
STATUTORY INSTRUMENTS

2001 No. 3384

The Local Authorities (Standing Orders) (England) Regulations 2001

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Local Authorities (Standing Orders) (England) Regulations 2001 and shall come into force on 7th November 2001.

(2) These Regulations extend to England only and, accordingly, references in these Regulations to an authority are references to an authority in England.

Interpretation

2. In these Regulations—

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000(1);

“the 1993 Regulations” means the Local Authorities (Standing Orders) Regulations 1993(2);

“alternative arrangements” has the same meaning as in Part II of the 2000 Act (arrangements with respect to executives etc.);

“chief finance officer” means the officer having responsibility, for the purposes of—

(a) section 151 of the Local Government Act 1972(3) (financial administration); or

(b) section 6 of the 1989 Act (officer responsible for financial administration of certain authorities),

for the administration of the local authority’s financial affairs;

“council manager” has the same meaning as in section 11(4)(b) of the 2000 Act;

“disciplinary action” in relation to a member of staff of a local authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;

“elected mayor”, “executive”, “executive arrangements” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“head of the authority’s paid service” means the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service);

“local authority” means—

(a) a relevant authority;

(1) 2000 c. 22.
(2) S.I.1993/202.
(3) 1972 c. 70.

(b) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority; or

(c) the Council of the Isles of Scilly;

“member of staff” means a person appointed to or holding a paid office or employment;

“monitoring officer” means the officer designated under section 5(1) of the 1989 Act(4) (designation and reports of monitoring officer);

“plan or strategy” means—

(a) a plan or strategy of a description specified in column (1) of the table in Schedule 3 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(5) (functions not to be the sole responsibility of an authority’s executive), as amended from time to time;

(b) a plan or strategy for the control of a relevant authority’s borrowing or capital expenditure; or

(c) any other plan or strategy whose adoption or approval is, by virtue of regulation 5(1) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (discharge of executive functions by authorities) as amended from time to time, a matter for determination by a relevant authority;

“relevant authority” means a county council, a district council or a London borough council; and

“working day” means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in England or a day appointed for public thanksgiving or mourning (and “bank holiday” means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971(6)).

Executive arrangements—standing orders relating to staff, proceedings and business

3.—(1) Subject to paragraphs (3) and (4) of regulation 10, on or before the date on which a relevant authority starts to operate executive arrangements under Part II of the 2000 Act—

(a) if its executive is to take the form specified in section 11(2) of the 2000 Act (mayor and cabinet executive), it must—

(i) incorporate in standing orders relating to its staff(7) the provisions set out in Part I of Schedule 1 or provisions to the like effect; and

(ii) incorporate in standing orders for regulating its proceedings and business(8) the provisions set out in Part I of Schedule 2 or provisions to the like effect;

(b) if its executive is to take the form specified in section 11(3) of the 2000 Act (leader and cabinet executive), it must—

(i) incorporate in standing orders relating to its staff the provisions set out in Part II of Schedule 1 or provisions to the like effect; and

(ii) incorporate in standing orders for regulating its proceedings and business the provisions set out in Part II of Schedule 2 or provisions to the like effect;

(4) Subsection (1) of section 5 was amended by paragraph 35 of Schedule 4 to the Police and Magistrates' Courts Act 1994 (c. 29), paragraph 1 of Schedule 7 to the Police Act 1996 (c. 16), paragraph 62 of Schedule 27 to the Greater London Authority Act 1999 (c. 29) and paragraph 24 of Schedule 5 to the 2000 Act.

(5) S.I. 2000/2853; amended by S.I. 2001/2212.

(6) 1971 c. 80.

(7) See section 8 of the 1989 Act.

(8) See paragraph 42 of Schedule 12 to the Local Government Act 1972.

