



# Local Government Act 1974

## 1974 CHAPTER 7

### PART I **E+W**

#### GRANTS

##### Modifications etc. (not altering text)

- C1** Pt. I extended by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 68\(7\)](#); excluded by [Highways Act 1980 \(c. 66\)](#), [s. 272\(4\)](#)

#### *Rate support grants*

### <sup>F1</sup>1 **Rate support grants.** **E+W**

.....

##### Textual Amendments

- F1** Ss. 1-5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

### <sup>F1</sup>2 **Elements of rate support grants.** **E+W**

.....

##### Textual Amendments

- F1** Ss. 1-5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

### <sup>F1</sup>3 **Rate support grant orders.** **E+W**

.....

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**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

**F14** **Variation of rate support grant orders.** **E+W**

.....

**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

**F15** **Reduction of grants in case of default.** **E+W**

.....

**Textual Amendments**

**F1** Ss. 1-5 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

*Grants for particular purposes*

**6** **Supplementary grants for transport purposes.** **E+W**

(1) ..... <sup>F2</sup>

(8) In consequence of the introduction of supplementary grants for transport purposes and of the provisions of this Part of this Act relating to rate support grants, the provisions of Part II of Schedule I to this Act shall have effect with respect to certain grants under . . . <sup>F3</sup> the <sup>M1</sup>Transport Act 1968.

**Textual Amendments**

**F2** S. 6(1)–(7) repealed by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), ss. 125, 149, **Sch. 13 Pt. II**

**F3** Words repealed by [Highways Act 1980 \(c. 66\)](#), **Sch. 25**

**Modifications etc. (not altering text)**

**C2** S. 6 excluded by [S.I. 1984/1863](#), arts. 4, 5

**Marginal Citations**

**M1** 1968 c. 73.

**F47** ..... **E+W**

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**Textual Amendments**

- F4** S. 7 repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 23 para. 12); S.I. 1996/2560, art. 2, **Sch.** and subject to an amendment (20.2.1999) by S.I. 1999/416, art. 3, **Sch. 1 para. 6(2)**

**8 Specific grants for purposes not covered by rate support grants. E+W**

- (1) ..... **F5**  
(2) ..... **F6**  
(4) ..... **F7**  
(5) The provisions of Part III of Schedule 1 to this Act shall have effect with respect to the termination of certain grants for specific purposes, other than highways and public transport.

**Textual Amendments**

- F5** S. 8(1) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), s. 48(6), **Sch. 5**  
**F6** S. 8(2)(3) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch 13 Pt. II**  
**F7** S. 8(4) repealed by Social Security and Housing Benefits Act 1982 (c. 24, SIF 113:1), **Sch. 5**

**Modifications etc. (not altering text)**

- C3** S. 8 excluded by Local Government, Planning and Land Act 1980 (c. 65), s. 54(1)(2)

**F89 Grants and loans by the Countryside Council for Wales E+W**

.....

**Textual Amendments**

- F8** S. 9 omitted (1.4.2013) by virtue of The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 110** (with Sch. 7)

*Supplementary*

**10 Supplementary provisions for Part I. E+W**

- (1) The following bodies are local authorities for the purposes of this Part of this Act, namely,—
- (a) the council of a county,
  - (b) the Greater London Council,
  - (c) the council of a district,
  - (d) the council of a London borough,
  - (e) the Common Council of the City of London, and
  - (f) the Council of the Isles of Scilly,

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F9 ...

(2) In this Part of this Act —

F10 ...

“year” means a period of twelve months beginning with 1st April.

F11(3) .....

F11(4) .....

F11(5) .....

**Textual Amendments**

F9 Words in s. 10(1) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

F10 Words in s. 10(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

F11 S. 10(3)-(5) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 10** Group 2

**Modifications etc. (not altering text)**

C4 Power to amend s. 10(1)(2) conferred by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), s. 53(10)(11)(c), **Sch. 8**

**PART II E+W**

RATING

11— ..... F12 **E+W**

14.

**Textual Amendments**

F12 Ss. 11–14 repealed and superseded by [Social Security and Housing Benefits Act 1982 \(c. 24\)](#), SIF 113:1, s. 28(5), **Sch. 5**

15— ..... F13 **E+W**

19.

**Textual Amendments**

F13 Ss. 15–19, 21 and 22 repealed by [S.I. 1990/776](#), art. 3, **Sch. 1**

20 ..... F14 **E+W**

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**Textual Amendments**

**F14** S. 20 repealed by [Rating \(Disabled Persons\) Act 1978 \(c. 40\)](#), [Sch. 2](#)

**21, 22.** ..... <sup>F15</sup> **E+W**

**Textual Amendments**

**F15** Ss. 15–19, 21 and 22 repealed by [S.I. 1990/776](#), art. 3, [Sch. 1](#)

<sup>F16</sup>**PART 2A** **E+W**

DECISIONS RELATING TO HOLDING OF EVENTS

**Textual Amendments**

**F16** Pt. 2A inserted (26.5.2015) by [Local Government \(Review of Decisions\) Act 2015 \(c. 22\)](#), [ss. 1, 4\(2\)](#)

**22A Decisions invoking health or safety: notification, reasons and review** **E+W**

- (1) Subsection (2) applies if—
- (a) a decision that relates to an event in England is taken by or on behalf of an authority to which Part 3 of this Act applies,
  - (b) the decision is taken in connection with the exercise of the authority's administrative functions, and
  - (c) for a reason related to the health or safety of any person, or for reasons that include such a reason, the decision has effect to—
    - (i) stop the holding of the event,
    - (ii) impose restrictions on the holding of the event,
    - (iii) impose conditions to be met in connection with the holding of the event, or
    - (iv) do all, or any two, of those things.
- (2) The authority must ensure that written notification of the decision is given (electronically or otherwise) to—
- (a) the person who made the application or other request to which the decision is a response, or
  - (b) a person who appears to the authority to be an organiser of the event if the decision is made otherwise than on a request.
- (3) Written notification given for the purposes of subsection (2)—
- (a) must be given on the day the decision is taken or, if it is not reasonably practicable to give the notification on that day, must be given on the first working day after that day,
  - (b) must, if the decision has the effect mentioned in subsection (1)(c)(i), give details of the decision's effect,

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- (c) must, if the decision has the effect mentioned in subsection (1)(c)(ii) or (iii), give details of the restrictions or conditions,
  - (d) must include the reasons for the decision so far as it has any of the effects mentioned in subsection (1)(c)(i) to (iii), and
  - (e) may be a notification that is given also for other purposes.
- (4) Subsection (5) applies if—
- (a) for the purposes of subsection (2) an authority gives a person notification of a decision, and
  - (b) the person, or some other person who is an organiser of the event, asks the authority to review the decision.
- (5) The authority must ensure—
- (a) that a review of the decision is completed—
    - (i) as soon as is reasonably practicable after the authority receives the request for the review, and
    - (ii) in any event, by the end of 15 days beginning with the day on which the authority receives the request, and
  - (b) that the person who asked for the review is given (electronically or otherwise) written notification of the decision made on the review, including the reasons for the decision, as soon as is reasonably practicable after the decision is made.
- (6) On a review under subsection (5) of a decision, the decision is to be—
- (a) confirmed,
  - (b) withdrawn,
  - (c) replaced by any other decision that could have been taken in the first instance, or
  - (d) varied (but only if the decision as varied is one that could have been taken in the first instance).
- (7) If a person has rights to appeal against or otherwise challenge a decision reviewed under subsection (5), the person has the corresponding rights to challenge the decision made on the review.
- (8) In this section “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.]

### PART III E+W

#### LOCAL GOVERNMENT ADMINISTRATION

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**Modifications etc. (not altering text)**

- C5** Pt. III (ss. 23-34) applied (with modifications) (1.4.1998) by [S.I. 1998/633](#), art. L
- C6** Power to make provision about matters of the kind dealt with by Pt. III (ss. 23-34) conferred (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), [Sch. 4](#) para. (b); [S.I. 1997/1930](#), [art. 3\(1\)\(2\)\(m\)](#)
- C7** Pt. III (ss. 23-34) applied (*temp.* from 4.5.1995 to 31.3.1996) by [S.I. 1995/1042](#), [art. 4\(1\)](#)
- C8** Pt. III (ss. 23-34) restricted (30.7.1993) by [S.I. 1993/1975](#), art. 10, [Sch. 2 para. 4\(2\)](#).

