

*These notes refer to the Local Government Act 2000  
(c.22) which received Royal Assent on 28 July 2000*

# **LOCAL GOVERNMENT ACT 2000**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

#### **Part Iii: Conduct of Local Government Members and Employees**

##### **Summary**

102. Part III of the Act establishes a new ethical framework for local government. This includes the introduction of statutory codes of conduct, with a requirement for every council to adopt a code covering the behaviour of elected members and of officers, and the creation of a standards committee for each authority.
103. It also establishes a new non-Departmental public body (NDPB), the Standards Board for England; in Wales the functions of the Standards Board will be conferred on the Commissioner for Local Administration in Wales (CLAW). This will ensure an independent process for investigating instances of unethical conduct by relevant authority members, including any allegations that a code of conduct has been breached.

##### **Background**

104. Until now, councillors have been required (by virtue of section 83 of the Local Government Act 1972) to declare at the time of accepting office that they will be guided by the National Code of Local Government Conduct—which was issued as a Joint Circular under section 31 of the Local Government and Housing Act 1989. The Code deals with the treatment of non-pecuniary interests.
105. A requirement on members to give notice of their pecuniary interests in the form of a register was introduced by regulations made under section 19 of the 1989 Act. The declaration of pecuniary interests at relevant meetings is a requirement under section 94 of the 1972 Act; section 97 of that Act enables dispensations to be granted to speak and/or vote at such meetings.
106. However, apart from the criminal offences under section 94(2) of the 1972 Act of failure to declare a pecuniary interest or non-registration of such an interest under section 19(2) of the 1989 Act, the only action that can be taken against an individual member for misconduct is under section 30(3A) of the Local Government Act 1974 which provides for the local government Ombudsman to be able to name a member or members where he finds that a breach of the code by an individual member constitutes maladministration.
107. The Third Report of the Committee on Standards in Public Life on Standards of Conduct in Local Government (the Nolan Committee) in July 1997 recommended that the existing National Code of Local Government Conduct should be replaced. The Nolan Committee also recommended that local authorities should be able to discipline individual councillors, subject to a right of appeal to an independent tribunal.

108. The Government response to the Nolan Committee's report was included in the consultation paper *Modernising Local Government: a new ethical framework*<sup>1</sup>. The paper set out possible arrangements for introducing such a new framework, subject to consultation. It broadly agreed with the Nolan Committee conclusions but went further in its emphasis on external independent investigation and discipline.
109. A separate consultation paper, entitled *Modernising Local Government in Wales: a new ethical framework*<sup>2</sup>, was published in Wales, setting out suggested arrangements for introducing a new framework tailored to Welsh requirements.
110. The White Paper *Modern Local Government: In Touch with the People*<sup>3</sup> set out the Government's intention to legislate for a new ethical framework for local authorities. It signalled three principal components of the new framework:
- a requirement on every council to adopt a code of conduct, based on a national model, that all members would have to sign up to;
  - a requirement for all authorities to set up a standards committee to oversee ethical issues and provide advice and guidance on the code of conduct and its implementation;
  - the establishment of an independent body, the Standards Board, with responsibility for investigating alleged breaches of the council's code of conduct.
111. A separate White Paper, *Local Voices: Modernising Local Government in Wales*<sup>4</sup>, set out the intentions of the newly formed National Assembly for Wales (NAW) to implement a new ethical framework for Welsh authorities, broadly comparable to the English framework.
112. The Government papers *Local Leadership, Local Choice*<sup>5</sup> in England and *A Stronger Voice for Local People*<sup>6</sup> in Wales provided further details of the framework; proposals were included in the draft Local Government (Organisation and Standards) Bill which was submitted to the scrutiny of a Parliamentary Joint Committee of MPs and Peers in May 1999.

## **Commentary on sections**

### ***Section 49: Principles governing conduct of members of relevant authorities***

113. *Section 49(1) and (2)* of the Act provides the Secretary of State in England and the NAW in Wales with a power to develop a set of general principles of conduct, which will apply to all authorities covered by the new ethical framework. The general principles are intended to provide a guide for councillors' behaviour in the execution of their duties and will underpin the model code of conduct under *section 50* that these authorities will adopt for their members. The general principles will also be subject to approval by Parliament in respect of England, by affirmative resolution of both Houses, before the Secretary of State can introduce them. In Wales, the general principles of conduct will be subject to approval by a resolution of the NAW.
114. *Section 49(3), (4) and (5)* places a duty on the Secretary of State and the NAW to consult various bodies in developing the general principles of conduct. These include representatives of relevant authorities, the Audit Commission and the Commissions for Local Administration in England and Wales (the local government Ombudsmen).

