

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

21 March 2025  Ella Royle and Richard Barlow

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, are pivotal in defining the decision-making boundaries within English local authorities.

The Regulations delineate the scope of the functions that are primarily the responsibility of the full Council from those which are the responsibility of the executive. In each case, once considered by full Council or the Executive as appropriate, there can be delegation – but it is essential that such delegation is derived from the lawful decision-taker.

The Regulations are intended to refine local governance by enhancing both the efficiency and accountability of decision-making. However, it can often be unclear what decisions, or aspects of decisions, are capable of being taken at different levels. If a public body makes decisions that do not lie within the scope of its powers, or as set out in governing legislation, it will be acting *ultra vires* (unlawfully).

Clear understanding of the Regulations is crucial as an error in who is able to take a decision could lead to that decision being susceptible to challenge by way of judicial review.

Key functions and non-executive responsibilities

The Local Government Act 2000 provides that where authorities operate executive arrangements, for instance where there is a Leader and Cabinet, or Mayor and Cabinet, then all functions are to be exercised by the executive unless specified otherwise by the Act or enactments or regulations made under it.

The Regulations define non-executive functions. These functions, which include setting the budget and strategic policy framework are reserved for the full Council, rather than the executive. This separation ensures that decisions which significantly impact the community or require a high degree of scrutiny are handled transparently and with greater accountability.

Executive functions

Conversely, executive functions, as defined by the regulations, can be managed by the local authority's leader, Cabinet, or delegated further to individual officers. These functions typically include service delivery and operational decisions, where responsiveness and specialist knowledge is key. The delegations are intended to enable more responsive governance, allowing for quicker decision-making on operational matters and allowing decision taking to move at pace where required.

Decision-making and delegation

The regulations delineate that strategic and quasi-judicial decisions should be reserved for the full Council. This ensures that decisions which have significant consequences receive the necessary scrutiny and democratic legitimacy. Despite the executive's day-to-day management role, the overarching financial strategies and significant amendments to these strategies must be considered by the full Council to align with the broader governance framework and financial health of the council.

Where the full Council undertakes decision taking on a strategic level, the practical steps required for implementation can be considered by other parts of the Council, such as officers with specialised knowledge.

Local authorities are required to maintain a clear record, often within their constitutions, which details the delegation of functions. This document is crucial for ensuring that all members of the Council, as well as the public, understand who is responsible for various decisions.

Implications for local governance

Since their implementation, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 have encouraged a more structured approach to local governance. By delineating functions, these regulations have helped to reduce ambiguity and increase efficiency in local government operations. Issues of importance can arise where decisions need to be taken that would be outside the Council's budget, or where there are changes to strategic approach, these would require consideration by, and approval of, full Council.

In any event, local authorities as public bodies are required to engage general public law principles to ensure good decision making. Where a public body, such as a local authority fails to comply with these principles it becomes susceptible to successful challenge by way of judicial review of its decisions. Public bodies must also be aware of their statutory duties contained in other legislation, such as the Human Rights Act 1998, the Equality Act 2010 and best value obligation contained in the Local Government Act 1999.

Conclusion

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are a cornerstone of modern local governance in England. By clearly defining executive and non-executive functions and establishing guidelines for delegation, they ensure that local authorities can operate effectively while remaining accountable to the public they serve. As local governance continues to evolve, these regulations provide a necessary foundation for orderly and responsible administration.

We frequently advise on the application of these Regulations, and if any queries arise in relation to them, we would be happy to assist.

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