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- C9** Pt. III (ss. 23-34) power to extend, modify, apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by 2000 c. 22, **ss. 68(3), 108(4)-(6)**; S.I. 2000/2948, **art. 2**  
Pt. III (ss. 23-34) extended (W.) (28.7.2001) by S.I. 2001/2275, **reg. 2**
- C10** Pt. III applied (1.4.2004) by Commissions for Local Administration (Extension of Jurisdiction) Order 2004 (S.I. 2004/344), arts. 1, **2**
- C11** Pt. III extended (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **24**
- C12** Pt. III extended (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **24**
- C13** Pt. III modified (31.3.2012) by The Localism Act 2011 (Housing and Regeneration Functions in Greater London) (Consequential, Transitory, Transitional and Saving Provisions) Order 2012 (S.I. 2012/666), arts. 1(2), **5** (with arts. 3, 4)
- C14** Pt. III modified (7.6.2012) by Localism Act 2011 (c. 20), **ss. 35(6)(b), 240(2)**; S.I. 2012/1463, art. 2(f)
- C15** Pt. III applied (with modifications) (22.11.2012) by The Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734), regs. 1(1), 3-6, **Sch. Pt. 2**

## 23 The Commissions for Local Administration. **E+W**

- (1) For the purpose of conducting investigations in accordance with this Part [<sup>F17</sup>and Part 3A] of this Act, there shall be—
- (a) a body of commissioners to be known as the Commission for Local Administration in England, and
  - <sup>F18</sup>(b) .....
- [<sup>F19</sup>but [<sup>F20</sup>the Commission] may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations.]
- (2) The Parliamentary Commissioner shall be a member of [<sup>F21</sup>the Commission] .
- <sup>F22</sup>(2A) .....
- (3) In the following provisions of this Part of this Act the expression “Local Commissioner” means a person, other than the Parliamentary Commissioner <sup>F23</sup>...[<sup>F24</sup>or an advisory member], who is a member of [<sup>F25</sup>the Commission] .
- <sup>F26</sup>(3A) .....
- (4) Appointments to the office of . . . <sup>F27</sup>Commissioner shall be made by Her Majesty on the recommendation of the Secretary of State <sup>F28</sup>....
- [<sup>F29</sup>(4A) Subject to subsections (5) to (6), a Commissioner shall hold and vacate office in accordance with the terms of his appointment.]
- [<sup>F30</sup>(5) A Commissioner's appointment may be a full-time or part-time appointment and, with the Commissioner's consent, the terms of the appointment may be varied as to whether it is full-time or part-time.]
- [<sup>F30</sup>(5A) A Commissioner must be appointed for a period of not more than 7 years.
- (5B) A Commissioner shall, subject to subsection (6), hold office until the end of the period for which he is appointed.]
- (6) A . . . <sup>F31</sup>Commissioner may be relieved of office by Her Majesty at his own request or may be removed from office by Her Majesty on grounds of incapacity or misbehaviour <sup>F32</sup>....

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[<sup>F33</sup>(6A) A person appointed to be a Commissioner is not eligible for re-appointment.]

(7) The Secretary of State shall designate two of the Local Commissioners for England as chairman and vice-chairman respectively of the Commission for Local Administration in England <sup>F34</sup>....

<sup>F35</sup>(8) .....

[<sup>F35</sup>(8A) The Commission must—

- (a) divide the matters which may be investigated under this Part of this Act into such categories as they consider appropriate, and
- (b) allocate, or make arrangements for allocating, responsibility for each category of matter to one or more of the Local Commissioners.]

<sup>F35</sup>(9) .....

(10) [<sup>F36</sup>The Commission] —

- (a) shall make arrangements for Local Commissioners [<sup>F37</sup> to deal with matters for which they do not have responsibility pursuant to subsection (8A) ] <sup>F38</sup>..., and
- (b) shall publish information about the procedures for making complaints under this Part of this Act.

(11) For the year ending on 31st March 1975, and for each subsequent financial year, every Local Commissioner shall prepare a general report on the discharge of his functions [<sup>F39</sup>(other than those under Part 3A of this Act)] and shall submit it to [<sup>F40</sup>the Commission] .

Any such report shall be submitted <sup>F41</sup>... not later than two months after the end of the year to which it relates.

(12) [<sup>F42</sup>In the financial year beginning on 1st April 1990, and in every third financial year afterwards, [<sup>F43</sup>the Commission] shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of [<sup>F44</sup> matters ] , and shall have power to convey to authorities to which this Part of this Act applies] . . . <sup>F45</sup>, or to government departments <sup>F46</sup>..., any recommendations or conclusions reached in the course of their reviews [<sup>F47</sup>and shall send copies of those recommendations or conclusions to the representative persons and authorities concerned].

[<sup>F48</sup>(12A) [<sup>F49</sup>The Commission] may, after consultation with the representative persons and authorities concerned, provide to the authorities or any of the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to the Commission to be appropriate and may arrange for it to be published for the information of the public.

(12B) The representative persons and authorities concerned are—

- (a) for the purposes of subsection (12) above, such persons appearing to the Commission to represent authorities <sup>F50</sup>... to which this Part of this Act applies, and in the case of such authorities as are not so represented, those authorities; and
- (b) for the purposes of subsection (12A) above, such of those persons and authorities as the Commission think appropriate.]

(13) Schedule 4 to this Act shall have effect as respects [<sup>F51</sup>the Commission] .



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### Textual Amendments

- F17** Words in s. 23(1) inserted (1.10.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 5 para. 5(2)**; S.I. 2010/1863, art. 2
- F18** S. 23(1)(b) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 8(2)(a), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F19** Words added by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 22(2)
- F20** Words in s. 23(1) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(2)(b)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F21** Words in s. 23(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(3)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F22** S. 23(2A) omitted (24.9.2004) by virtue of Regulatory Reform (Local Commissioner for Wales) Order 2004 (S.I. 2004/2359), arts. 1(3), **2(2)(a)**
- F23** Words in s. 23(3) omitted (24.9.2004) by virtue of Regulatory Reform (Local Commissioner for Wales) Order 2004 (S.I. 2004/2359), arts. 1(3), **2(2)(b)**
- F24** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 22(3)
- F25** Words in s. 23(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(4)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F26** S. 23(3A) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 8(5), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F27** Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F28** Words in s. 23(4) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 168(2), 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(f)(ii)(v) (with art. 6(4))
- F29** S. 23(4A) inserted (1.4.2008) in so far as it relates to appointments of Local Commissioners made on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 168(3), 245(5); S.I. 2008/917, art. 2(1)(f) (with art. 6(4))
- F30** S. 23(5)-(5B) substituted for s. 23(5) (1.4.2008) in so far as it relates to appointments of Local Commissioners made on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 168(4), 245(5); S.I. 2008/917, art. 2(1)(f) (with art. 6(4))
- F31** Word repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), ss. 22(4), 194(4), **Sch. 12 Pt. II**
- F32** Words in s. 23(6) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 168(5), 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(f)(ii)(v) (with art. 6(4))
- F33** S. 23(6A) inserted (1.4.2008) in so far as it relates to appointments of Local Commissioners made on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 168(6), 245(5); S.I. 2008/917, art. 2(1)(f) (with art. 6(4))
- F34** Words in s. 23(7) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(6)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F35** S. 23(8A) substituted for substituted for s. 23(8)(9) (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 169(2), 245(5); S.I. 2008/917, art. 2(1)(g)
- F36** Words in s. 23(10) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(8)(a)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F37** Words in s. 23(10)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 169(3), 245(5); S.I. 2008/917, art. 2(1)(g)
- F38** Words in s. 23(10)(a) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(8)(b)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F39** Words in s. 23(11) inserted (1.10.2010) by Health Act 2009 (c. 21), s. 40(1), **Sch. 5 para. 5(3)**; S.I. 2010/1863, art. 2
- F40** Words in s. 23(11) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(9)(a)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

