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STATUTORY INSTRUMENTS

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**2008 No. 516**

**LOCAL GOVERNMENT, ENGLAND**

**The Local Authorities (Functions and Responsibilities)  
(England) (Amendment) Regulations 2008**

<i>Made</i>	- - - -	<i>26th February 2008</i>
<i>Laid before Parliament</i>		<i>3rd March 2008</i>
<i>Coming into force</i>		
<i>for the purposes of regulations 1 to 6 and 7(b)</i>		<i>31st March 2008</i>
<i>for the purpose of regulation 7(a)</i>		<i>1st April 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 13 and 105 of the Local Government Act 2000<sup>(1)</sup> makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008, and shall come into force—

- (a) for the purposes of this regulation and regulations 2 to 6 and 7(b) on 31st March 2008; and
- (b) for the purpose of regulation 7(a), on 1st April 2008.

(2) These Regulations apply in relation to local authorities in England.

**Amendment**

2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000<sup>(2)</sup> are amended as follows.

**Interpretation**

3.—(1) In paragraph (3) of regulation 1 (citation, commencement, application and interpretation)

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(1) [2000 c.22](#). For the application of sections 13 and 105 of the Local Government Act 2000 to Wales, *see* section 106 of that Act.  
(2) [S.I. 2000/2853](#), to which relevant amendments have been made by [S.I. 2004/1158](#), [S.I. 2005/929](#), [S.I. 2006/886](#), [S.I. 2007/2593](#), [2007/1557](#) and [S.I. 2007/1950](#). There are other amendments not relevant to these Regulations.

- (a) after the definition of the 1998 Act insert—
  - ““the 2000 Act” means the Local Government Act 2000.”;
- (b) after the definition of “the Gambling Act Order” omit “; and”; and
- (c) after the definition of “the 2006 Act” insert—
  - “and;
  - “the 2007 Act” means the Local Government and Public Involvement in Health Act 2007.”(3).

### **Functions not to be the responsibility of an authority’s executive**

- 4. In regulation 2 (functions not to be the responsibility of an authority’s executive)—
  - (a) in paragraph (6)—
    - (i) in sub-paragraph (a)(i), after “section 3 (chairman’s expenses) of” insert “, or paragraph 2(4) (chairman and mayor) of Schedule 2 to,”; and
    - (ii) in sub-paragraph (a)(ii), after “section 5 (vice-chairman’s expenses) of” insert “, or paragraph 5(4) (power of mayor of London borough to appoint deputy) of Schedule 2 to,”.
  - (b) after paragraph (6) insert—
    - “(6A) The function of making a request under section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992(4) for single-member electoral areas is not to be the responsibility of an executive of the authority.
    - (6B) The function of passing a resolution to change a scheme for elections under section 32(1), 37(1) or 39(1) (resolutions for schemes for elections) of the 2007 Act is not to be the responsibility of an executive of the authority.
    - (6C) The functions of—
      - (a) deciding whether to make proposals for a change in governance arrangements of the kind set out in sections 33A and 33B of the 2000 Act(5);
      - (b) deciding whether a change of the kind set out in section 33A of the 2000 Act should be subject to approval in a referendum under section 33E(5) of the Act; and
      - (c) passing a resolution to make a change in governance arrangements under section 33F of that Act,
 are not to be the responsibility of an executive of the authority.
    - (6D) The functions of—
      - (a) including provision in executive arrangements for the council to remove the executive leader by resolution under section 44C(1) of the 2000 Act; and
      - (b) passing a resolution to remove the executive leader under 44C(2) of that Act,
 are not to be the responsibility of an executive of the authority.

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(3) 2007 c.28.

(4) 1992 c.19. Section 14A of the Local Government Act 1992 was inserted by section 55 of the Local Government and Public Involvement in Health Act 2007.

(5) Sections 33A, 33B, 33E, 33F, 44A, 44B and 44C of the Local Government Act 2000 were inserted by sections 64 and 67 of the Local Government and Public Involvement in Health Act 2007.

