
STATUTORY INSTRUMENTS

2009 No. 1255

The Standards Committee (Further Provisions) (England) Regulations 2009

PART 2

SUSPENSION OF INITIAL ASSESSMENT FUNCTIONS

Prescription of circumstances in which power to suspend certain functions of standards committee may be exercised

3.—(1) The circumstances which are prescribed, under the power conferred on the Secretary of State by section 57D(1) and (8) of the Act, for the purpose of the exercise by the Standards Board of the power conferred on it by section 57D(1) to give a direction in accordance with that subsection, are those listed in paragraph (2) of this regulation.

(2) The circumstances mentioned in paragraph (1), in which the Standards Board may exercise the power mentioned in that paragraph, are any one or more of the following—

- (a) The standards committee of the specified authority has failed to have regard to guidance issued by the Standards Board with respect to the exercise of functions under Part 3 of the Act or regulations made under that Part.
- (b) The standards committee of the specified authority has failed to comply with a direction issued by the Standards Board with respect to the exercise of functions under Part 3 of the Act or regulations made under that Part.
- (c) The standards committee of the specified authority has failed to carry out within a reasonable time period or in a reasonable manner, one or more functions under Part 3 of the Act or regulations made under that Part.
- (d) The monitoring officer of the specified authority has failed to carry out within a reasonable time period or in a reasonable manner, one or more functions under Part 3 of the Act or regulations made under that Part.
- (e) The specified authority has invited the Standards Board to exercise the power under section 57D(1) of the Act.
- (f) The standards committee of the specified authority has invited the Standards Board to exercise the power under section 57D(1) of the Act.

(3) Where any authorities have established a joint standards committee, the Standards Board may exercise the power under section 57D(1) of the Act to give a direction in respect of that joint standards committee, and this Part shall apply in respect of such joint standards committees with all necessary modifications.

(4) Before exercising the power to give a direction, the Standards Board must comply with any applicable requirements of regulation 5.

Revocation of direction

4.—(1) Where the Standards Board has given a direction under section 57D(1) of the Act, it may revoke that direction if, on reviewing the relevant circumstances, it is satisfied that those circumstances no longer apply.

(2) In this regulation “relevant circumstances” means such circumstances, as prescribed by regulation 3(2), as the Standards Board considered gave reason for the exercise of the power to give the direction in question.

Notice of intention to serve direction

5.—(1) Where the Standards Board intends to give a direction under section 57D(1) of the Act, it must give notice of that intention, in accordance with the provisions of this regulation, to the authority which it considers should be specified in the direction.

(2) The notice shall be given in writing and shall—

- (a) state the intention of the Standards Board to give a direction under section 57D(1) of the Act;
- (b) give the reasons why the Standards Board intends to give such a direction; and
- (c) set a date no later than 6 months from the date on which the notice is served, before which a direction may be given.

(3) The Standards Board shall send a copy of the notice served under paragraph (2) to the chair of the standards committee and to the monitoring officer of the authority.

(4) The notice served under paragraph (2) shall give the authority no less than 28 days in which to submit observations to the Standards Board.

(5) The Standards Board shall take account of any observations received and any other relevant evidence before deciding whether to proceed to give a direction.

(6) If no direction is given before the date specified in a notice served under paragraph (2), the Standards Board must serve a fresh notice under that paragraph before it may give a direction.

(7) This regulation does not apply—

- (a) where a direction is given pursuant to an invitation under regulation 3(2)(e) or (f) to the Standards Board to suspend any functions of a standards committee; or
- (b) to a further direction given under regulation 7.

Service and contents of direction

6.—(1) Where the Standards Board decides to give a direction under section 57D(1) of the Act, it shall serve the direction on the specified authority in writing.

(2) The Standards Board shall send a copy of the direction to the chair of the standards committee and to the monitoring officer of the specified authority concerned, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) The direction shall specify—

- (a) the date from which it is to take effect;
- (b) the reasons why it has been given; and
- (c) the identity of the body which will deal with the initial assessment of any written allegations received by the standards committee.

(4) The direction shall require the specified authority to arrange for details of the direction to be published—

- (a) in at least one newspaper circulating in that authority's area;
- (b) if considered appropriate by the Standards Board, on that authority's web page; and
- (c) if considered appropriate by the Standards Board, in any other publication.

Amendment to direction

7.—(1) Where—

- (a) the Standards Board has served a direction under section 57D(1) of the Act on a specified authority in accordance with regulation 6(1), and
- (b) that direction has not been revoked,

the Standards Board may serve a further direction on the authority in writing specifying a different body to deal with the initial assessment of any written allegations received by the standards committee.

(2) The Standards Board shall send a copy of any direction served under paragraph (1) to the chair of the standards committee and to the monitoring officer of the specified authority concerned, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) A direction under paragraph (1) shall specify the date from which allegations made to the standards committee of the authority must be sent to the different body.