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- F41** Words in s. 23(11) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 8(9)(b), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F42** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 2(1)**
- F43** Words in s. 23(12) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(10)(a)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F44** Word in s. 23(12) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 2**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F45** Words repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(1)(4), Sch. 11 para. 38, **Sch. 12 Pt. II**
- F46** Words in s. 23(12) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 8(10)(b), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F47** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. 194(1), **Sch. 11 para. 38**
- F48** S. 23(12A)(12B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1, 2), s. **23(1)**
- F49** Words in s. 23(12A) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(11)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F50** Words in s. 23(12B)(a) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 6 para. 8(12), **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F51** Words in s. 23(13) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 8(13)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

**Modifications etc. (not altering text)**

- C16** S. 23(12) restricted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 2(2)**
- C17** S. 23(12)(12A)(12B)(13) extended (W.) (28.7.2001) by S.I. 2001/2275, **reg. 3**

**[<sup>F52</sup>23A Annual reports for representatives etc. E+W**

- (1) For the financial year ending in 1990 and for each subsequent financial year, [<sup>F53</sup>the Commission] shall prepare a general report on the discharge of their functions [<sup>F54</sup>(other than those under Part 3A of this Act)][<sup>F55</sup>(an “annual report”) ] and shall submit it—
  - (a) to such persons as appear to the Commission to represent authorities <sup>F56</sup>... to which this Part of this Act applies, and
  - (b) in the case of such authorities as are not so represented, to those authorities.
- (2) [<sup>F57</sup>The annual report ] shall be submitted as soon as may be after the Commission have received the reports for the year from Local Commissioners under section 23(11) above, and [<sup>F58</sup>the Commission] shall submit copies of those reports, together with [<sup>F59</sup>their annual report ] .
- (3) [<sup>F60</sup>The Commission] shall arrange for the publication of [<sup>F61</sup>the annual report ] and of the reports of which copies are submitted by them under subsection (2) above.

[ The Commission must lay a copy of the annual report before Parliament.]  
<sup>F62</sup>(3A)

<sup>F63</sup>(4) .....

<sup>F64</sup>(5)] .....

<sup>F65</sup>(6) .....

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### Textual Amendments

- F52** S. 23A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 25\(2\)](#)
- F53** Words in s. 23A(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 9\(2\)\(a\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F54** Words in s. 23A(1) inserted (1.10.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 5 para. 6](#); S.I. 2010/1863, art. 2
- F55** Words in s. 23A(1) inserted (1.4.2008 in relation to any report submitted on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(2\)](#), 245(5); S.I. 2008/917, art. 2(1)(h)
- F56** Words in s. 23A(1)(a) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 9\(2\)\(b\)](#), [Sch. 7](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F57** Words in s. 23A(2) substituted (1.4.2008 in relation to any report submitted on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(3\)\(a\)](#), 245(5); S.I. 2008/917, art. 2(1)(h)
- F58** Words in s. 23A(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 9\(3\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F59** Words in s. 23A(2) substituted (1.4.2008 in relation to any report submitted on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(3\)\(b\)](#), 245(5); S.I. 2008/917, art. 2(1)(h)
- F60** Words in s. 23A(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 9\(4\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F61** Words in s. 23A(3) substituted (1.4.2008 in relation to any report submitted on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(4\)](#), 245(5); S.I. 2008/917, art. 2(1)(h)
- F62** S. 23A(3A) inserted (1.4.2008 in relation to any report submitted on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(5\)](#), 245(5); S.I. 2008/917, art. 2(1)(h)
- F63** S. 23A(4) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(6\)](#), 245(5), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(h)(ii)(v)
- F64** S. 23A(5) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 170\(6\)](#), 245(5), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(h)(ii)(v)
- F65** S. 23A(6) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 9\(6\)](#), [Sch. 7](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)

### Modifications etc. (not altering text)

- C18** S. 23A extended (W.) (28.7.2001) by [S.I. 2001/2275](#), [reg. 3](#)

24 ..... <sup>F66</sup> **E+W**

### Textual Amendments

- F66** S. 24 repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), [ss. 25\(1\)](#), 194(4), [Sch. 12 Pt. II](#)

[<sup>F67</sup>24A **Power to investigate** **E+W**

(1) Under this Part of this Act, a Local Commissioner may investigate a matter—

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- (a) which relates to action taken by or on behalf of an authority to which this Part of this Act applies,
  - (b) which is subject to investigation under this Part of this Act by virtue of section 26, and
  - (c) in relation to which subsection (2), (3) or (5) is satisfied.
- (2) This subsection is satisfied if, in relation to the matter, a complaint which satisfies sections 26A and 26B has been made to a Local Commissioner.
- (3) This subsection is satisfied if, in relation to the matter—
- (a) a complaint which satisfies sections 26A and 26B has been made to a member of an authority to which this Part of this Act applies, and
  - (b) the complaint has been referred, or is treated as having been referred, to a Local Commissioner under section 26C.
- (4) Any question whether subsection (2) or (3) is satisfied in relation to a matter shall be determined by a Local Commissioner.
- (5) This subsection is satisfied if—
- (a) the matter has come to the attention of a Local Commissioner, and
  - (b) section 26D applies to the matter.
- (6) In determining whether to initiate, continue or discontinue an investigation, a Local Commissioner shall, subject to the provisions of this section and sections 26 to 26D, act in accordance with his own discretion.
- (7) Without prejudice to the discretion conferred by subsection (6), a Local Commissioner may in particular decide—
- (a) not to investigate a matter, or
  - (b) to discontinue an investigation of a matter,
- if he is satisfied with action which the authority concerned have taken or propose to take.]

**Textual Amendments**

**F67** S. 24A inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 171, 245(5)**; [S.I. 2008/917, art. 2\(1\)\(i\)](#) (with [art. 6\(5\)](#))

**25 Authorities subject to investigation. E+W**

- (1) This Part of this Act applies to <sup>F68</sup>the following authorities]—
- (a) any local authority,
  - <sup>F69</sup>(aaa) the Greater London Authority;]
  - (aa) .....
  - <sup>F70</sup>(ab) a National Park authority <sup>F71</sup>[for a National Park in England];]
  - (b) any joint board the constituent authorities of which are all local authorities,
  - <sup>F72</sup>(ba) <sup>F73</sup>.....
  - (bb) any development corporation established for the purposes of a new town,
  - <sup>F74</sup>(bbb) .....
  - (bc) .....

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- (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980 [<sup>F75</sup>for an urban development area in England,]
  - <sup>F76</sup>(bda) a Mayoral development corporation,]
  - <sup>F77</sup>(be) any housing action trust established under Part III of the Housing Act 1988 [<sup>F78</sup>for a designated area in England]]
  - <sup>F79</sup>(bf) the [<sup>F80</sup>Homes and Communities] Agency;]
  - <sup>F81</sup>(bg) a fire and rescue authority [<sup>F82</sup>in England] constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;]
  - <sup>F83</sup>(bh) a fire and rescue authority created by an order under section 4A of that Act;]
  - <sup>F84</sup>(c) any joint authority established by Part IV of the Local Government Act 1985; [the London Fire Commissioner;]
  - <sup>F85</sup>(cza) [<sup>F86</sup>(ca) any police and crime commissioner;]
  - <sup>F86</sup>(caa) the Mayor's Office for Policing and Crime;]
  - <sup>F87</sup>(cb) ..... ]<sup>F88</sup> ...
  - <sup>F89</sup>(cc) Transport for London; [<sup>F90</sup>and]]
  - <sup>F91</sup>(cd) .....
  - <sup>F92</sup>(ce) any economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
  - (cf) any combined authority established under section 103 of that Act;]
  - <sup>F93</sup>(cg) any combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;]
  - <sup>F94</sup>(d) in relation to the flood defence functions of the Environment Agency, within the meaning of the Water Resources Act 1991, the Environment Agency and [<sup>F95</sup>any Regional Flood and Coastal Committee]<sup>F96</sup> ... ;][<sup>F97</sup>;and
  - (e) the London Transport Users' Committee.]
- (2) Her Majesty may by Order in Council provide that this Part of this Act shall also apply, subject to any modifications or exceptions specified in the Order, to any authority specified in the Order, being an authority which is established by or under an Act of Parliament, and which has power to levy a rate, or to issue a precept.
- (3) An Order made by virtue of subsection (2) above may be varied or revoked by a subsequent Order so made and shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any reference to an authority to which this Part of this Act applies includes a reference—
- (a) to the members and officers of that authority, and
  - <sup>F98</sup>(b) to a committee or sub-committee of that authority (including a joint committee or joint sub-committee on which the authority are represented),]
  - <sup>F98</sup>(c) ..... ]
- <sup>F98</sup>and (for the avoidance of doubt) subsections (4ZA) to (5) apply for the purposes of this subsection. ]
- <sup>F99</sup>(4ZA) Any reference to an authority to which this Part of this Act applies also includes, in the case of a local authority operating executive arrangements, the executive.]