- (c) if its executive is to take the form specified in section 11(4) of the 2000 Act (mayor and council manager executive), it must—
 - (i) incorporate in standing orders relating to its staff the provisions set out in Part III of Schedule 1 or provisions to the like effect; and
 - (ii) incorporate in standing orders for regulating its proceedings and business the provisions set out in Part I of Schedule 2 or provisions to the like effect; and
- (d) it must modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraphs (a), (b) and (c).

(2) A relevant authority which has incorporated provisions in standing orders pursuant to paragraph (1) must, where it proposes to change its executive arrangements so that its executive will take a different form, make variations to its standing orders to the extent necessary to conform with the provisions referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (1), as the case may be, on or before the date on which it starts to operate those changed executive arrangements.

Alternative arrangements—standing orders relating to staff

4. Subject to paragraphs (3) and (4) of regulation 10, on or before the date on which a relevant authority starts to operate alternative arrangements under Part II of the 2000 Act it must—

- (a) incorporate in standing orders relating to its staff the provisions set out in Part IV of Schedule 1 or provisions to the like effect; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraph (a).

Standing orders relating to staff

5. Where a relevant authority has standing orders incorporating the provisions in paragraph 4(1) of Part I, paragraph 4(1) of Part II or paragraph 4 of Part IV of Schedule 1 (or provisions to the like effect), the power to approve the appointment or dismissal of the head of the authority's paid service shall be exercised by the authority itself and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) shall not apply to the exercise of that power.

Standing orders in respect of disciplinary action

6. No later than the first ordinary meeting of the local authority falling after the day on which these Regulations come into force, a local authority must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer and its chief finance officer—

- (a) incorporate in standing orders the provisions set out in Schedule 3 or provisions to the like effect; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions.

Investigation of alleged misconduct

7.—(1) Subject to paragraph (5), where, after a local authority has incorporated provisions in standing orders pursuant to regulation 6, it appears to the local authority that an allegation of misconduct by—

- (a) the head of the authority's paid service;
- (b) its monitoring officer; or
- (c) its chief finance officer,

as the case may be, (“the relevant officer”), requires to be investigated, the authority must appoint a person (“the designated independent person”) for the purposes of the standing order which incorporates the provisions in Schedule 3 (or provisions to the like effect).

(2) The designated independent person must be such person as may be agreed between the authority and the relevant officer or, in default of such agreement, nominated by the Secretary of State.

(3) The designated independent person—

(a) may direct—

- (i) that the authority terminate any suspension of the relevant officer;
- (ii) that any such suspension must continue after the expiry of the period referred to in paragraph 3 of Schedule 3 (or in provisions to the like effect);
- (iii) that the terms on which any such suspension has taken place must be varied in accordance with the direction; or
- (iv) that no steps (whether by the authority or any committee, sub-committee or officer acting on behalf of the authority) towards disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);

(b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the authority, or which the authority has power to authorise him to inspect;

(c) may require any member of staff of the authority to answer questions concerning the conduct of the relevant officer;

(d) must make a report to the authority—

- (i) stating his opinion as to whether (and, if so, the extent to which) the evidence he has obtained supports any allegation of misconduct against the relevant officer; and
- (ii) recommending any disciplinary action which appears to him to be appropriate for the authority to take against the relevant officer; and

(e) must no later than the time at which he makes his report under sub-paragraph (d), send a copy of the report to the relevant officer.

(4) A local authority must pay reasonable remuneration to a designated independent person appointed by the authority and any costs incurred by him in, or in connection with, the discharge of his functions under this regulation.

(5) This regulation shall not apply in relation to the head of the authority’s paid service if he is also the council manager of the authority⁽⁹⁾.

Amendments to the 1993 Regulations

8.—(1) In Schedule 1 to the 1993 Regulations (standing orders relating to chief officers), in so far as it extends to England—

- (a) in paragraph 1 of Part I (appointments), after “chief officer”, there shall be inserted “(within the meaning of the Local Authorities (Standing Orders) Regulations 1993)”; and
- (b) in paragraph 3 of Part II (authorised variations), at the end of paragraph (b) there shall be added—

“, and

(9) Neither a monitoring officer nor a chief finance officer of an authority may be a council manager: *see* paragraph 13(b) and (c) of Schedule 1 to the 2000 Act.