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<sup>1</sup> Published April 1998, DETR.

<sup>2</sup> Published June 1998, Welsh Office.

<sup>3</sup> Cm 4014, July 1998.

<sup>4</sup> Cm 4028, July 1998.

<sup>5</sup> Cm 4298, March 1999.

<sup>6</sup> Published April 1998, Welsh Office.

115. *Section 49(6)* sets out the relevant authorities in England and Wales whose members' conduct are to be governed by the general principles of conduct. Police authorities in Wales will be governed by the English general principles because policing is a non-devolved matter.
116. *Section 49(7)* provides a definition of a co-opted member. The new ethical framework applies equally to all those voting members of a relevant authority, whether they have been elected to the authority or appointed to it. Hereafter in these notes, the term member should be taken to include co-opted members unless otherwise stated.

### ***Section 50: Model code of conduct***

117. *Section 50(1) and (2)* enables the Secretary of State or the NAW to issue a model code of conduct for members of relevant authorities. The model code will give practical effect to the general principles in terms of councillors' behaviour. The code replaces a number of statutory instruments implemented in an *ad hoc* fashion over time. Once councillors have signed up to a locally adopted version of this code, they will be expected to abide by it. If they do not, they will become subject to investigation by the new Standards Board in England (and the CLAW in Wales) and to possible subsequent disciplinary action under *section 79*.
118. This section specifies that the model codes must be consistent with the general principles. A code may include mandatory and optional provisions. Once again, the Secretary of State and the NAW would be required to consult representatives of relevant authorities and other persons or organisations before introducing model codes. The Secretary of State may invite these organisations to draw up a draft model code.

### ***Sections 51 and 52: Duties***

119. *Section 51* places a duty upon relevant authorities to adopt a code of conduct within six months of the new model code coming into force. An authority's code of conduct must include any mandatory provisions of the model code that applies to the authority. However, the authority has discretion to incorporate in its code any optional or additional provisions it wishes to include, providing they are not inconsistent with any within the model code of conduct. Again, police authorities in Wales will be subject to the English model code of conduct as policing is a non-devolved matter.
120. This section also makes provision that if an authority fails to adopt a code of conduct within the specified period, the mandatory provisions of the model code relevant to the authority will apply to it by default until it adopts its own code. Once an authority has adopted or revised its code of conduct, it must publish the fact, make the code of conduct available for public inspection, state the address where it will be available for inspection, and send a copy to the Standards Board.
121. *Section 52* makes provision for declarations and undertakings by members of relevant authorities that they will observe codes of conduct.

### ***Sections 53 and 54: Standards committees***

122. *Section 53* places a duty upon all relevant authorities—except parish councils or community councils—to establish a standards committee.
123. This section also specifies various details of the composition of an authority's standards committee. Although the authority has discretion over the overall number of members of the standards committee, the committee must have at least three members—two who are elected members of the authority and one of whom is an independent person (i.e. not a member of that or any other authority). In an authority that operates under the executive arrangements set out in Part II of the Act, a standards committee must not include a directly-elected mayor or executive leader, and may not be chaired by a member of the executive.

124. *Section 53* also gives both the Secretary of State and the NAW power to make regulations on the appointment of the independent member, the size of standards committees, and the way in which standards committees conduct their business. The Standards Board (the CLAW in Wales) may also provide guidance to relevant authorities on such issues. This section provides the independent members on the committee with voting rights, and requires the authority to provide the Standards Board with a copy of the standards committee's terms of reference. Police authorities in Wales will be subject to the regulations made by the Secretary of State, and to advice and guidance from the Standards Board, due to the non-delegation of policing matters.
125. *Section 54* sets out the functions of a standards committee. The general functions are to promote and maintain high standards of conduct within the authority and to assist members of that authority to observe the authority's code of conduct.
126. This section also outlines a range of specific functions. These are to:
- advise the authority on the adoption or revision of a code of conduct;
  - monitor the operation of the authority's code; and
  - advise members of the authority on matters relating to their code of conduct.
127. This section also enables the Secretary of State and the NAW to issue further regulations in respect of the functions of standards committees. It also allows the Standards Board (and the CLAW in Wales) to issue guidance on these matters.