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[<sup>F100</sup>(4A) Any reference to an authority to which this Part of this Act applies also includes, in the case of the Greater London Authority, a reference to each of the following—

- (a) the London Assembly;
- <sup>F101</sup>(b) .....
- <sup>F102</sup>(c) .....

<sup>F103</sup>(4B) .....

[<sup>F104</sup>(5) Any reference to an authority to which this Part of this Act applies also includes a reference to—

- <sup>F105</sup>(a) .....
- <sup>F106</sup>(b) .....
- [<sup>F107</sup>(c) an admission appeal panel constituted [<sup>F108</sup>by the authority] in accordance with regulations under section 94(5) or 95(3) of [<sup>F109</sup>the School Standards and Framework Act 1998] ,]
- (d) the governing body of any community, foundation or voluntary school [<sup>F110</sup>maintained by the authority] so far as acting in connection with the admission of pupils to the school or otherwise performing any of their functions under Chapter I of Part III of that Act.][<sup>F111</sup>and
- (e) an exclusion [<sup>F112</sup>review] panel constituted [<sup>F113</sup> by the authority ] in accordance with regulations under [<sup>F114</sup>section 51A] of the Education Act 2002.]

[<sup>F115</sup>(6) Subsection (7) has effect where an authority to which this Part of this Act applies exercise a function entirely or partly by means of an arrangement with another person.

(7) For the purposes of this Part of this Act, action taken by or on behalf of the other person in carrying out the arrangement shall be treated as action taken—

- (a) on behalf of the authority, and
- (b) in the exercise of the authority's function.

(8) Subsection (7) does not have effect where, by virtue of another enactment, the action would be treated as action taken by the authority.]

#### Textual Amendments

- F68** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F69** S. 25(1)(aaa) inserted (8.5.2000) by [1999 c. 29, s. 74\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, art. 2(b), **Sch. Pt. 2**
- F70** S. 25(1)(ab) inserted (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\)](#), **Sch. 7 para. 18(1)** (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#), [Sch. 23 para. 12](#))
- F71** Words in s. 25(1)(ab) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 10(a)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F72** S. 25(1)(ba)–(bd) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 4**
- F73** S. 25(1)(ba) omitted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 8 para. 18\(2\)\(a\)](#), **Sch. 16**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6–13)
- F74** S. 25(1)(bbb) repealed (31.3.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), **Sch. 25 Pt. 32**; S.I. 2012/628, art. 4(d)
- F75** Words in s. 25(1)(bd) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 10(b)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F76** S. 25(1)(bda) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), **Sch. 22 para. 4**
- F77** S. 25(1)(be) inserted by [Housing Act 1988 \(c. 50, SIF 61\)](#), s. 140(1), **Sch. 17 para. 19**

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- F78** Words in s. 25(1)(be) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 10(c)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F79** S. 25(1)(bf) inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(1)**; S.I. 1993/2762, **art. 3**.
- F80** Words in s. 25(1)(bf) substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 18(2)(b)**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F81** S. 25(1)(bg) substituted (1.10.2004 except in relation to W., 10.11.2004 in relation to W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 42**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F82** Words in s. 25(1)(bg) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 10(d)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F83** S. 25(1)(bh) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 34**; S.I. 2017/399, reg. 2, **Sch. para. 38**
- F84** S. 25(1)(c)(ca)(cb) substituted for s. 25(1)(c) by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 51(a)**
- F85** S. 25(1)(cza) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 49**; S.I. 2018/227, **reg. 4(c)**
- F86** S. 25(1)(ca)(caa) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 121**; S.I. 2011/3019, art. 3, **Sch. 1** (with **Sch. 2 para. 39**)
- F87** S. 25(1)(cb) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F88** Word in s. 25(1)(cb) repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. IX** (with **Sch. 12 para. 9(1)**); S.I. 2000/1648, art. 2, **Sch.**
- F89** S. 25(1)(CC) inserted (8.5.2000) by 1999 c. 29, s. 394(1)(5) (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F90** Word “and” preceding para. (d) in s. 25(1) repealed (3.7.2000) by 1999 c. 29, ss. 247(7), 423, **Sch. 18 para. 16(1)(2)(a)**, **Sch. 34 Pt. IV** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F91** S. 25(1)(cd) omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 13 para. 6(9)(a)**; S.I. 2015/994, art. 6(g)
- F92** S. 25(1)(ce)(cf) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 41(2)**; S.I. 2009/3318, art. 2(c)
- F93** S. 25(1)(cg) inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 55** (with s. 247)
- F94** S. 25(1)(d) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 18** (with ss. 7(6), 115, 117, **Sch. 23 para. 12**); S.I. 1996/186, **art. 3**
- F95** Words in s. 25(1)(d) substituted (14.7.2014) by Water Act 2014 (c. 21), s. 94(2)(r), **Sch. 10 para. 2**
- F96** Words in s. 25(1)(d) omitted (14.7.2017) by virtue of Environment (Wales) Act 2016 (anaw 3), s. 88(3)(c), **Sch. 2 para. 19**; S.I. 2017/714, art. 2
- F97** S. 25(1)(e) and word “and” immediately preceding it inserted (3.7.2000) by 1999 c. 29, s. 247(7), **Sch. 18 para. 16(1)(2)(b)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(c), **Sch. Pt. 3**
- F98** S. 25(4)(b) and words substituted for s. 25(4)(b)(c) (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(2)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F99** S. 25(4ZA) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(3)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F100** S. 25(4A) inserted (8.5.2000) by 1999 c. 29, s. 74(3) (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(b), **Sch. Pt. 2**
- F101** S. 25(4A)(b) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(4)**, 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(i)(ii)(v) (with art. 6(5))
- F102** S. 25(4A)(c) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(4)**, 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(i)(ii)(v) (with art. 6(5))
- F103** S. 25(4B) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(5)**, 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(i)(ii)(v) (with art. 6(5))

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- F104** S. 25(5) substituted (1.9.1999) by 1998 c. 31, s. 140(1), Sch. 30 para. 4(2), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F105** S. 25(5)(a) repealed (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), Sch. 3 para. 2(a), **Sch. 18 Pt. 3**; S.I. 2007/935, art. 7(o)(q)
- F106** S. 25(5)(b) repealed (20.1.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 7, Sch. Pt. IV
- F107** S. 25(5)(c) substituted (20.1.2003 for E., 31.5.2005 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 2(a)** (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2005/1395, art. 4, 5(3)(4), Sch.
- F108** Words in s. 25(5)(c) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(6)(a), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F109** Words in s. 25(5)(c) substituted (25.5.2007) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 3 para. 2(b)**; S.I. 2007/935, art. 7(o)
- F110** Words in s. 25(5)(d) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(6)(b), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F111** S. 25(5)(e) and word inserted (20.1.2003 for E., 9.1.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), Sch. 21 para. 2(b) (with ss. 210(8), 214(4)); S.I. 2002/2952, art. 2; S.I. 2003/2961, art. 7, Sch. Pt. IV
- F112** Word in s. 25(5)(e) substituted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 1 para. 2(a)**; S.I. 2012/1087, art. 3 (with art. 4)
- F113** Words in s. 25(5)(e) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(6)(c), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F114** Words in s. 25(5)(e) substituted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 1 para. 2(b)**; S.I. 2012/1087, art. 3 (with art. 4)
- F115** S. 25(6)-(8) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 172(7), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))

#### Modifications etc. (not altering text)

- C19** S. 25(1)(c) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(k)** and by S.I. 1989/1815, art. 2, **Sch. 1 para. 6(b)**
- C20** S. 25(1)(c) extended by S.I. 1987/2110, art. 2(2), **Sch. 2 para. 8(h)**

## 26 Matters subject to investigation. **E+W**

[<sup>F116</sup>(1) For the purposes of section 24A(1)(b), in relation to an authority to which this Part of this Act applies, the following matters are subject to investigation by a Local Commissioner under this Part of this Act—

- (a) alleged or apparent maladministration in connection with the exercise of the authority's administrative functions;
  - (b) an alleged or apparent failure in a service which it was the authority's function to provide;
  - (c) an alleged or apparent failure to provide such a service.
- [<sup>F117</sup>[<sup>F118</sup>(d) an alleged or apparent failure in a service provided by the authority in the exercise of public health functions of the Secretary of State (within the meaning of the National Health Service Act 2006) in pursuance of arrangements made under section 7A, 65Z5 or 75 of the National Health Service Act 2006;]



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- (e) an alleged or apparent failure to provide a service in pursuance of such arrangements.]]