(6E) The function of making an order giving effect to recommendations made in a community governance review under section 86 (reorganisation of community governance) of the 2007 Act is not to be the responsibility of an authority’s executive.

(6F) The duty to make a change in governance arrangements under paragraph 3 or 8 of Schedule 4 to the 2007 Act is not to be the responsibility of an authority’s executive.”.

(c) In paragraph (7), for “paragraph (5) or (6)(a) to (c)”, substitute “paragraph (5), (6)(a) to (c) or (6A) to (6F)”

5. In Schedule 1 (functions not to be the responsibility of an authority’s executive)—

(a) in paragraph D, after item 17, insert—

(1)	(2)
Function	Provision of Act or Statutory Instrument
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38 (2) and 40(2) of the 2007 Act.
19. Duties relating to publicity.	Sections 35, 41 and 52 of the 2007 Act.
20. Duties relating to notice to Electoral Commission.	Sections 36 and 42 of the 2007 Act.
21. Power to alter years of ordinary elections of parish councillors.	Section 53 of the 2007 Act.
22. Functions relating to change of name of electoral area.	Section 59 of the 2007 Act.”

(b) after paragraph E, insert—

<b>“EA. Functions relating to changing governance arrangements</b>	
(1)	(2)
Function	Provision of Act or Statutory Instrument
1. Duty to draw up proposals.	Section 33E(2) of the 2000 Act.
2. Duty to consult prior to drawing up proposals.	Section 33E(6) of the 2000 Act.
3. Duty to implement new governance arrangements.	Sections 33G and 33H of the 2000 Act(6).
4. Duty to comply with direction given by the Secretary of State.	Section 33I of the 2000 Act.
5. Duty to hold referendum.	Section 33K(2) of the 2000 Act.
6. Duty to publish notice if proposals not approved in referendum.	Section 33K(6) of the 2000 Act.

(6) Sections 33G, 33H, 33I, 33K and 33N of the Local Government Act 2000 were inserted by section 64 of the Local Government and Public Involvement in Health Act 2007.

7. Duty to obtain written consent of elected mayor. Section 33N of the 2000 Act.

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**EB. Functions relating to community governance**

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(1) <b>Function</b>	(2) <b>Provision of Act or Statutory Instrument</b>
1. Duties relating to community governance reviews.	Section 79 of the 2007 Act.
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the 2007 Act.
3. Functions relating to terms of reference of review.	Sections 81(4) to (6).
4. Power to undertake a community governance review.	Section 82 of the 2007 Act.
5. Functions relating to making of recommendations.	Sections 87 to 92 of the 2007 Act.
6. Duties when undertaking review.	Section 93 to 95 of the 2007 Act.
7. Duty to publicise outcome of review.	Section 96 of the 2007 Act.
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the 2007 Act.
9. Power to make agreements about incidental matters.	Section 99 of the 2007 Act.”.

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**Functions not to be the sole responsibility of an authority’s executive**

6.—(1) In regulation 4 (functions not to be the sole responsibility of an authority’s executive) in paragraph (1), for sub-paragraph (b) substitute—

“(b) of formulating a plan or strategy for the control of the authority’s borrowing, investments or capital expenditure or for determining the authority’s minimum revenue provision; or”.

(2) In Schedule 3 (functions not to be the sole responsibility of an authority’s executive)—

- (a) in column (1), omit “Community Strategy”(7);
- (b) in column (2), omit the entry relating to the words omitted by sub-paragraph (a);
- (c) in column (1), in the appropriate place, insert “Local Area Agreement”;
- (d) in column (2), in relation to the words inserted by sub-paragraph (c), insert “Section 106(1) of the 2007 Act.”;
- (e) in column (1), in the appropriate place, insert “Sustainable Community Strategy”; and
- (f) in column (2), in relation to the words inserted by sub-paragraph (e), insert “Section 4 of the 2000 Act.”.

