
STATUTORY INSTRUMENTS

2001 No. 3384

LOCAL GOVERNMENT, ENGLAND

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

<i>Made</i>	- - - -	<i>10th October 2001</i>
<i>Laid before Parliament</i>		<i>17th October 2001</i>
<i>Coming into force</i>	- -	<i>7th November 2001</i>

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred on him by sections 8, 20 and 190 of the Local Government and Housing Act 1989⁽¹⁾ and sections 19 and 26 of the Local Government Act 1992⁽²⁾, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

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⁽³⁾;

“the 1993 Regulations” means the Local Authorities (Standing Orders) Regulations 1993⁽⁴⁾;

“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—

(1) 1989 c. 42; section 8 was amended by S.I.2001/1517. The functions of the Secretary of State under sections 8, 20 and 190 are, so far as exercisable in relation to Wales, transferred to the National Assembly of Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, to which there are amendments not relevant to these Regulations); see the entry in Schedule 1 for the Local Government and Housing Act 1989.

(2) 1992 c. 19.

(3) 2000 c. 22.

(4) S.I. 1993/202.

- (a) section 151 of the Local Government Act 1972⁽⁵⁾ (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;
- (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⁽⁶⁾ (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⁽⁷⁾ (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⁽⁸⁾).

(5) 1972 c. 70.

(6) 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.

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

(8) 1971 c. 80.

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⁽⁹⁾ 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⁽¹⁰⁾ 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;
- (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.

⁽⁹⁾ See section 8 of the 1989 Act.

⁽¹⁰⁾ See paragraph 42 of Schedule 12 to the Local Government Act 1972.

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⁽¹¹⁾.

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

- (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⁽¹²⁾.

Amendments to the Local Government Changes for England Regulations 1994

9. In regulation 11 of the Local Government Changes for England Regulations 1994⁽¹³⁾ (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.”.

⁽¹¹⁾ 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.

⁽¹²⁾ *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).

⁽¹³⁾ S.I. [1994/867](#); regulation 11 was amended by S.I. [1995/1055](#) and [1995/1748](#).

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),

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 **(14)** (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

SCHEDULE 1

Regulations 3(1) and 4(1)

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS RELATING TO STAFF

PART I

AUTHORITY WITH MAYOR AND CABINET EXECUTIVE

1. In this Part—

“the 1989 Act” means the Local Government and Housing Act 1989⁽¹⁵⁾;

“the 2000 Act” means the Local Government Act 2000⁽¹⁶⁾;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

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

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

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against—

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽¹⁷⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽¹⁸⁾ (assistants for political groups); or
- (f) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant).

4.—(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

⁽¹⁵⁾ 1989 c. 42.

⁽¹⁶⁾ 2000 c. 22.

⁽¹⁷⁾ Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

⁽¹⁸⁾ There are amendments to section 9 which are not relevant to these Regulations.

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5.—(1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until—

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of—
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the elected mayor on behalf of the executive to the proper officer; and
- (c) either—
 - (i) the elected mayor has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the elected mayor; or
 - (iii) the appointor is satisfied that any objection received from the elected mayor within that period is not material or is not well-founded.

6.—(1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until—

- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of—
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the elected mayor on behalf of the executive to the proper officer; and
- (c) either—
 - (i) the elected mayor has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the elected mayor; or

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(iii) the dismissor is satisfied that any objection received from the elected mayor within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

PART II

AUTHORITY WITH LEADER AND CABINET EXECUTIVE

1. In this Part—

“the 1989 Act” means the Local Government and Housing Act 1989⁽¹⁹⁾;

“the 2000 Act” means the Local Government Act 2000⁽²⁰⁾;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

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

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

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against—

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽²¹⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽²²⁾ (assistants for political groups).

4.—(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

⁽¹⁹⁾ 1989 c. 42.

⁽²⁰⁾ 2000 c. 22.

⁽²¹⁾ Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

⁽²²⁾ There are amendments to section 9 which are not relevant to these Regulations.

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(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

5.—(1) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until—

- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
- (b) the proper officer has notified every member of the executive of the authority of—
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either—
 - (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he nor any other member of the executive has any objection to the making of the offer;
 - (ii) the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
 - (iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

6.—(1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until—

- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of—
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either—

- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal;
- (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
- (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

PART III

AUTHORITY WITH MAYOR AND COUNCIL MANAGER EXECUTIVE

1. In this Part—

“the 2000 Act” means the Local Government Act 2000⁽²³⁾;

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

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; and

“member of staff” means a person appointed to or holding a paid office or employment under the authority.