[<sup>F116</sup>(1A) Subsection (1) is subject to the following provisions of this section.]

<sup>F119</sup>(2) .....

<sup>F119</sup>(3) .....

<sup>F119</sup>(4) .....

- (5) Before proceeding to investigate [<sup>F120</sup>a matter], a Local Commissioner shall satisfy himself that

- [<sup>F121</sup>(a) [<sup>F122</sup>the matter has] been brought, by or on behalf of [<sup>F123</sup>the person affected], to the notice of the authority to which [<sup>F124</sup>it relates] and that that authority has been afforded a reasonable opportunity [<sup>F125</sup>to investigate the matter and to respond]; or

- (b) in the particular circumstances, it is not reasonable to expect [<sup>F126</sup>the matter to be] brought to the notice of that authority or for that authority to be afforded a reasonable opportunity [<sup>F127</sup>to investigate the matter and to respond].]

- (6) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,—

- (a) any action in respect of which the [<sup>F128</sup>person affected] has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment;

- (b) any action in respect of which the [<sup>F128</sup>person affected] has or had a right of appeal to a Minister of the Crown <sup>F129</sup>...; or

- (c) any action in respect of which the [<sup>F128</sup>person affected] has or had a remedy by way of proceedings in any court of law:

Provided that a Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the [<sup>F128</sup>person affected] to resort or have resorted to it.

[<sup>F130</sup>(6A) A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of [<sup>F131</sup>any action taken by or on behalf of an authority in the exercise] of any of the authority's functions otherwise than in relation to England.]

- (7) A Local Commissioner shall not conduct an investigation in respect of any action which in his opinion affects all or most of the inhabitants of the [<sup>F132</sup>following area—

- [ where the [<sup>F134</sup>matter] relates to a National Park authority, the area of the Park

- <sup>F133</sup>(aa) for which it is such an authority;]

- <sup>F135</sup>(a) .....

- <sup>F136</sup>(b) .....

- [ where the [<sup>F138</sup>matter] relates to the [<sup>F139</sup>Homes and Communities] Agency,

- <sup>F137</sup>(ba) any designated area within the meaning of [<sup>F140</sup>Part 1 of the Housing and Regeneration Act 2008];]

- (c) in any other case, the area of the authority concerned.]

- (8) Without prejudice to the preceding provisions of this section, a Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action or matter as is described in Schedule 5 to this Act.

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- (9) Her Majesty may by Order in Council amend the said Schedule 5 so as to [<sup>F141</sup>add to or exclude from the provisions of that Schedule (as it has effect for the time being)] such actions or matters as may be described in the Order; and any Order made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F142</sup>(10) . . . . .

[<sup>F143</sup>(11) In this section—

- (a) references to a [<sup>F144</sup>person affected ] include references to his personal representatives; and

<sup>F145</sup>(b) . . . . .]

<sup>F146</sup>(12) . . . . .

<sup>F147</sup>(13) . . . . .

#### Textual Amendments

- F116** S. 26(1)(1A) substituted for s. 26(1) (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 173\(2\)](#), 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F117** S. 26(1)(d)(e) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 18](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F118** S. 26(1)(d) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 9 para. 1](#); S.I. 2022/734, reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)
- F119** S. 26(2)-(4) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 173\(3\)](#), 245(5), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(i)(ii)(v) (with art. 6(5))
- F120** Words in s. 26(5) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F121** S. 26(5)(a)(b) substituted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), arts. 1(1), [15](#)
- F122** Words in s. 26(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(b\)\(i\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F123** Words in s. 26(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(b\)\(ii\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F124** Words in s. 26(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(b\)\(iii\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F125** Words in s. 26(5)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(b\)\(iv\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F126** Words in s. 26(5)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(c\)\(i\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F127** Words in s. 26(5)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(2\)\(c\)\(ii\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F128** Words in s. 26(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(3\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F129** Words in s. 26(6)(b) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 11\(2\)](#), [Sch. 7](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F130** S. 26(6A) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 11\(3\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F131** Words in s. 26(6A) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 3\(4\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

**Changes to legislation:** *Local Government Act 1974 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F132** S. 26(7)(a)-(c) and words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(4)**
- F133** S. 26(7)(aa) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 18(2)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**, **Sch. 23 para. 12**)
- F134** Word in s. 26(7)(aa) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(5)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F135** S. 26(7)(a) omitted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 18(3)(a)**, **Sch. 16**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F136** S. 26(7)(b) repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**
- F137** S. 26(7)(ba) inserted (10.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 6(2)**; S.I. 1993/2762, **art. 3**
- F138** Word in s. 26(7)(ba) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(5)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F139** Words in s. 26(7)(ba) substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 18(3)(b)(i)**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F140** Words in s. 26(7)(ba) substituted (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), **Sch. 8 para. 18(3)(b)(ii)**; S.I. 2008/3068, **art. 2(1)(w)(3)** (with arts. 6-13)
- F141** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 5(5)**
- F142** S. 26(10) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(6)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F143** S. 26(11) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. II para. 51(b)**
- F144** Words in s. 26(11)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F145** S. 26(11)(b) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(7)(b)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F146** S. 26(12) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(8)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F147** S. 26(13) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 3(8)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))

#### Modifications etc. (not altering text)

- C21** s. 26 modified by S.I. 1991/559, **art. 2(3)(5)**
- C22** S. 26 modified by S.I. 1986/452, **art. 8(3)(5)**
- C23** S. 26(11)(b) amended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4(k)**
- C24** S. 26(11)(b) extended by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(k)**

#### [<sup>F148</sup>26A Who can complain **E+W**

- (1) Under this Part of this Act, a complaint about a matter may only be made—
- by a member of the public who claims to have sustained injustice in consequence of the matter,
  - by a person authorised in writing by such a member of the public to act on his behalf, or
  - in accordance with subsection (2).
- (2) Where a member of the public by whom a complaint about a matter might have been made under this Part of this Act has died or is otherwise unable to authorise a person to act on his behalf, the complaint may be made—
- by his personal representative (if any), or
  - by a person who appears to a Local Commissioner to be suitable to represent him.

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### Textual Amendments

**F148** Ss. 26A-26D inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 174(1), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))

## 26B Procedure for making complaints **E+W**

- (1) Subject to subsection (3), a complaint about a matter under this Part of this Act must be made—
  - (a) in writing, and
  - (b) before the end of the permitted period.
- (2) In subsection (1)(b), “the permitted period” means the period of 12 months beginning with—
  - (a) the day on which the person affected first had notice of the matter, or
  - (b) if the person affected has died without having notice of the matter—
    - (i) the day on which the personal representatives of the person affected first had notice of the matter, or
    - (ii) if earlier, the day on which the complainant first had notice of the matter.
- (3) A Local Commissioner may disapply either or both of the requirements in subsection (1)(a) and (b) in relation to a particular complaint.

### Textual Amendments

**F148** Ss. 26A-26D inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 174(1), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))

## 26C Referral of complaints by authorities **E+W**

- (1) This section applies where a complaint about a matter is made to a member of an authority to which this Part of this Act applies.
- (2) If the complainant consents, the complaint may be referred to a Local Commissioner by—
  - (a) the member of the authority to whom the complaint was made,
  - (b) any other member of that authority, or
  - (c) a member of any other authority to which this Part of this Act applies which is alleged in the complaint to have taken or authorised the action complained of.
- (3) Subject to subsection (4), a referral under this section must be made in writing.
- (4) A Local Commissioner may disapply the requirement in subsection (3) in relation to a particular referral.
- (5) If a Local Commissioner is satisfied that the complainant asked a member of an authority mentioned in subsection (2) to refer the complaint to a Local Commissioner, he may treat the complaint as if it had been referred to him under this section.