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(7) See section 7 of the Sustainable Communities Act 2007 (c.23) which provides for a community strategy under section 4 of the Local Government Act 2000 to be re-named a sustainable community strategy.

**Functions which may be (but need not be) the responsibility of an authority's executive**

7. In Schedule 2, (functions which may be (but need not be) the responsibility of an authority's executive)—

- (a) omit paragraph 9(8); and
- (b) insert at the end—

“22. Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to local area agreements.”

Signed by authority of the Secretary of State for Communities and Local Government

*John Healey*  
Minister of State  
Department for Communities and Local  
Government

26th February 2008

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(8) See section 5 of the Local Government Act 1999 (c.27) which is repealed by section 40 of, and Schedule 18 to, the Local Government and Public Involvement in Health Act 2007 (c.28).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the 2000 Regulations”). They apply in relation to local authorities in England.

Regulation 2(6) of the 2000 Regulations (functions not to be the responsibility of an authority’s executive) provides that the function of determining allowances payable to local authority members and charges for any approval, consent, licence, permit or registration is not to be the responsibility of an executive of an authority. Regulation 4 of these Regulations amends regulation 2(6) of the 2000 Regulations so that it also applies to allowances payable to the chairman or mayor and vice-chairman or deputy mayor of a London borough council. It inserts new paragraphs (6A) to (6F) into regulation 2 which provide that an executive of the authority is not to be responsible for the functions of—

- making a request for single-member electoral areas under section 14A(1) of the Local Government Act 1992;
- resolving to change a scheme for elections under Part 2 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”);
- deciding whether to make proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval in a referendum and passing a resolution to make the change under Part 2 of the Local Government Act 2000;
- including provision in executive arrangements for the executive leader to be removed by resolution and passing a resolution for the removal of the executive leader; and
- making a reorganisation order implementing recommendations of a community governance review, under section 86 of the 2007 Act.

It also amends regulation 2 so that section 101 (arrangements for the discharge of functions by local authorities) of the Local Government Act 1972 is disappplied in relation to the functions which are the subject of the amendments listed above.

Schedule 1 to the 2000 Regulations lists functions which are not to be the responsibility of an authority’s executive. Regulation 5 of these Regulations amends Schedule 1 by inserting into paragraph D new items which are concerned with the functions under Part 2 of the 2007 Act of changing schemes for elections, altering years of ordinary elections of parish councillors and changing the name of an electoral area. It also inserts new paragraphs EA and EB into Schedule 1 which are concerned with functions relating to changing governance arrangements under Part 2 of the 2000 Act and community governance under Part 4 of the 2007 Act.

Regulation 4(1)(b) of the 2000 Regulations (functions not to be the sole responsibility of an authority’s executive) provides that, in connection with the discharge of the function of formulating a plan or strategy for the control of a local authority’s borrowing, investments or capital expenditure, the actions designated by paragraph (3) (“the designated actions”), including the giving of instructions requiring the executive to reconsider any draft plan or strategy submitted by the executive for the authority’s consideration, shall not be the responsibility of an executive of the authority. Regulation 6(1) of these Regulations substitutes a new regulation 4(1)(b) in the 2000 Regulations so that the actions designated by paragraph (3) apply not only in relation to the discharge of the function of formulating a plan or strategy for the control of the matters mentioned above but also for the determination of an authority’s minimum revenue provision.

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Schedule 2 to the 2000 Regulations lists functions which may be (but need not be) the responsibility of an authority's executive. Regulation 7(a) of these Regulations removes the reference in Schedule 2 to the function of conducting best value reviews under section 5 of the Local Government Act 1999 which has been repealed. Regulation 7(b) inserts into Schedule 2 a reference to functions relating to local area agreements under Chapter 1 of Part 5 of the 2007 Act.

Schedule 3 to the 2000 Regulations sets out functions which are not to be the sole responsibility of an authority's executive. Regulation 6(2) of these Regulations amends Schedule 3 by inserting a reference to a local area agreement and replacing the reference to a "community strategy" which has been renamed as a "sustainable community strategy".

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.