



**JOINT
STANDARDS
COMMITTEES
GUIDANCE**

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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.

Note: Police authorities cannot join with each other to create joint standards committees because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities. However, they can join with other types of local authority to do so.

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:

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

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

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

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.

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.

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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.

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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

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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.