider the requirements of Articles 6 and 8 of the European Convention on Human Rights when holding local determination hearings.

Please ensure that you read this in conjunction with our guidance. The Standards Board for England will revise its guidance for standards committees when it produces guidance on the revised code of conduct.

Yours sincerely



**Paul Hoey**  
**Head of Policy & Guidance**