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- (6) In this section, references to a member of an authority include—
- (a) in relation to a National Park authority, a member of any of the councils by whom a local authority member of the authority is appointed;
  - (b) in relation to a joint board, a member of any of the constituent authorities of the joint board;
  - (c) in relation to a joint authority established by Part 4 of the Local Government Act 1985, a member of a constituent council of that authority.
  - <sup>F149</sup>(d) . . . . .
  - <sup>F150</sup>(e) [ in relation to an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a member of a constituent council of the board;
  - (f) in relation to a combined authority established under section 103 of that Act, a member of a constituent council of the authority.]
  - <sup>F151</sup>(g) [ in relation to a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023, a member of a constituent council of the authority;]
- <sup>F152</sup>(7) [ For the purposes of subsection (6)(e)—
- (a) a county council is a constituent council of an economic prosperity board if the area of the county council, or part of that area, is within the area of the board;
  - (b) a district council is a constituent council of an economic prosperity board if the area of the district council is within the area of the board.
- (8) For the purposes of subsection (6)(f)—
- (a) a county council is a constituent council of a combined authority if the area of the county council, or part of that area, is within the area of the combined authority;
  - (b) a district council is a constituent council of a combined authority if the area of the district council is within the area of the combined authority.]
- <sup>F153</sup>(9) [ For the purposes of subsection (6)(g)—
- (a) a county council is a constituent council of a combined county authority if the area of the county council, or part of that area, is within the area of the combined county authority;
  - (b) a district council is a constituent council of a combined county authority if the area of the district council is within the area of the combined county authority.]

#### Textual Amendments

- F148** Ss. 26A-26D inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 174(1), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F149** S. 26C(6)(d) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 13 para. 6(9)(b)**; S.I. 2015/994, art. 6(g)
- F150** S. 26C(6)(e)(f) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), **Sch. 6 para. 41(3)(a)**; S.I. 2009/3318, art. 2(c)
- F151** S. 26C(6)(g) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), **Sch. 4 para. 56(2)** (with s. 247)
- F152** S. 26C(7)(8) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), **Sch. 6 para. 41(3)(b)**; S.I. 2009/3318, art. 2(c)

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**F153** S. 26C(9) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023 \(c. 55\)](#), s. 255(2)(c), [Sch. 4 para. 56\(3\)](#) (with s. 247)

## 26D Matters coming to attention of Local Commissioner **E+W**

- (1) This section applies to a matter which has come to the attention of a Local Commissioner if—
- (a) the matter came to his attention during the course of an investigation under this Part <sup>F154</sup>or Part 3A] of this Act,
  - (b) (subject to subsection (3)) the matter came to his attention—
    - (i) before the person affected or his personal representatives had notice of the matter, or
    - (ii) in any other case, before the end of the permitted period, and
  - (c) it appears to the Local Commissioner that a member of the public has, or may have, suffered injustice in consequence of the matter.
- (2) In subsection (1)(b)(ii), “the permitted period” means the period of 12 months beginning with—
- (a) the day on which the person affected first had notice of the matter, or
  - (b) if the person affected has died without having notice of the matter, the day on which the personal representatives of the person affected first had notice of the matter.
- (3) A Local Commissioner may disapply the requirement in subsection (1)(b) in relation to a particular matter.]

### Textual Amendments

- F148** Ss. 26A-26D inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 174\(1\), 245\(5\)](#); [S.I. 2008/917](#), art. 2(1)(i) (with art. 6(5))
- F154** Words in s. 26D(1)(a) inserted (1.10.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 5 para. 7](#); [S.I. 2010/1863](#), art. 2

## 27 <sup>F155</sup>Members of the public.] **E+W**

- (1) <sup>F156</sup>In this Part of this Act, “member of the public” means an individual or a body of persons, whether incorporated or not, other than— ]
- (a) a local authority or other authority or body constituted for purposes of the public service or of local government <sup>F157</sup>(including <sup>F158</sup>the Welsh Ministers, the National Assembly for Wales Commission or the] the National Assembly for Wales)], or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;
  - (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department <sup>F159</sup>or by the <sup>F160</sup>Welsh Ministers]], or whose revenues consist wholly or mainly of moneys provided by Parliament <sup>F159</sup>or the <sup>F160</sup>Welsh Ministers]].

<sup>F161</sup>(2) .....

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### Textual Amendments

- F155** S. 27 title substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 174\(2\)\(a\), 245\(5\)](#); [S.I. 2008/917, art. 2\(1\)\(i\)](#) (with art. 6(5))
- F156** Words in s. 27(1) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 174\(2\)\(b\), 245\(5\)](#); [S.I. 2008/917, art. 2\(1\)\(i\)](#) (with art. 6(5))
- F157** Words in s. 27(1)(a) inserted (1.4.1999) by [1998 c. 38, s. 125, Sch. 12 para. 14\(a\)](#)(with ss. 139(2), 143(2)); [S.I. 1999/782, art. 2](#)
- F158** Words in s. 27(1)(a) inserted by [Government of Wales Act 2006 \(c. 32\), s. 160, Sch. 10 para. 10\(a\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(5) of the amending Act.
- F159** Words in s. 27(1)(b) inserted (1.4.1999) by [1998 c. 38, s. 125, Sch. 12 para. 14\(b\)](#)(with ss. 139(2), 143(2)); [S.I. 1999/782, art. 2](#)
- F160** Words in s. 27(1)(b) inserted by [Government of Wales Act 2006 \(c. 32\), s. 160, Sch. 10 para. 10\(b\)](#) (with [Sch. 11 para. 22](#)), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(1)(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(4)(5) of the amending Act.
- F161** S. 27(2) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 174\(2\)\(c\), 245\(5\), Sch. 18 Pt. 14](#); [S.I. 2008/917, art. 2\(1\)\(i\)\(ii\)\(v\)](#) (with art. 6(5))

### Modifications etc. (not altering text)

- C25** S. 27: s. 26-34 modified by [S.I. 1991/559, art. 2\(3\)](#)
- C26** Ss. 27–30 modified by [S.I. 1986/452, art. 8\(3\)](#)

## 28 Procedure in respect of investigations. **E+W**

- (1) Where a Local Commissioner proposes to [<sup>F162</sup> investigate a matter under this Part of this Act ], he shall afford to the authority concerned, and to any person who is alleged in the complaint [<sup>F163</sup> (if any), or who otherwise appears to the Local Commissioner, ] to have taken or authorised [<sup>F164</sup> the action which would be the subject of the investigation ], an opportunity to comment on [<sup>F165</sup> the matter ] .
- (2) Every [<sup>F166</sup> investigation under this Part of this Act ] shall be conducted in private, but except as aforesaid the procedure for conducting an investigation shall be such as the Local Commissioner considers appropriate in the circumstances of the case; and without prejudice to the generality of the preceding provision [<sup>F167</sup>—
- (a) the Local Commissioner may, as well as adopting different procedure for different cases, adopt different procedure for cases of different descriptions; and
- (b) the Local Commissioner may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and may determine whether any person may be represented (by counsel or solicitor or otherwise) in the investigation.

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- (3) The Local Commissioner may, if he thinks fit, pay to the person by whom the complaint [<sup>F168</sup> (if any) ] was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part of this Act—
- (a) sums in respect of the expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time,
- <sup>F169</sup> ...
- (4) The conduct of an investigation under this Part of this Act shall not affect any action taken by the authority concerned [<sup>F170</sup> or any other person ] , or any power or duty of [<sup>F171</sup> the authority concerned or any other person ] to take further action with respect to any matters subject to the investigation.
- [<sup>F172</sup>(5) The differential procedure authorised by subsection (2)(a) includes (in particular) procedure for cases of a particular description that is expected to be faster than that for at least some other cases.]

