

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Care standards

False or misleading information

Section 94 – Offences by bodies

531. This section provides for the offence of providing false or misleading information to apply to directors, managers, secretaries or similar officers of care providers in certain circumstances.
532. *Subsections (1), (2) and (3)* state that where the offence is committed by a corporate body and it is committed by, or with the consent and connivance of, or is attributable to neglect on the part of a director, manager, secretary or similar officer (or a member, in the case of a local authority), they too are guilty of the offence and liable to be prosecuted and punished. The court could impose an unlimited fine or custodial sentence of up to two years imprisonment, or both, on such an individual (section 93(1)). A remedial order or publicity order (section 93(2)) could not be made in respect of an individual.
533. *Subsections (4) to (8)* make provision where the offence is committed by a care provider that is an unincorporated association. Subsection (4) provides that where proceedings are brought against an unincorporated association they are to be brought in the name of the association not in the name of the members of the association.
534. *Subsections (7) and (8)* provide that an officer of an unincorporated association, or a member of its governing body, is also guilty of the offence, where an offence committed by the unincorporated association has been committed by, or with the consent or connivance of, or is attributable to neglect on the part of, an officer or a member of the governing body of the association. Subsection (8) provides that a remedial order or publicity order cannot be made in respect of an officer or member who is convicted of the offence. The maximum penalty available to the court is an unlimited fine or up to two years imprisonment, or both (section 93(1)).