- (c) any appointment in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor’s assistant).”
- (2) Subject to paragraph (3), the following provisions of the 1993 Regulations shall be revoked in so far as those provisions extend to England—
- (a) in regulation 1(2) (interpretation), the words ““disciplinary action”” and the definition of that term;
 - (b) in regulation 2 (standing orders), the words “and disciplinary action against the head of its paid service”;
 - (c) regulation 3 (investigation of alleged misconduct); and
 - (d) paragraph 3 (appointments) and paragraph 4 (disciplinary action) of Part I of Schedule 1.
- (3) Paragraph (2) shall not apply in relation to a National Park authority in England⁽¹⁰⁾.

Amendments to the Local Government Changes for England Regulations 1994

- 9.** In regulation 11 of the Local Government Changes for England Regulations 1994⁽¹¹⁾ (functions and powers of the shadow authority)—
- (a) in paragraph (7), for “The shadow authority”, there shall be substituted “Subject to paragraph (9), the shadow authority”;
 - (b) at the end of paragraph (7), there shall be added—
 - “; and
 - (k) the Local Authorities (Standing Orders) (England) Regulations 2001”; and
 - (c) after paragraph (8), there shall be added—
 - “(9) Sub-paragraph (k) of paragraph (7) shall only apply in relation to a shadow authority which will become a county council in England, a district council or a London borough council.”.

Transitional and consequential provisions

- 10.**—(1) Subject to paragraph (2), where a local authority made standing orders incorporating the provisions set out in paragraph 4 of Part I of Schedule 1 to the 1993 Regulations (or provisions to the like effect), until the authority incorporates provisions in standing orders in accordance with regulation 6—
- (a) those standing orders shall continue in force; and
 - (b) regulation 7 shall apply in relation to them in respect of the head of the authority’s paid service, as it does in relation to standing orders which incorporate provisions in accordance with regulation 6.
- (2) Anything which, before the date on which the local authority incorporated provisions in standing orders in accordance with regulation 6, was being done by, to or in relation to an officer in accordance with—
- (a) regulation 3 of the 1993 Regulations;
 - (b) the provisions set out in paragraph 4 of Part I of Schedule 1 to the 1993 Regulations (or provisions to the like effect) incorporated in the local authority’s standing orders; or
 - (c) regulation 7 as applied by paragraph (1)(b),

⁽¹⁰⁾ See paragraph 5 of Schedule 5 to the National Park Authorities (England) Order 1996 (S.I. 1996/1243) (application of enactments and instruments—standing orders).

⁽¹¹⁾ S.I. 1994/867; regulation 11 was amended by S.I. 1995/1055 and 1995/1748.

may be continued after that date by, to or in relation to him in accordance with the provisions referred to in sub-paragraphs (a), (b) or (c), as the case may be.

(3) Where a relevant authority—

(a) sent a copy of proposals to the Secretary of State, before the date on which these Regulations come into force, under—

(i) section 25 of the 2000 Act (proposals); or

(ii) regulations made under section 31 of the 2000 Act (**12**) (alternative arrangements in case of certain local authorities); and

(b) had not started to operate executive arrangements or alternative arrangements before that date,

if the authority considers that it would be impracticable to comply with the requirements of regulation 3 or, as the case may be, regulation 4 on or before the date on which it starts to operate executive arrangements or alternative arrangements, it shall comply with those requirements as soon as reasonably practicable after it has started to operate those arrangements.

(4) Where a relevant authority started to operate executive arrangements or alternative arrangements before the date on which these Regulations come into force, it shall comply with the requirements of regulation 3 or, as the case may be, regulation 4 as soon as reasonably practicable after that date.

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

Nick Raynsford
Minister of State,
Department for Transport, Local Government
and the Regions

10th October 2001