

LOCAL GOVERNMENT IN ENGLAND AND WALES

FRAMEWORK

Historically each area of the country used to have its own rulers with their own set of rules. Each person within the area abided by those rules.

The Country is now divided in to local authorities either by county or district. Each area has its own law-making and administrative powers. These powers are delegated by Parliament by statute. However, European law requires action at a local authority level.

Over the past three decades there has been a deal of change within local authorities and the Local Government Act of 1972 started this process.

The 1972 LGA created a two tier system of local govt. for England and Wales. The upper tier was the County Council, and the lower the District Council. In London (GLC) and the six major conurbations, Metropolitan councils were created. In 1985 these Metropolitan county councils were abolished (Greater Manchester, Merseyside, South Yorkshire, West Yorkshire, West Midlands, Tyne & Wear) and metropolitan district councils were made the unitary councils for those areas.

The government decided to change the system once again from two tier to predominantly unitary, and in Wales and Scotland this took place with little, if any, consultation with the Acts of 1994. Thus smaller district councils were created.

In England a piecemeal change occurred from 1996, some county councils were abolished, and replaced with smaller districts. In other areas the larger towns or cities were removed but the rest left in place e.g. York out of North Yorkshire and Darlington out of Durham.

Across the country, local governmental bodies are organised into a mixture of one-tier and two-tier systems. How your local system is arranged will depend upon where you live.

County and district councils

In some parts of England, there are two levels: a county council and a district council. **County councils cover large areas and provide most public services, including schools, social services, and public transportation.** Recently Durham and Northumberland have changed from a two tier to a unitary county structure.

Each county is divided into several districts. District councils cover smaller areas and provide more local services, including council housing, gyms and leisure facilities, local planning, recycling and waste collection. District councils with borough or city status may be called borough councils or city councils instead of district council, but their role is exactly the same.

Unitary authorities

In most large towns and cities, and in some small counties, there will be just one level of local government responsible for all local services. These are called a 'unitary authority'. Depending

where they are in the country, these may be called metropolitan district councils, borough councils, city councils, county councils, or district councils.

In London, each borough is a unitary authority, but the Greater London Authority (the Mayor and Assembly) provides London-wide government with responsibility for certain services like transport and police.

In April 2009, the government introduced unitary governments in seven regions in England; reducing 44 local authorities down to just nine. The idea was to simplify the system, as local residents were increasingly confused about which local authority was responsible for local services.

In Scotland there is a unitary system with one level of local government. In Northern Ireland, there are local councils, but most services are carried out by other organisations.

Town and parish councils

In some parts of England there are also town and parish councils, covering a smaller area. In Wales, they are called community councils.

They're responsible for services like allotments, public toilets, parks and ponds, war memorials, and local halls and community centres. They are sometimes described as the third tier of local government.

In Scotland there are community councils with fewer powers. There is no equivalent in Northern Ireland.

Joint services

Some local authorities share services covering a wider area, like police, fire services and public transport. This may be done to avoid splitting up services when council structures are changed, or because some councils are too small to run an effective service on their own.

Every part of the UK is covered by a local authority fire and rescue service. Each of the 59 fire authorities must by law provide a firefighting service and must maintain a brigade to meet all normal requirements. Each fire authority appoints a Chief Fire Officer, or Firemaster in Scotland, who has day-to-day control of operations.

Strategic partners, the private finance initiative (PFI)

“The days of the all-purpose [local] authority that planned and delivered everything are gone. They are finished. It is in partnership with others – public agencies, private companies, community groups and voluntary organisations – that local government’s future lies.

Local authorities will deliver some services but their distinctive leadership role will be to weave and knit together the contribution of the various local stakeholders.” (Tony Blair, 1998: 13)

Many local authorities no longer operate any or all of their services. These are run by strategic partners or PFI companies.

Some councils do not run any typing, pension, refuse, etc. they are all run by a strategic partner such as Carillion <http://www.carillionplc.com/group/group.asp>

Local government workers

More than two million people are employed by local authorities. These include school teachers, social services, the police, firefighters and many other office and manual workers. Education is the largest locally provided service.

Some areas of local government have been subcontracted to private contractors many former town hall workers now work for such companies providing contract services to the local authority.

FUNCTIONS OF LOCAL GOVERNMENT

The services provided are as follows:

Arts, leisure and libraries;

Consumer Protection;

Education;

Environmental Health;

Fire and Civil Defence;

Highways;

Housing;

Planning;

Police;

Refuse collection;

Social Services and

Transport.

ELECTION OF COUNCILORS

They are elected for a term of office of four years. In the metropolitan districts one third of councilors retire each year. In other areas it is normally every four, but they may adopt the metropolitan model.

Candidates must have a connection with the area for which they are standing. For example a registered elector or someone who has worked in an area for 12 months, or lived in that area for 12 months, prior to the 'nominating day' for the elections.