2. Subject to paragraphs 3 and 4, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the council manager or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against—

- (a) the council manager⁽²⁴⁾;
- (b) a person appointed in pursuance of section 9 of the Local Government and Housing 1989 Act⁽²⁵⁾ (assistants for political groups); or
- (c) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant).

4. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal—

- (a) by another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

⁽²³⁾ 2000 c. 22.

⁽²⁴⁾ The council manager is appointed to the executive by the authority: *see* section 11(4)(b) and (10) of the 2000 Act.

⁽²⁵⁾ 1989 c. 42. There are amendments to section 9 which are not relevant to these Regulations.

PART IV

AUTHORITY OPERATING ALTERNATIVE ARRANGEMENTS

1. In this Part—

“the 1989 Act” means the Local Government and Housing Act 1989⁽²⁶⁾;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001; and

“member of staff” means a person appointed to or holding a paid office or employment under the authority.

2. Subject to paragraphs 3 and 5, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against—

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽²⁷⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽²⁸⁾ (assistants for political groups).

4. Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.

5. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

⁽²⁶⁾ 1989 c. 42.

⁽²⁷⁾ Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56).

⁽²⁸⁾ There are amendments to section 9 which are not relevant to these Regulations.

SCHEDULE 2

Regulation 3(1)

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS REGULATING PROCEEDINGS AND BUSINESS

PART I

AUTHORITY WITH MAYOR AND CABINET EXECUTIVE OR MAYOR AND COUNCIL MANAGER EXECUTIVE

1. In this Part—

“elected mayor” and “executive” have the same meaning as in Part II of the Local Government Act 2000⁽²⁹⁾; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

3. Before the authority—

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the elected mayor of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the elected mayor receives the instructions on behalf of the executive within which the elected mayor may—

- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.

5. Subject to paragraph 6, when the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when—

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modifications) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive’s reasons for those amendments, any disagreement that the

(29) 2000 c. 22.

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executive has with any of the authority's objections and the executive's reasons for that disagreement, which the elected mayor submitted to the authority, or informed the authority of, within the period specified.

6. Where the authority proposes to—

- (a) amend the draft plan or strategy or, as the case may be, the revised draft plan or strategy;
- (b) approve, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy or, as the case may be, the revised draft plan or strategy, the question whether to amend, to approve or to adopt the plan or strategy must be decided in accordance with paragraph 7.

7. The question referred to in paragraph 6 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority.

8. Subject to paragraph 14, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year—

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992⁽³⁰⁾ (calculation of budget requirements etc.);
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992 (precepts),

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 9.

9. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 8(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the elected mayor of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

10. Where the authority gives instructions in accordance with paragraph 9, it must specify a period of at least five working days beginning on the day after the date on which the elected mayor receives the instructions on behalf of the executive within which the elected mayor may—

- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

⁽³⁰⁾ 1992 c. 14. Section 32 was amended by S.I. 1994/246, 1995/234 and 2001/216 and Schedule 9 to the Police Act 1997 (c. 92). Section 33 was amended by S.I. 1994/246, 1995/234 and 2001/216. Section 43 was amended by S.I. 1994/246, 1995/234 and 2001/216 and Schedule 9 to the Police Act 1997. Section 44 was amended by S.I. 1994/246, 1995/234 and 2001/216. Section 46 was amended by Schedule 9 to the Police and Magistrates Courts Act 1994 (c. 29). Sections 52I, 52J, 52T and 52U were inserted by paragraph 1 of Schedule 1 to the Local Government Act 1999 (c. 27). There are other amendments to some of these sections which are not relevant to these Regulations.

11. Subject to paragraph 12, when the period specified by the authority, referred to in paragraph 10, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 8(a), or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive’s reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority’s objections; and
- (d) the executive’s reasons for that disagreement,

which the elected mayor submitted to the authority, or informed the authority of, within the period specified.