#### Textual Amendments

- F162** Words in s. 28(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(2\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F163** Words in s. 28(1) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(2\)\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F164** Words in s. 28(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(2\)\(c\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F165** Words in s. 28(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(2\)\(d\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F166** Words in s. 28(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(3\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F167** Words in s. 28(2) inserted (26.5.2015) by [Local Government \(Review of Decisions\) Act 2015 \(c. 22\), ss. 2\(2\), 4\(2\)](#)
- F168** Words in s. 28(3) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(4\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F169** Words in s. 28(3) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(4\)\(b\), Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F170** Words in s. 28(4) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(5\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F171** Words in s. 28(4) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 4\(5\)\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F172** [S. 28\(5\)](#) inserted (26.5.2015) by [Local Government \(Review of Decisions\) Act 2015 \(c. 22\), ss. 2\(3\), 4\(2\)](#)

#### Modifications etc. (not altering text)

- C27** S. 28: ss. 26-34 modified by [S.I. 1991/559, art. 2\(3\)](#)
- C28** Ss. 27–30 modified by [S.I. 1986/452, art. 8\(3\)](#)
- C29** S. 28 power to apply or reproduce (with or without modifications) conferred (W.) (1.11.2000) and (E.) (28.7.2001) by [2000 c. 22, ss. 70\(2\), 108\(4\)–\(6\)](#); S.I. 2000/2948, [art. 2](#)



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## 29 Investigations: further provisions. **E+W**

- (1) For the purposes of an investigation under this Part of this Act a Local Commissioner may require any member or officer of the authority concerned, or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation a Local Commissioner shall have the same powers as the High Court in respect of the attendance and examination of witnesses, and in respect of the production of documents.
- (3) A Local Commissioner may, under subsection (1) above, require any person to furnish information concerning communications between the authority concerned and any Government department <sup>F173</sup>..., or to produce any correspondence or other documents forming part of any such written communications.
- (4) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information in accordance with subsection (3) above; and where that subsection applies the Crown shall not be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- <sup>F174</sup>(5) Nothing in subsection (1) or subsection (3) above affects the restriction imposed by section <sup>F175</sup>[34X] of the Public Services Ombudsman (Wales) Act 2005.]
- (6) To assist him in any investigation, a Local Commissioner may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine <sup>F176</sup>....
- <sup>F177</sup>(6A) A Local Commissioner may appoint and pay a mediator or other appropriate person to assist him in the conduct of an investigation under this <sup>F178</sup>[Part of this] Act.
- (6B) Any person or persons appointed under subsection (6A) above shall be deemed to be an officer or officers of the Commission for Local Administration in carrying out his or their functions under that appointment.]
- (7) Subject to subsection (4) above, no person shall be compelled for the purposes of an investigation under this Part of this Act to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (8) If any person without lawful excuse obstructs a Local Commissioner in the performance of his functions under this Part of this Act, <sup>F179</sup>[or any person discharging or assisting in the discharge ] of those functions, or is guilty of any act or omission in relation to an investigation under this Part of this Act which, if that investigation were a proceeding in the High Court, would constitute contempt of court, the Local Commissioner may certify the offence to the High Court.
- (9) Where an offence is so certified, the High Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the High Court could deal with him if he had committed the like offence in relation to the High Court.

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(10) Nothing in subsection (8) above shall be construed as applying to the taking of any such action as is mentioned in section 28(4) above.

#### Textual Amendments

- F173** Words in s. 29(3) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 12\(2\)](#), [Sch. 7](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F174** S. 29(5) substituted (1.10.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 5 para. 8\(2\)](#); S.I. 2010/1863, art. 2
- F175** Word in s. 29(5) substituted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 6](#); S.I. 2014/2718, art. 2(b)
- F176** Words in s. 29(6) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 5\(2\)](#), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F177** S. 29(6A)(6B) inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), arts. 1(1), [13](#)
- F178** Words in s. 29(6A) inserted (1.10.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 5 para. 8\(3\)](#); S.I. 2010/1863, art. 2
- F179** Words in s. 29(8) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 5\(3\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

#### Modifications etc. (not altering text)

- C30** S. 29: ss. 26-34 modified by S.I. 1991/559, [art. 2\(3\)](#)
- C31** Ss. 27-30 modified by S.I. 1986/452, [art. 8\(3\)](#)
- C32** S. 29 applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, [Sch. Pt. I](#)

### 30 Reports on investigations. **E+W**

[<sup>F180</sup>(1) If a Local Commissioner completes an investigation of a matter [<sup>F181</sup>under this Part of this Act], he shall prepare a report of the results of the investigation and send a copy to each of the persons concerned (subject to subsection (1B)).]

[<sup>F180</sup>(1A) A Local Commissioner may include in a report on a matter under subsection (1) any recommendations that he could include in a further report on the matter by virtue of section 31(2A) to (2BA).

(1B) If, after the investigation of a matter is completed, the Local Commissioner decides—

- (a) that he is satisfied with action which the authority concerned have taken or propose to take, and
- (b) that it is not appropriate to prepare and send a copy of a report under subsection (1),

he may instead prepare a statement of his reasons for the decision and send a copy to each of the persons concerned.

(1C) If a Local Commissioner decides—

- (a) not to investigate a matter, or
- (b) to discontinue an investigation of a matter,

he shall prepare a statement of his reasons for the decision and send a copy to each of the persons concerned.

(1D) For the purposes of subsections (1) to (1C), the persons concerned are—

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- (a) the complainant (if any),
- (b) any person who referred the matter under section 26C(2),
- (c) the authority concerned, and
- (d) any other authority or person who is alleged in the complaint, or who otherwise appears to the Local Commissioner, to have taken or authorised the action which is or would be the subject of the investigation.]

(2) Where [<sup>F182</sup> a complaint about the matter] was referred by a person who was a member of an authority but who has since ceased to be a member of that authority, the report or statement shall be sent to the chairman, or, as the case may be, mayor of that authority.

[<sup>F183</sup>(2AA) If the authority concerned is the Greater London Authority—

- (a) [<sup>F184</sup> the duty to send a report or statement to the Authority under subsection (1), (1B) or (1C) ] shall be discharged by sending the report or statement to both the Mayor of London and the London Assembly; and
- (b) in a case falling within subsection (2) above, the duty imposed by that subsection shall be discharged by sending the report or statement to both the Mayor of London and the London Assembly.]

[<sup>F185</sup>(2AB) Where an authority are operating executive arrangements which involve a mayor and cabinet executive <sup>F186</sup>..., subsection (2) shall have effect as if the words “, or, as the case may be, mayor of that authority” were omitted.]

(2A) .....

[<sup>F187</sup>(2B) Subsections (3) to (8) apply in the case of a report under subsection (1).]

(3) Apart from identifying the authority or authorities concerned, the report shall not, <sup>F188</sup>...

- (a) mention the name of any person, or
- (b) contain any particulars which, in the opinion of the Local Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

unless, after taking into account the public interest as well as [<sup>F189</sup> the interests of the complainant (if any) and of other persons ], the Local Commissioner considers it necessary to mention the name of that person or to include in the report any such particulars.

[<sup>F190</sup>(3AA) Nothing in subsection (3) above prevents a report—

- (a) mentioning the name of, or
- (b) containing particulars likely to identify,

the Mayor of London or any member of the London Assembly.]

<sup>F191</sup>(3A) .....

(4) Subject to the provisions of subsection (7) below, the authority concerned shall for a period of three weeks make copies of the report available for inspection by the public without charge at all reasonable hours at one or more of their offices; and any person shall be entitled to take copies of, or extracts from, the report when so made available.

[<sup>F192</sup>(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.]

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- (5) Not later than [<sup>F193</sup>two weeks] after the report is received by the authority concerned, the proper officer of the authority shall give public notice, by advertisement in newspapers and such other ways as appear to him appropriate, that [<sup>F194</sup>copies of the report will be available as provided by subsections (4) and (4A)] above, and shall specify the date, being a date [<sup>F195</sup>not more than one week after the public notice is first given], from which the period of three weeks will begin.
- (6) If a person having the custody of a report made available for inspection as provided by subsection (4) above obstructs any person seeking to inspect the report, or to make a copy of, or extract from, the report, he shall be liable on summary conviction to a fine not exceeding [<sup>F196</sup>level 3 on the standard scale].
- (7) The Local Commissioner may, if he thinks fit after taking into account the public interest as well as [<sup>F197</sup>the interests of the complainant (if any) and of other persons ], direct that a report specified in the direction shall not be subject to the provisions of subsections (4) [<sup>F198</sup>, (4A) and (5) above].
- [<sup>F199</sup>(8) Where the authority concerned is the Greater London Authority, any functions exercisable under this section by or in relation to the Authority (other than functions exercisable by or in relation to the proper officer of the Authority) shall be exercisable by or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to the authority concerned (other than references to the proper officer or a member of the authority concerned) shall be construed accordingly.]