#### ***Section 55: Standards committees or sub-committees for parish councils***

128. *Section 55* puts in place arrangements for the functions of a standards committee for parish council to be carried out on their behalf by the district council (or unitary county council where there is no district). *Section 55(1) to (3)* specifies that this can be discharged either through the standards committee of the district or by setting up a sub-committee of the standards committee to specifically consider parish council conduct issues. In deciding whether or not to set up a separate sub-committee to consider parish issues, *section 55(4)* requires the district council to consult the parishes concerned. Furthermore, *section 55(6) and (7)* requires at least one parish member to be present when the committee or subcommittee discusses parish issues. This section also enables the Secretary of State to make regulations under section 53 on the size, composition and proceedings of standards committees for parish councils. Similarly, the Standards Board may issue guidance under sections 53 and 54, as for other standards committees.

#### ***Section 56: Standards committee or sub-committees for community councils***

129. *Section 56* allows the standards committees or sub-committees of county and county borough councils to discharge functions in relation to community councils in Wales and their members which are situated in the area of the county/county borough councils concerned. It requires the principal councils to consult their community councils on whether to use the councils' main standards committee or to set up a specific sub-committee to deal with conduct issues relating to community council members.

#### ***Section 57 and Schedule 4: Standards Board for England***

130. *Section 57* provides for the creation of a Standards Board for England. The Standards Board is to have at least three members appointed by the Secretary of State. In exercising its functions, the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members of relevant authorities in England. The functions of the Standards Board are:
- to appoint employees known as ethical standards officers;

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- to issue guidance to relevant authorities in relation to the conduct of their members (the Board may arrange for any such guidance to be made public);
  - to issue guidance to relevant authorities in England in relation to the qualifications or experience which monitoring officers should possess;
  - to issue guidance on the size, composition and functions of standards committees of relevant authorities (under section 53); and
  - such other functions as may be conferred on the Standards Board by orders made by the Secretary of State.
131. *Schedule 4* covers the status and general powers of the Standards Board. It sets out the grounds for disqualification for being appointed as a member of the Board and for being employed as an ethical standards officer. It requires the Secretary of State to appoint the chairman and deputy chairman of the Board, and describes the tenure of office of the chairman, deputy chairman and members. This Schedule also enables the Standards Board to appoint and pay staff, including a chief executive, to carry out its functions and includes provision for the employment of staff to support the Adjudication Panel and case tribunals in the exercise of their functions (see commentary on *sections 73 to 78* below). It provides that staff cannot be employed both to assist an ethical standards officer in the conduct of an investigation and to support the Adjudication Panel or case tribunals.
132. *Schedule 4* also includes provision for:
- the proceedings of the Standards Board;
  - declaration of members' interests;
  - the protection of any statements by an ethical standards officer (in relation to the law of defamation).
  - provision of finance;
  - submission of accounts;
  - annual reporting arrangements;
  - the application of seal and evidence;
  - the Standards Board to be subject to the Parliamentary Commissioner; and
  - Parliamentary disqualification for any member of the Standards Board.

### ***Section 58: Written allegations***

133. *Section 58* provides that a person may make a written allegation to the Standards Board for England that a member or former member of a relevant authority has failed or may have failed to comply with the authority's code of conduct. If the Board considers that such an allegation should be investigated it must refer the case to one of its ethical standards officers; if the Board considers that an allegation should not be investigated, it must take reasonable steps to notify in writing the person who made the allegation.

### ***Section 59: Functions of ethical standards officers***

134. *Section 59* specifies the functions of ethical standards officers. Their main function will be to investigate allegations that a member or former member of a relevant authority has breached its code of conduct. Ethical standards officers may also investigate any associated cases that have come to their attention as a result of undertaking an investigation into a written allegation.