12. Where the authority, for the purposes of making the calculations or issuing the precept, proposes to use estimates or amounts (“the different estimates or amounts”) which are not in accordance with the executive’s estimates or amounts or, as the case may be, the executive’s revised estimates or amounts, the question whether to use the different estimates or amounts must be decided in accordance with paragraph 13.

13. The question referred to in paragraph 12 must be decided by a two thirds majority of the members of the authority present and voting on the question at a meeting of the authority.

14. Paragraphs 8 to 13 shall not apply in relation to—

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (limitation of council tax and precepts); and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

PART II

AUTHORITY WITH LEADER AND CABINET EXECUTIVE

1. In this Part—

“executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000⁽³¹⁾; and

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

3. Before the authority—

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

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it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may—

- (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.

5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when—

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive’s reasons for those amendments, any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

6. Subject to paragraph 10, where, before 8th February in any financial year, the authority’s executive submits to the authority for its consideration in relation to the following financial year—

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive’s estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority’s requirements.

8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may—

- (a) submit a revision of the estimates or amounts as amended by the executive (“revised estimates or amounts”), which have been reconsidered in accordance with the authority’s

requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or

- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account—

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement,

which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10. Paragraphs 6 to 9 shall not apply in relation to—

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

SCHEDULE 3

Regulation 6

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS IN RESPECT OF DISCIPLINARY ACTION

1. In paragraph 2, “chief finance officer”, “council manager”, “disciplinary action”, “head of the authority's paid service” and “monitoring officer”, have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and “designated independent person” has the same meaning as in regulation 7 of those Regulations.

2. No disciplinary action in respect of the head of the authority's paid service (unless he is also a council manager of the authority), its monitoring officer or its chief finance officer, except action described in paragraph 3, may be taken by the authority, or by a committee, a sub-committee, a joint committee on which the authority is represented or any other person acting on behalf of the authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).

3. The action mentioned in paragraph 2 is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations require certain local authorities in England to make or modify standing orders so that they include the provisions set out in the Regulations, or provisions to the like effect.

Part II of the Local Government Act 2000 provides for local authorities to draw up proposals for the operation of executive arrangements (under which certain functions of the authority are the responsibility of an executive) or, in the case of certain authorities, for the operation of alternative arrangements. In the case of executive arrangements, the local authority's executive must take one of the forms specified in section 11 of that Act.

A county council, district council or London borough council which is operating executive arrangements must have standing orders relating to its staff which include the provisions set out in *Schedule 1* and must have standing orders for regulating its proceedings and business which include the provisions set out in *Schedule 2* (or provisions to the like effect). The standing orders must be the appropriate ones for the particular form that the executive takes (as set out in different Parts of Schedules 1 and 2) and, if that form changes, the standing orders must be varied accordingly (*regulation 3*).

A county council, district council or London borough council which is operating alternative arrangements must have standing orders relating to its staff which include the provisions set out in *Part IV of Schedule 1* (or provisions to the like effect) (*regulation 4*).

A county council, district council, London borough council, the Common Council of the City of London and the Council of the Isles of Scilly must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer and its chief finance officer, make standing orders incorporating the provisions set out in *Schedule 3* (or provisions to the like effect). Such standing orders must be made no later than the first ordinary meeting of the local authority falling after the day on which these Regulations come into force (*regulation 6*).

Regulation 7 prescribes a procedure for investigation by an independent person, which is to be followed where there is alleged to have been misconduct by the head of the authority's paid service (unless he is the authority's council manager), its monitoring officer or its chief finance officer. Similar provisions were included in the Local Authorities (Standing Orders) Regulations 1993 ("the 1993 Regulations") in relation to the head of the authority's paid service and *regulation 8* revokes the similar provisions in the 1993 Regulations in so far as they extend to England (but not in relation to a National Park authority in England to which the 1993 Regulations apply by virtue of the National Park Authorities (England) Order 1996).

Regulation 9 amends the Local Government Changes for England Regulations 1994 so that these Regulations apply to a shadow authority that will become a county council in England, a district council or a London borough council.

Regulation 10 contains transitional provisions in relation to existing standing orders for disciplinary action made under the 1993 Regulations. It also sets out consequential provisions for authorities that have already submitted proposals for executive arrangements or alternative arrangements to the Secretary of State when these Regulations come into force or started operating such arrangements before that date.