Candidates are disqualified from being elected on the following grounds:

Bankruptcy;

Conviction for corrupt or illegal practices;

Conviction and sentence of three months imprisonment within five years of the election;

The imposition of a surcharge by the Audit Commission for unlawful local government expenditure.

http://www.direct.gov.uk/en/Governmentcitizensandrights/UKgovernment/Localgovernment/DG_073312

PAYMENTS

Councillors are not paid a salary or wages, but they receive travelling and subsistence allowances, attendance allowances and reimbursement for loss of earnings. They are not council employees. The elected councillors provide the policies, and then paid employees (council officers) put them into practice.

Decision making and scrutiny

Councils have different ways of making decisions. Since 2000 most councils in England have had a small executive group that is responsible for the overall business of the council. Its decisions are subject to scrutiny by a different group of councillors who meet in overview and scrutiny panels, to check and monitor what the council does.

Smaller councils often have a committee structure dealing with separate aspects of the council's business, rather than having executive and scrutiny panels.

While the full council (a meeting of all members of the council) is theoretically responsible for all the decisions made, in practice most of the work is delegated to smaller groups of councillors or council officers (employees).

The arrangements are designed to ensure that people know who in the council is responsible for taking decisions, how they can have an input into decision making, and how they can hold decision makers to account

CONDUCT

A statutory register of members interests exists to which all disclosures must be made.

If they have any direct or indirect pecuniary interest in a contract or any other matter then this must be disclosed by them if they are present at a relevant meeting, they are also not allowed to vote on any such matter, or speak in any discussion about them.

'Members' must also declare spousal interests, if known.

It is a criminal offence for a member to accept payments in money or in kind for services.

In 1974 there was a large scandal in the North of England concerning contracts for a private architect. (Poulson)

THE PROCESS

Powers and responsibilities are given to local authorities acting as a corporate body of the members. These powers may be delegated to committees and officers.

Every council must hold an annual meeting at which a chair and vice chair are appointed.

At other meetings authorities may receive reports from committees and take formal decisions.

Councils may delegate powers to a committee, or empower the committee to consider the relevant issues and make recommendations to the full council for action.

Officers are employees of the council. Unlike members they are generally specialists appointed to their posts by dint of qualification and experience.

Chief Officers are responsible to the full council and the chair of their committee or their Cabinet member.

Whilst control may rest with one political party, officers report to all members and, therefore, need to be seen as apolitical.

FINANCE

Local councils derive their income from:

- rates (Council Tax & business rates)
- government grants
- fees and charges for certain services
- loans

Approximately 60% of Local govt. revenue comes in the form of Government grants. These may be specific for particular services, such as police and fire, or general.

Local authorities can also generate money by levying charges for services e.g. swimming pools & leisure centres.

The remainder is raised by local taxes, this includes council tax, payable by individuals (certain exemptions apply for groups such as full time students) business rates are paid to central government and redistributed to local authorities. In order to ensure that local authorities do not overspend and stay within Government guidelines on spending legislation was enacted to allow councils to be 'capped' on the amount of revenue raised by local taxation.

Local authorities may borrow money subject to strict treasury controls.

Local government is a regular participant in Judicial Review(which we will deal with later). All powers exercised are statutory, accordingly the courts may rule on the 'vires' of their actions.

The courts employ the concept of 'fiduciary duty'. Local government is in a fiduciary position of trustee of resources to be exercised for the benefit of the consumers.

The Govt. keeps a tight control on local authorities by way of audit. The LGA 1972 requires local authorities to submit their accounts to a professional auditor appointed by the Audit Commission, an independent public body. An annual audit is undertaken and the accounts are open for public inspection.

DEVELOPMENTS

Between 1979-1995, under the Conservative Government, a change in policy prevailed regarding the treatment of local government allied to the principles of competition, market forces, efficiency and accountability thus limiting central government provision.

This change had a marked effect in a number of areas:

Housing-policy of selling discounted council houses to tenants, continued under labour.

Competitive tendering-no longer giving service contracts to council employees but requiring that all such contracts be put out to tender on a competitive basis. The result was that many former local authority jobs are now contracted. e.g. refuse collection, road mending, school dinners. All services, in theory, are open for such tendering process.

Changes in Government have not seen any relaxing of the pressures to change within local govt. There is always a constant pressure from Central to Local and often a conflict between the two. We have seen initiatives in the areas of:

LBRO

Best value (Challenge, compete, compare and consult)

Business excellence;

Charter Mark;

IIP; (Investors in people)

Finance - transferring most of. Schools budget from local govt direct to School Governing Bodies.

Governing bodies responsible for running of schools.

Publishing performance indicators to compare authorities. etc.,

Private Finance initiatives for running of Schools Etc. etc

The formation of a coalition government in 2010 linked to a massive National debt has led to a reduction in local government budgets. In some cases, up to 25% over the next 4 years commencing April 2011.

This will naturally have a massive effect on local government and the services that it delivers.

One thing is certain that changing years will bring changing circumstances and studying any legal subject means keeping pace with such changes.