135. This section also states that the purpose of an investigation by an ethical standards officer is to make one of the following findings:
- that there is no evidence of a failure to comply with a code of conduct; or
  - that there is no need to take action on the matter investigated; or
  - that the matter should be referred back to the monitoring officer of the relevant authority to deal with (in the case of a former member who is now a member of another relevant authority, the ethical standards officer must decide to which monitoring officer to refer the matter); or
  - that the matters which are subject of the investigation should be referred to the president of the Adjudication Panel for England.

### ***Sections 60 to 62: Investigations***

136. These provisions deal with the conduct of investigations by ethical standards officers. *Section 60(1)* enables ethical standards officers to arrange for any person to assist them in the conduct of any investigation under section 59.
137. *Subsection (2)* provides that an ethical standards officer may cease an investigation at any stage before its completion and refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned. (*Section 66* makes provision that directions may be attached to any such referral.) *Subsection (3)* clarifies references to the monitoring officer in cases where a former member is now a member of another relevant authority.
138. *Subsections (4) and (5)* provide that an investigation into a member or former member of a relevant authority may not be carried out by an ethical standards officer who has been a member of that authority (or any of its committees) at any time within the last five years. Ethical standards officers are also placed under a duty to declare to the Standards Board any direct or indirect interest in any matters referred to them and to take no further part in any investigation of such a matter.
139. *Section 61* concerns the procedure for conducting an investigation. There is specific provision that the person being investigated must have an opportunity to comment on the allegation. Otherwise, this section allows an ethical standards officer to conduct an investigation as he sees fit. There is specific provision allowing ethical standards officers to reimburse the costs of people from whom they seek information. The section also provides that the conduct of an investigation should not affect the ability of the relevant authority to take action in respect of the matters being investigated. If a member has since moved to another relevant authority, it is the ability of both relevant authorities to take action that remains unaffected.
140. *Section 62* gives the ethical standards officer rights of access to the information or documents necessary for the investigation. These powers are also conferred upon any person the ethical standards officer authorises to assist with an investigation. Any person from whom the ethical standards officer makes enquiries or seeks information or explanations is obliged to co-operate. The duty to provide information extends to communications with government departments. The duty does not, however, extend to the Parliamentary Commissioner, a Local Commissioner, or the Health Service Commissioner. Ethical standards officers are to be able to obtain advice during an investigation and to pay for its provision.
141. *Section 62(10)* introduces an offence of failing to provide the ethical standards officer with such information, documentation or other evidence as he requires as part of his investigation. Any person convicted would be liable to a fine not exceeding level 3 on the standard scale (currently £1,000).

***Section 63: Restrictions on the disclosure of information***

142. *Section 63(1)* provides that information obtained by an ethical standards officer may only be disclosed if at least one of the following conditions is met:
- the disclosure is for the purposes of any functions of the Standards Board, an ethical standards officer, the Local Commissioner in Wales, the president or deputy president of the Adjudication Panel or any tribunal;
  - the person to whom the information relates has consented to its disclosure;
  - the information has previously been disclosed to the public with lawful authority;
  - the disclosure is for the purposes of criminal proceedings in any part of the UK—although information obtained from persons who are under the obligation to comply with ethical standards officers under *section 62(2)* cannot be disclosed;
  - the disclosure is made to the Audit Commission for the purposes of any functions of the Commission or an auditor under the Audit Commission Act 1998.
143. *Subsections (2) and (3)* provide that the Secretary of State or a relevant authority may prevent the disclosure of information if it would be contrary to the public interest.
144. *Subsection (4)* introduces an offence of disclosing documents and information in contravention of subsection (1). Any person on summary conviction would be liable to a term of imprisonment of up to six months. Any person on conviction on indictment would be liable to a term of imprisonment not exceeding two years, or to a fine, or both.

