
STATUTORY INSTRUMENTS

2001 No. 2237

The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001

Functions of responsible officer as regards reports

20.—(1) In section 114 of the 1988 Finance Act⁽¹⁾ (functions of responsible officer as regards reports)—

- (a) in subsection (2), at the beginning, there shall be inserted “Subject to subsection (2A),”;
- (b) after subsection (2), there shall be inserted—

“(2A) Where a relevant authority is operating executive arrangements, the chief finance officer of the relevant authority shall not make a report under subsection (2) in respect of any action referred to in paragraph (a), (b) or (c) of that subsection unless it is action taken otherwise than by or on behalf of the relevant authority’s executive.”; and

- (c) in subsection (4), at the end, there shall be added—

“; and

- (c) in a case where the relevant authority has a mayor and council manager executive, the person who at the time the report is made is the council manager of that authority”.

- (2) After section 114 of the 1988 Finance Act, there shall be inserted—

“Functions of responsible officer as regards reports—local authorities operating executive arrangements

114A.—(1) The person having responsibility under section 151 of the 1972 Act for the administration of the financial affairs of a relevant authority which is operating executive arrangements shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.

(2) The chief finance officer of an authority that is referred to in subsection (1) shall make a report under this section to the executive of that authority if it appears to him that, in the course of the discharge of functions of the authority, the executive or a person on behalf of the executive—

- (a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;
- (b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority; or
- (c) is about to enter an item of account the entry of which is unlawful.

(1) Section 114 was amended by paragraphs 1 and 66 of Schedule 5 to the 1989 Act and section 130 of the Greater London Authority Act 1999 (c. 29). There are other amendments to section 114 which are not relevant to this Order.

- (3) It shall be the duty of the chief finance officer of an authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—
- (a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and
 - (b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 and 5A of that Act(2).
- (4) Where a chief finance officer has made a report under this section he shall send a copy of it to—
- (a) the person who at the time the report is made has the duty to audit the authority's accounts;
 - (b) each person who at that time is a member of the authority; and
 - (c) where the authority has a mayor and council manager executive, the person who at that time is the council manager.
- (5) Subsections (5) and (6) of section 114 shall apply in relation to duties under subsections (2) and (3) of this section as they apply in relation to duties under subsections (2) and (3) of that section.
- (6) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.”.

(2) Section 5A is inserted by article 23(2) of this Order.