



Briefing 07/03

January 2007

TO: All Chief Executives, main and email contacts (England)

CC: All Chief Executives, main and email contacts (Wales, Scotland and Northern Ireland)

Briefing – The Local Government (Best Value Authorities) (Power to Trade) (Amendment) (England) Order 2006

Key issues:

- The Secretary of State has now extended the powers following signing of statutory instrument 2006 No. 3012 which came into force on 15 December 2006.
- The amending Order extends the power to trade to those local authorities whose performance has now been categorised as "4 stars" "3 stars" "2 stars" and "1 star".
- APSE remains of the opinion that the use of the section 93 charging power of the Local Government Act 2003 will cover the vast bulk of external 'trading' activity.

1. Introduction

The Department for Communities and Local Government released a consultation in the spring of 2006, to extend the flexibilities to trade under the powers conferred by section 95 of the Local Government Act 2003. This was described in APSE Briefing 06-07.

The Secretary of State has now extended the powers following signing of statutory instrument 2006 No. 3012 which came into force on 15 December 2006. This short briefing informs members of the changes.

2. The Order

The order is officially titled as the Local Government (Best Value Authorities) (Power to Trade) (Amendment) (England) Order 2006 and as mentioned came into force on 15th December 2006.

The Local Government (Best Value Authorities)(Power to Trade) (England) Order 2004 ("the principal Order") provided a power to trade to those local authorities whose performance has been categorised, through the comprehensive performance assessment (CPA) as excellent, good or fair. The power to trade is also subject to the conditions set out in article 2 of the principal Order.

The amending Order extends the power to trade to those local authorities whose performance has now been categorised as "4 stars" "3 stars" "2 stars" and "1 star". Only those authorities who have received a no star rating will not be allowed the power to trade.

3. APSE Comment

Application of the freedom from 1 to 4 star authorities will mean that a larger number of authorities would be eligible to trade. However, it is important for authorities to be aware that if they regressed to zero stars, then they would have to withdraw from the company. The terms of the existing Trading Order requires an authority to prepare and approve a business case before trading, and this requirement would be carried forward in order to ensure authorities manage risks effectively.

A greater number of authorities will as a result be able to take advantage of the power to trade. However, it is welcome that it is still necessary to follow good management practice when commencing using the trading powers where an authority must produce a business case which must have the support and approval of the authority. APSE remains of the opinion that the use of the section 93 charging power of the Local Government Act 2003 will cover the vast bulk of external 'trading' activity.

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