***Sections 64 and 65: Reports***

145. *Section 64* provides that where an ethical standards officer concludes that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned or where no action needs to be taken in respect of the matters which are the subject of the investigation, he may produce a report and may provide a summary of the report to any newspapers circulating in the area of the relevant authority concerned. If a report is produced, a copy must be sent to the monitoring officer of the relevant authority.
146. If the ethical standards officer does not produce a report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
147. *Section 64(2) and (3)* places a duty on an ethical standards officer to produce a report when he concludes that the matters which are the subject of an investigation should be referred either to the monitoring officer of the relevant authority concerned or to the president of the Adjudication Panel. Copies of the reports must be sent to the monitoring officer of the relevant authority concerned, to the standards committee of the relevant authority concerned (where appropriate) or, as the case may be, to the president of the Adjudication Panel.
148. *Subsection (4)* makes provision for reports where a member may have committed a breach of a code of conduct at an relevant authority other than that at which he is presently a member. *Subsection (5)* provides that a report may cover more than one investigation.
149. The ethical standards officer must on the conclusion of an investigation inform any person who is the subject of an investigation and must take reasonable steps to inform the person who made the original allegation about the outcome of the investigation.
150. *Section 65* provides an ethical standards officer with the power to issue an interim report if, during an investigation, he considers that it would be in the public interest to do so. Such reports can recommend that the person being investigated should be immediately suspended or partially suspended from being a member of the relevant

authority concerned or any of its committees or sub-committees for up to six months. The matter is then referred to the President of the Adjudication Panel for adjudication by an interim case tribunal.

***Section 66: Matters referred to monitoring officers***

151. *Section 66* gives the Secretary of State the power to make regulations to determine the way in which matters referred under sections 60(2) or 64(2) to a monitoring officer of a relevant authority should be dealt with.
152. These regulations may:
- enable a monitoring officer to conduct an investigation in respect of matters referred to him and make a report or recommendations to the standards committee of the relevant authority in respect of those matters;
  - enable the standards committee to consider any report or recommendations made by the monitoring officer, taking such action as may be prescribed by the regulations;
  - make provisions for the publicity to be given to any such report, recommendations or action;
  - confer powers of investigation on a monitoring officer and confer rights on any member who is the subject of an investigation;
  - enable a standards committee to censure or suspend a member or former member. A right of appeal would be conferred on any member subject to such action;
  - enable the ethical standards officer to direct the way in which matters referred should be dealt with by the monitoring officer.

***Section 67: Consultation with Local Commissioner***

153. *Section 67* provides that an ethical standards officer and Local Commissioner may consult if either of them believes that a matter which is the subject of investigation or complaint relates partly to a matter which could be the subject for consideration by the other. The ethical standards officer or Local Commissioner, where appropriate, may inform the person who made the allegation or complaint of the steps necessary to make a complaint or allegation to the other body.
154. *Subsection (4)* disapplies section 32(2) of the Local Government Act 1974 and section 63(1) of this Act in relation to the disclosure of information in the course of consultation held in accordance with this section.

***Section 68: Local Commissioner and Commission for Local Administration in Wales***

155. *Section 68(1) and (2)* confers new functions on a member of the Commission for Local Administration in Wales (CLAW). Under this section the CLAW may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members of authorities and in relation to the qualification and experience that monitoring officer should possess. Any such guidance may be made public. Provision is also made for additional functions to be conferred on a Local Commissioner in Wales by the NAW.
156. *Subsections (3) and (4)* enable the NAW, through regulations, to make provision for functions of a Local Commissioner in Wales or of the CLAW to be treated as functions under Part III of the Local Government Act 1974, and for related expenses to be treated as expenses of the CLAW under that Part. Such provision may include provisions to modify, apply or reproduce (with or without modifications) any provisions of Part III of the 1974 Act. *Section 68(5)* provides a definition of a Local Commissioner in Wales.

### ***Section 69 and 70: Investigations***

157. *Section 69* provides that a Local Commissioner in Wales may investigate written allegations of breaches of the code of conduct of a relevant authority by members or former members of the authority, and other cases arising from such investigations in which he considers that a member or former member has failed to comply with the authority's code of conduct.
158. There are four possible outcomes of these investigations:
- that there is no evidence of a failure to comply with a code of conduct; or
  - that there is no need to take action on the matters investigated; or
  - that the matter should be referred back to the monitoring officer of the relevant authority to deal with; or
  - that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a case tribunal.
159. Where a person is no longer a member of the relevant authority concerned but is a member of another relevant authority in Wales, the Local Commissioner has the discretion to decide which of the authority's monitoring officers to refer the matters to.
160. *Section 70* provides the NAW with an enabling power to make orders so as to provide the Local Commissioner with the powers of investigation available to the ethical standards officers in England. This section also permits the Local Commissioner to terminate an investigation and to refer matters to the monitoring officer of the member's present or former authority.