Service and contents of notice of revocation

8.—(1) Where the Standards Board decides, under regulation 4, to revoke a direction under section 57D(1) of the Act, it shall serve notice of its decision in writing on the specified authority.

(2) The Standards Board shall send a copy of the notice to the chair of the standards committee and to the monitoring officer of the specified authority, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) The notice shall specify the date from which the revocation of the direction is to take effect and shall require the specified authority to arrange for details of the revocation of the direction to be published—

- (a) in at least one newspaper circulating in that authority's area;
- (b) if considered appropriate by the Standards Board, on that authority's web page;
- (c) if considered appropriate by the Standards Board, in any other publication.

Assessment of allegations by Standards Board

9.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and specifies the Standards Board as the body to whom relevant allegations and relevant requests should be referred.

(2) Section 57A(4), and section 57C(2) and (3) of the Act⁽¹⁾ shall apply as if, for references in those subsections to “the standards committee”, there were substituted references to “the Standards Board”.

(3) Section 58 of the Act (allegations referred to Standards Board)⁽²⁾ shall apply to an allegation referred by a standards committee to the Standards Board under section 57D(1)(b) of the Act, as it applies to an allegation referred under section 57A(2)(b) of the Act, but with the modifications set out in paragraph (4) of this regulation.

(1) Sections 57A and 57C were inserted by section 185 of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(2) Section 58 was substituted by section 185 of the Local Government and Public Involvement in Health Act 2007.

- (4) The modifications to section 58 of the Act mentioned in paragraph (3) are that—
- (a) subsection (1) shall apply as if for paragraph (c) of that subsection, there were substituted “refer the allegation to the monitoring officer of the authority (or, if appropriate, of another authority), to be dealt with as if it had been referred by a standards committee under section 57A(2)(a)”; and
 - (b) subsections (3) and (4) are omitted.
- (5) Regulations 11, 13, 14 and 16 of the Standards Committee (England) Regulations 2008(3) shall apply in respect of matters referred to monitoring officers under section 58(1)(c) of the Act as modified by paragraph (4) of this regulation, as they apply to matters referred under section 57A(2) or (3) of the Act, with the modifications set out in paragraph (6) of this regulation.
- (6) The modifications mentioned in paragraph (5) are that—
- (a) Regulation 11 (modification of duty to give written summary) shall apply as if—
 - (i) references in that regulation to “the standards committee” were references to “the Standards Board”; and
 - (ii) the references to section 57C(2) of the Act were references to that section as applied by paragraph (2) of this regulation.
 - (b) Regulation 13 (referral of matters to monitoring officer for steps other than investigation) shall apply as if—
 - (i) the reference in paragraph (1)(a) to “a standards committee” and the references in paragraphs (3)(c), (5) and the first reference in paragraph (6) to “the standards committee”, were each a reference to “the Standards Board”;
 - (ii) the reference in paragraph (1)(a) to “section 57A(2)(a) or 57A(3) of the Act” were a reference to section 58(1)(c) of the Act as modified by paragraph (4)(a) of this regulation;
 - (iii) paragraph (2) were omitted; and
 - (iv) for paragraph (4)(c)(i) there were substituted “where the matter was referred to the monitoring officer under section 58(1)(c) of the Act, to the Standards Board with a copy also being sent to the standards committee”.
 - (c) Regulation 14 (referral of matters to monitoring officer for investigation) shall apply as if—
 - (i) the references in paragraph (1) to section 57A(2)(a) and 57A(3) were a reference to section 58(1)(c) as modified by paragraph (4)(a) of this regulation;
 - (ii) the first reference to “the standards committee” in paragraph (2) were a reference to “the Standards Board”; and
 - (iii) at the end of paragraph (8)(c) there were added “and to the Standards Board”.
 - (d) Regulation 16 (references back from monitoring officer) shall apply as if—
 - (i) after the reference in paragraph (1) to section 57A(2)(a), there were inserted “or section 58(1)(c)”;
 - (ii) for the words “refer that matter back to the standards committee concerned” in paragraph (1) there were substituted “refer the matter to, or back to, the Standards Board”;
 - (iii) in the full-out after paragraph (1)(a)(ii), after “section 57A(2) of the Act” there were inserted “or the Standards Board when it made its decision under section 58(1)(c) of the Act”;

- (iv) in paragraph (1)(a)(iii) after the words “standards committee” there were inserted “or Standards Board, as the case may be,”;
- (v) for paragraph (2) there were substituted “If a matter is referred to, or back to, the Standards Board under this regulation, the Standards Board shall make a decision as if the allegation had been made to the standards committee under section 57A(1) of the Act”; and
- (vi) for paragraph (4) there were substituted “Where the Standards Board considers a matter referred to it, or back to it, under this regulation, it may direct that the matter should not be referred to it a further time.”.

Assessment of allegations by standards committee of another authority

10.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and specifies the standards committee of another authority in England as the body to whom relevant allegations and relevant requests should be referred.

