



# Local Government Act 2000

## 2000 CHAPTER 22

### PART III

#### CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

### CHAPTER III

#### INVESTIGATIONS ETC: WALES

##### *Local Commissioner and Commission for Local Administration in Wales*

#### **68 Local Commissioner and Commission for Local Administration in Wales**

- (1) A Local Commissioner in Wales is to have the functions conferred on him by this Part and such other functions as may be conferred on him by order made by the National Assembly for Wales under this subsection.
- (2) The Commission for Local Administration in Wales—
  - (a) may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members and co-opted members of such authorities,
  - (b) may issue guidance to relevant authorities in Wales (other than police authorities) in relation to the qualifications or experience which monitoring officers should possess, and
  - (c) may arrange for any such guidance to be made public.
- (3) The National Assembly for Wales may by regulations make provision which, for the purpose of any provisions of Part III of the Local Government Act 1974 specified in the regulations, treats—
  - (a) functions of a Local Commissioner in Wales under Part III of that Act as including his functions under this Part,

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- (b) functions of the Commission for Local Administration in Wales under Part III of that Act as including functions of the Commission under this Part, or
  - (c) expenses of the Commission for Local Administration in Wales under Part III of that Act as including expenses of the Commission, or a Local Commissioner in Wales, under this Part.
- (4) The provision which may be made by virtue of subsection (3) includes provision which modifies, or applies or reproduces (with or without modifications), any provisions of Part III of that Act.
- (5) In this Part “Local Commissioner in Wales” means a Local Commissioner (within the meaning of Part III of that Act) who is a member of the Commission for Local Administration in Wales.

### *Investigations*

#### **69 Investigations by Local Commissioner in Wales**

- (1) A Local Commissioner in Wales may investigate—
- (a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority’s code of conduct, and
  - (b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority’s code of conduct and which have come to his attention as a result of an investigation under paragraph (a).
- (2) If a Local Commissioner in Wales considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
  - (b) that no action needs to be taken in respect of the matters which are the subject of the investigation,
  - (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
  - (d) 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 tribunal falling within section 76(1).
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and

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accordingly a Local Commissioner in Wales who reaches a finding under subsection(4)(c) must decide to which of those monitoring officers to refer the matters concerned).

## **70 Investigations: further provisions**

- (1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).
- (2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—
  - (a) any provisions of sections 60 to 63, or
  - (b) any provisions of section 28, 29, 32 or 33 of the Local Government Act 1974.
- (3) A Local Commissioner in Wales may cease an investigation under section 69 at any stage before its completion.
- (4) Where a Local Commissioner in Wales ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, a Local Commissioner in Wales may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

*Reports etc.*

## **71 Reports etc**

- (1) Where a Local Commissioner in Wales determines in relation to any case that a finding under section 69(4)(a) or (b) is appropriate—
  - (a) he may produce a report on the outcome of his investigation,
  - (b) he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
  - (c) he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
  - (d) where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where a Local Commissioner in Wales determines in relation to any case that a finding under section 69(4)(c) is appropriate he must—
  - (a) produce a report on the outcome of his investigation,
  - (b) subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
  - (c) send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where a Local Commissioner in Wales determines in relation to any case that a finding under section 69(4)(d) is appropriate he must—
  - (a) produce a report on the outcome of his investigation,

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- (b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1), and
  - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for Wales.
- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
- (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
  - (b) a Local Commissioner in Wales who reaches a finding under section 69(4)(c) must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) A Local Commissioner in Wales must—
- (a) inform any person who is the subject of an investigation under section 69, and
  - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,
- of the outcome of the investigation.

## **72 Interim reports**

- (1) Where he considers it necessary in the public interest, a Local Commissioner in Wales may, before the completion of an investigation under section 69, produce an interim report on that investigation.
- (2) An interim report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (3) Where the prima facie evidence is such that it appears to a Local Commissioner in Wales—
- (a) that the person who is the subject of the interim report has failed to comply with the code of conduct of the relevant authority concerned,
  - (b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and
  - (c) that it is in the public interest to suspend or partially suspend that person immediately,
- the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.
- (4) Where a Local Commissioner in Wales produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must

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refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2).

- (5) A copy of any report under this section must be given—
- (a) to any person who is the subject of the report,
  - (b) to the monitoring officer of the relevant authority concerned, and
  - (c) to the president of the Adjudication Panel for Wales.
- (6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
- (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
  - (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

#### *References to monitoring officers*

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

- (1) The National Assembly for Wales may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section 70(4) or 71(2) are to be dealt with.
- (2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
- (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
  - (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
  - (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
  - (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
  - (e) the publicity to be given to any such reports, recommendations or action.
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—
- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
  - (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—

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- (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,
  - (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
  - (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) In its application to police authorities in Wales, subsection (1) has effect as if for the reference to the National Assembly for Wales there were substituted a reference to the Secretary of State.
- (7) Where a Local Commissioner in Wales refers any matters to the monitoring officer of a relevant authority under section 70(4) or 71(2) he may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

#### **74 Law of defamation**

For the purposes of the law of defamation, any statement (whether written or oral) made by a Local Commissioner in Wales in connection with the exercise of his functions under this Part shall be absolutely privileged.