### ***Sections 71 and 72: Reports***

161. *Section 71* specifies what action a Local Commissioner in Wales should take, depending on the findings of his investigations.
162. *Subsection (1)* provides that when the Local Commissioner concludes that there is no evidence of a breach of the code of conduct or when no action needs to be taken following his investigation, he may produce a report and may provide a summary of the report to any newspaper circulating in the relevant authority's area. If a report is provided, a copy must be sent to the monitoring officer of the authority concerned. Where the Local Commissioner does not produce a report he must inform the authority's monitoring officer of the outcome of the investigation.
163. *Subsections (2) and (3)* place a duty on the Local Commissioner to produce a report when he concludes that the matters which are the subject of investigation should be referred either to the monitoring officer of the relevant authority or to the president of the Adjudication Panel for adjudication by a case tribunal. Copies of the report must also be sent to the monitoring officer and standards committee of the relevant authority and to the president of the Adjudication Panel.
164. *Subsection (4)* provides that where a member is no longer a member of the relevant authority, copies of the report may be made available to either the member's existing authority or former authority; the Local Commissioner may refer the matters concerned to the monitoring officer of either relevant authority.
165. Under *subsections (5) and (6)*, a report under this section may cover more than one investigation. The Local Commissioner must inform any member of the relevant authority who is the subject of an investigation and must take reasonable steps to inform the person who made the original allegation about the outcome of the investigation.
166. *Section 72* provides the Local Commissioner with the power to issue an interim report if, during an investigation, he considers that the matters revealed are sufficiently serious

that it is in the public interest to suspend or partially suspend a member immediately. The Local Commissioner may recommend in an interim report a maximum period of suspension of six months or, if shorter, the remainder of the person's term of office. Any recommendation for suspension has to be referred to the president of the Adjudication Panel for adjudication by an interim case tribunal. A copy of any interim report must be given to any person who is the subject of the report, the monitoring officer of the relevant authority concerned and the president of the Adjudication Panel for Wales.

167. Where a person is no longer a member of the relevant authority concerned but is a member of another relevant authority in Wales, copies of the interim report may be sent to the monitoring officer of either authority.

### ***Section 73: Matters referred to monitoring officers***

168. *Section 73* gives the NAW (or, in the case of police authorities in Wales, the Secretary of State) the power to make regulations to determine the way in which matters referred to the monitoring officer of a relevant authority under sections 70(4) or 71(2) should be dealt with. Such regulations may:

- enable a monitoring officer to conduct an investigation in respect of any matters referred to him;
- enable a monitoring officer to make a report or recommendations to the standards committee of the authority in respect of matters referred to him;
- enable the standards committee of a relevant authority to consider any report or recommendation made to it by the monitoring officer of the authority; and
- enable the standards committee of the relevant authority, following its consideration of a monitoring officer's report or recommendations, to take any action prescribed by the regulations.

169. Regulations may also:

- confer rights on any member or co-opted member of a relevant authority who is the subject of the monitoring officer's investigation;
- enable the standards committee of the relevant authority to censure, suspend or partially suspend a member or co-opted member of the authority; and
- confer a right of appeal on a member in respect of any such action taken against him.

### ***Section 74: Law of defamation***

170. *Section 74* confers absolute privilege on statements (whether written or oral) made by a Local Commissioner in Wales in connection with the exercise of his functions under this Part of the Act.

### ***Section 75: Adjudication Panels***

171. *Section 75* makes provision for the appointment of two panels of persons known as the Adjudication Panel for England and the Adjudication Panel for Wales (or Panel Dyfarnu Cymru).
172. The members of the Adjudication Panel for England are to be appointed by the Lord Chancellor with the consent of the Secretary of State; he must appoint a president and may appoint a deputy president from among those members. The NAW will appoint members of the Adjudication Panel for Wales. The Assembly must also appoint a president, and may appoint a deputy president, from among them.

173. *Subsections (7) and (8)* state that certain members of the Adjudication Panel must possess such qualifications as may be determined by the Lord Chancellor (with the consent of the Secretary of State) and National Assembly for Wales respectively.
174. The president and deputy president of each Panel are to be responsible for:
- training the members of their Adjudication Panel;
  - issuing guidance on how tribunals will reach decisions.