- (2) For the purposes of this regulation and the modifications which it makes—
 - (a) the standards committee of the authority given the direction is called “the suspended standards committee”; and
 - (b) the standards committee of the other authority specified as mentioned in paragraph (1) is called “the specified body”.
- (3) Section 57A(2) to (4) of the Act shall apply as if—
 - (a) references in those subsections to a “standards committee” were to the “specified body”;
 - (b) in section 57A(2), for the words “under subsection (1)” there were substituted “by virtue of a direction under section 57D(1)”;
 - (c) at the end of section 57A(2)(a) there were added “or to the monitoring officer of the specified body”.

(4) Section 57C(2) to (4) of the Act shall apply as if references in those subsections to “the standards committee” were to “the specified body”.

(5) Regulations 11, 13, 14 and 16 of the Standards Committee (England) Regulations 2008 shall apply in respect of matters referred to monitoring officers under section 57A(2)(a) or (3) of the Act as modified by paragraph (3) of this regulation, with the modifications set out in paragraph (6) of this regulation.

- (6) The modifications mentioned in paragraph (5) are that—
 - (a) Regulation 11 shall apply as if the references to section 57C(2) of the Act were to that section as modified by paragraph (4) of this regulation, and as if for the words “standards committee” in that regulation there were substituted the words “the specified body”.
 - (b) Regulation 13 shall apply as if—
 - (i) for the words “standards committee” in each place where they occur in paragraphs (1)(a), (2), 3(c) and (5) and in the first place in which they occur in paragraph (6), there were substituted the words “specified body”;
 - (ii) the reference in paragraph (1)(a) to “section 57A(2)(a) or 57A(3) of the Act” were to those provisions as modified by paragraph (3) of this regulation; and
 - (iii) for paragraph (4)(c)(i) there were substituted “where the matter was referred to the monitoring officer under section 57(A) to the specified body, with a copy also being sent to the standards committee.”.
 - (c) Regulation 14 shall apply as if—

- (i) the references in paragraph (1) to section 57A(2)(a) and 57A(3) of the Act were a reference to those provisions as modified by paragraph (3) of this regulation;
 - (ii) in paragraph (2), for the words “standards committee” in the first place in which they occur, there were substituted the words “specified body”;
 - (iii) at the end of subparagraph (8)(c) there were added “and to the specified body”; and
 - (iv) for paragraph (8)(d)(i) there were substituted “either the suspended standards committee or the specified body”.
- (d) Regulation 16 shall apply as if—
- (i) the reference in paragraph (1) to section 57A(2)(a) of the Act, were to that provision as modified by paragraph (3) of this regulation;
 - (ii) for the words “refer that matter back to the standards committee concerned” in paragraph (1) there were substituted “refer the matter to, or back to the specified body”;
 - (iii) in the full-out after paragraph (1)(a)(ii), and in paragraph (1)(a)(iii), after the words “standards committee” there were inserted “or the specified body”; and
 - (iv) for the words “standards committee” in each place in which they occur in paragraphs (2) and (4) there were substituted the words “specified body”.

Reviews of decisions not to act

11.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and a person makes a request under section 57B(2) of the Act⁽⁴⁾ for the review of a decision as provided for by that subsection.

(2) Subject to paragraph (3), the body specified in the direction shall review the decision as if it were an allegation made under section 57A of the Act, as modified by regulation 9 or 10 (as the case may be).

(3) No individual who took part in the making of the decision shall take part in the review of that decision.

(4) If by virtue of paragraph (2) a decision is made that no action should be taken in respect of an allegation, section 57B of the Act does not apply in relation to that decision.

Consultation with ombudsmen

12.—(1) If a standards committee of an authority in relation to which a direction under section 57D(1) of the Act is in force, is consulted by a Local Commissioner under section 67(2) of the Act (consultation with ombudsmen)⁽⁵⁾ or by the Public Services Ombudsman for Wales under section 67(2A) of the Act⁽⁶⁾, that committee shall—

- (a) inform the Local Commissioner or Public Services Ombudsman for Wales, as the case may be, that it has been given a direction under section 57D(1) of the Act; and
- (b) provide contact details of the body specified in the direction.

(2) A Local Commissioner and the Public Services Ombudsman for Wales may consult the body specified in paragraph (1)(b) about the investigation.

⁽⁴⁾ Section 57B was inserted by section 185 of the Local Government and Public Involvement in Health Act 2007 (c.28).

⁽⁵⁾ Section 67 was amended by section 196 of the Local Government and Public Involvement in Health Act 2007.

⁽⁶⁾ Subsection (2A) was inserted into section 67 by the Public Services Ombudsman (Wales) Act 2005 (c. 10) section 35, Schedule 4, paragraph 8.

Service of documents

13. Any notice or direction under this Part served by the Standards Board shall be deemed to have been effectively served 2 days after it has been sent unless the contrary is proved.