***Sections 76 to 79: Case tribunals, interim case tribunals and adjudications***

175. *Section 76* provides for adjudications on findings by an ethical standards officer following investigation, and on interim recommendations by an ethical standards officer under sections 64 and 65 or by a Local Commissioner in Wales under sections 71 and 72. These are to be conducted by case tribunals or interim case tribunals. The amendment made by paragraph 28 of Schedule 5 places each case tribunal under the supervision of the Council on Tribunals.
176. Case tribunals or interim case tribunals should consist of not less than three members of the Adjudication Panel appointed by the president or deputy president, both of whom can themselves be tribunal members. A member of the Adjudication Panel cannot be a member of a tribunal if they have been a member of the relevant authority or a member of a committee or sub-committee of the relevant authority concerned in the previous five years. Adjudication Panel members are also placed under a duty to declare to the president or deputy president any direct or indirect interest in any matter which is, or is likely to be, the subject of an adjudication conducted by a case tribunal or interim case tribunal, and may not be a member of a case tribunal or interim case tribunal which conducts an adjudication in relation to that matter. Where there is no deputy president of the relevant Adjudication Panel, a reference to the deputy president is to be treated as a reference to such a member as the Lord Chancellor or (as appropriate) the NAW may specify.
177. *Subsection (10)* provides that a member of an interim case tribunal may not be a member of a case tribunal which, on conclusion of that investigation, subsequently conducts an adjudication in relation to that person. *Subsections (11) and (13)* respectively make provision for the Lord Chancellor (with the consent of the Secretary of State) and the NAW to issue guidance in respect of the composition of case tribunals or interim case tribunals.
178. *Subsection (14)* provides for the NAW to incur expenditure for the purpose of providing administrative support to the Adjudication Panel for Wales.
179. A tribunal may conduct a single adjudication in relation to two or more matters which are referred to the president of the relevant Adjudication Panel.
180. *Section 77* enables a person who is the subject of a tribunal hearing either to appear before the tribunal in person or to be represented by a third party. This section also makes provision for the Secretary of State and the NAW to make such further regulations covering the process of adjudication as is considered necessary. It also enables the president of the relevant Adjudication Panel, after consultation with the Secretary of State or (where appropriate) the NAW, to give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.
181. Regulations made under section 76 might cover:
- requiring people to attend to give evidence to the case tribunal and authorising the administration of oaths to witnesses;
  - requiring them to make relevant documents relating to the investigation available to the tribunal;

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- requiring persons to furnish further particulars;
  - prescribing the procedure to be followed by a tribunal, including provision as to the persons entitled to appear and to be heard on behalf of persons giving evidence;
  - provision enabling the president or deputy president to settle the procedure to be followed in relation to matters specified in the regulations;
  - awarding or settling costs or expenses and for enabling such costs to be taxed in a county court;
  - the registration and proof of decisions and awards of tribunals.
182. *Section 77* also introduces an offence of failing to comply with any requirement imposed by a tribunal in considering a case. It is similar to the offence introduced by section 62 and also has the penalty of up to a level 3 fine (£1,000 at present).
183. *Section 78* makes provision for the decisions of interim case tribunals. It places a duty on the interim case tribunal to decide whether or not the member mentioned should be suspended on an interim basis (for a period not exceeding six months or, if shorter, the remainder of the person's term of office) The tribunal must give notice of its decision to the standards committee of the relevant authority concerned, including the details of the suspension or partial suspension and the date on which the suspension or partial suspension is to begin. The relevant authority is under a duty to comply with the notice. Section 78 also provides that the interim suspension or partial suspension shall cease to have effect on the day that a notice is given by a case tribunal under *section 79*. Copies of any notice to suspend or partially suspend on an interim basis must be given to the person who is the subject of the notice and to the relevant monitoring officer. The interim case tribunal must take reasonable steps to inform the person who made the allegation of its outcome.
184. *Section 78(5)* provides that any decision made by an interim case tribunal should not prevent an ethical standards officer from continuing with the investigation. Further interim reports may also be produced and considered.
185. *Subsection (10)* provides that any person suspended under this section may appeal to the High Court, against either the suspension or partial suspension or the length of the suspension or partial suspension.
186. *Section 79* provides for the decisions of case tribunals. It places a duty on the case tribunal to decide whether or not there has been a breach of the code of conduct in the case brought before it. Where the case tribunal decides that a person has not failed to comply with the code of conduct, it must notify the standards committee of the relevant authority concerned.
187. Where the case tribunal decides that a person has failed to comply with the code of conduct, this section places the case tribunal under a duty to decide whether the person should be suspended or partially suspended from being a member of the relevant authority concerned or disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority.
188. *Section 79* also requires the case tribunal to decide on the period of suspension or partial suspension (up to one year, although this must not extend beyond the person's terms of office) or, where appropriate the period of disqualification (up to five years). The case tribunal must issue a notice to the standards committee of the relevant authority concerned, stating that the person has failed to comply with the code of conduct and specifying the details of the failure and stating, where appropriate, that the person must be suspended or partially suspended or is disqualified, with the period of suspension, partial suspension or disqualification. *Subsection (9)* provides that the relevant authority must comply with a notice stating that the person concerned must be suspended or partially suspended.

189. **Section 79** also provides that a copy of the notice must be given to the Standards Board or the Commission for Local Administration in Wales (as appropriate) and to the person who is the subject of the notice. The notice must also be published in local newspapers in the relevant authority's area. The case tribunal must also take reasonable steps to inform the person who made the initial allegation of the outcome of the tribunal's adjudication. **Subsection (15)** introduces a right of appeal to the High Court for a person who a case tribunal decides has failed to comply with the code of conduct.
190. **Schedule 5** amends section 87 of the Local Government Act 1972 to provide that in a case where a case tribunal decides that a person is to be disqualified, the disqualification takes effect immediately; but a by-election only takes place once the person has either decided not to appeal or, in the event of an appeal, once the appeal process has been exhausted.

### ***Section 80: Recommendation by case tribunal***

191. **Section 80** makes provision that any case tribunal which has adjudicated on any matter may make recommendations about any matters relating to the exercise of the relevant authority's functions, code of conduct or standards committee. A copy of any recommendations must be sent to the Standards Board or the Local Commissioner in Wales.
192. The relevant authority to whom recommendations are made is under a duty to consider them within three months and it must prepare a report for the Standards Board or Local Commissioner outlining what action it has taken or proposes to take. **Subsection (4)** states that the relevant authority's consideration of a report may be discharged only by the authority or by the standards committee of that authority. If the Standards Board or Local Commissioner is not satisfied with the action taken or proposed, **subsection (5)** provides it with the power to require the relevant authority to publish a statement giving details of the recommendations made by the case tribunal and of the authority's reasons for not fully implementing them.

### ***Section 81: Disclosure and registration of members' interests***

193. **Section 81** makes provision with respect to the disclosure of interests by members, the maintenance of registers concerning those interests and the circumstances in which members are not entitled to take part in proceedings of those authorities. It also gives the monitoring officer of an authority a specific duty of establishing and maintaining the public register of interests.
194. In particular, **subsections (1) and (2)** place the registration and declaration of interests within the model code of conduct.
195. **Subsections (3) and (4)** provide that the model code of conduct will contain requirements for members to disclose any interests specified and restrict them from taking part in decisions relating to those interests. Failure to comply with these provisions amounts to a breach of the authority's code of conduct unless its standards committee has granted a dispensation in accordance with any regulations issued under **subsection (5)**.
196. **Subsection (5)** provides for the Secretary of State to issue regulations setting out the circumstances in which standards committees may grant dispensations to members of relevant authorities to enable them to participate in meetings in which they have an interest.
197. **Subsection (6)** specifies that the register should be made available at an office where it can be inspected and viewed by members of the public. **Subsection (7)** requires the authority to publish in one or more newspapers circulating in the area that the register is available, giving details of how the register can be obtained; the authority must also inform the Standards Board that the register is available.

*These notes refer to the Local Government Act 2000  
(c.22) which received Royal Assent on 28 July 2000*

***Section 82: Code of conduct for local government employees***

198. *Section 82* gives the Secretary of State and the NAW power to issue a code of conduct for all relevant authority employees. It requires each of them, in drawing up a code, to consult representatives of relevant authorities and also of relevant authority employees. This code of conduct is to be incorporated into the terms and conditions of every relevant authority employee, unless excluded by regulations under *subsection (8)*.