#### Textual Amendments

- F180** S. 30(1)-(1D) substituted for s. 30(1) (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 175(2)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F181** Words in s. 30(1) inserted (1.10.2010) by [Health Act 2009](#) (c. 21), s. 40(1), **Sch. 5 para. 9**; S.I. 2010/1863, art. 2
- F182** Words in s. 30(2) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 175(3)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F183** S. 30(2AA) inserted (8.5.2000) by 1999 c. 29, **s. 74(1)(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b)**
- F184** Words in s. 30(2AA)(a) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 175(4)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F185** S. 30(2AB) inserted (E.) (6.5.2002) by S.I. 2002/1057, **art. 8(1)**
- F186** Words in s. 30(2AB) repealed (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(2), Sch. 3 para. 14(2), **Sch. 18 Pt. 3**
- F187** S. 30(2B) inserted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 175(5)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F188** Words in s. 30(3) repealed (22.5.2012) by [Local Government Act 2000](#) (c. 22), s. 108(3)(b)(c), Sch. 5 para. 15(a), **Sch. 6**; S.I. 2012/1358, art. 2
- F189** Words in s. 30(3) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 175(6)**, 245(5); S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F190** S. 30(3AA) inserted (8.5.2000) by 1999 c. 29, **s. 74(1)(5)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b)**

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- F191** S. 30(3A) repealed (22.5.2012) by Local Government Act 2000 (c. 22), s. 108(3)(b)(c), Sch. 5 para. 15(b), **Sch. 6**; S.I. 2012/1358, art. 2
- F192** S. 30(4A) inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(2)(5)**
- F193** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(3)(a)(5)**
- F194** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(3)(b)(5)**
- F195** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(3)(c)(5)**
- F196** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46**
- F197** Words in s. 30(7) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 175(7), 245(5)**; S.I. 2008/917, art. 2(1)(i) (with art. 6(5))
- F198** Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 29, **Sch. 3 para. 6(4)(5)**
- F199** S. 30(8) added (8.5.2000) by 1999 c. 29, s. **74(1)(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b)**

**Modifications etc. (not altering text)**

- C33** S. 30: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**
- C34** Ss. 27–30 modified by S.I. 1986/452, **art. 8(3)**
- C35** S. 30(3A) disappplied by SI 2001/2289 art.4 (as inserted (1.9.2004) by The Conduct of Members (Model Code of Conduct) (Wales) (Amendment) (No. 2) Order 2004 (S.I. 2004/1510), arts. 1(1), **3**)
- C36** S. 30(3A) disappplied (3.5.2007) by The Local Authorities (Model Code of Conduct) Order 2007 (S.I. 2007/1159), arts. 1(1), **3(b)** (with art. 1(2))

**31 Reports on investigations: further provisions. E+W**

- [<sup>F200</sup>[<sup>F201</sup>(1) This section applies where a Local Commissioner reports that there has been—
- (a) maladministration in connection with the exercise of the authority's administrative functions,
  - (b) a failure in a service which it was the function of an authority to provide, or
  - (c) a failure to provide such a service.]
- (2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.
- (2A) If the Local Commissioner—
- (a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or
  - (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
  - (c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,
- he shall make a further report setting out those facts and making recommendations.
- [<sup>F202</sup>(2B) Where the report relates to maladministration, those recommendations are recommendations with respect to action which, in the Local Commissioner's opinion, the authority concerned should take—
- (a) to remedy any injustice sustained by the person affected in consequence of the maladministration, and

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- (b) to prevent injustice being caused in the future in consequence of similar maladministration in connection with the exercise of the authority's administrative functions.]

<sup>F202</sup>(2BA) [ Where the report relates to a failure in, or to provide, a service which it was the function of the authority to provide, those recommendations are recommendations with respect to action which, in the Local Commissioner's opinion, the authority concerned should take—

- (a) to remedy any injustice sustained by the person affected in consequence of the failure, and
- (b) to prevent injustice being caused in the future in consequence of a similar failure in, or to provide, a service which it is the function of the authority to provide.]

(2C) Section 30 above, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.

(2D) If the Local Commissioner—

- (a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action, or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take, or
- (c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,

he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.

(2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Local Commissioner may agree, consisting of—

- (a) details of any action recommended by the Local Commissioner in his further report which the authority have not taken;
- (b) such supporting material as the Local Commissioner may require; and
- (c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

(2F) The requirements for the publication of the statement are that—

- (a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Local Commissioner or, in default of agreement, nominated by him; and
- (b) publication in the first such edition shall be arranged for the earliest practicable date.

(2G) If the authority concerned—

- (a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or

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(b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Local Commissioner may agree in writing, to agree with the Local Commissioner the form of the statement to be published,

the Local Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commission on demand any reasonable expenses incurred by the Local Commissioner in performing his duty under subsection (2G) above.]

[<sup>F203</sup>(3) In any case where—

- (a) a report is laid before an authority under subsection [<sup>F204</sup>(2) or (2C)] above, and
- (b) on consideration of the report, it appears to the authority that a payment should be made to, or some other benefit should be provided for, a person who has suffered injustice in consequence of [<sup>F205</sup> the maladministration or failure [<sup>F206</sup> to which the report relates],

the authority may incur such expenditure as appears to them to be appropriate in making such a payment or providing such a benefit.]

<sup>F207</sup>[(4) Where the authority concerned is the Greater London Authority, any functions exercisable under this section by or in relation to the Authority shall be exercisable by or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to the authority concerned (other than references to a member of the authority concerned) shall be construed accordingly.]

#### Textual Amendments

- F200** S. 31(1) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 176\(2\), 245\(5\); S.I. 2008/917, art. 2\(1\)\(i\) \(with art. 6\(5\)\)](#)
- F201** S. 31 subsections (1)–(2H) substituted for subsections (1)(2) by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 26\(1\)\(2\)](#)
- F202** S. 31(2B)(2BA) substituted for s. 31(2B) (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 176\(3\), 245\(5\); S.I. 2008/917, art. 2\(1\)\(i\) \(with art. 6\(5\)\)](#)
- F203** S. 31(3) added by [Local Government Act 1978 \(c. 39\), s. 1](#)
- F204** Words substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 194\(1\), Sch. 11 para. 39\(1\)\(2\)](#)
- F205** Words in s. 31(3)(b) substituted (1.4.2008 in relation to matters coming to the attention of the Commission on or after 1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 176\(4\), 245\(5\); S.I. 2008/917, art. 2\(1\)\(i\) \(with art. 6\(5\)\)](#)
- F206** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 29, Sch. 3 para. 7\(1\)\(4\)\(5\)](#)
- F207** S. 31(4) added (8.5.2000) by [1999 c. 29, s. 74\(1\)\(7\), \(with Sch. 12 para. 9\(1\)\); S.I. 2000/801, art. 2\(2\)\(b\), Sch. Pt. 2](#)

#### Modifications etc. (not altering text)

- C37** S. 31: ss. 26–34 modified by [S.I. 1991/559, art. 2\(3\)](#)
- C38** Ss. 31–34 modified by [S.I. 1986/452, art. 8\(3\)](#)

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**[<sup>F208</sup>31A Consideration of adverse reports. E+W**

[ Where a further report of a Local Commissioner under section 31(2A) is considered <sup>F209</sup>(1A) by a person other than the appropriate listed authority and it is proposed that—

- (a) no action should be taken on the report, or
  - (b) the action recommended in the report should not be taken,
- consideration of the report shall be referred to that authority.

(1B) For the purposes of subsection (1A)—

- (a) “listed authority” means an authority mentioned in section 25(1) or specified in an order under subsection 25(2) (but does not include a person mentioned in section 25(4) to (5)), and
- (b) a listed authority is the appropriate listed authority in relation to a further report if the report relates to the authority (or to any person with which the authority is connected for the purposes of this Part of this Act by virtue of section 25(4) to (5)).

(1C) Subsection (1A) has effect subject to subsection (3).]

(3) The restriction imposed by [<sup>F210</sup>subsection (1A)] above does not apply where the report recommends action to be taken by—

- (a) a joint committee established under [<sup>F211</sup>section 101 of the Local Government Act 1972, ]
    - [ an inshore fisheries and conservation authority for a district established under <sup>F212</sup>(aa) section 149 of the Marine and Coastal Access Act 2009,]
    - [<sup>F213</sup>(b) [<sup>F214</sup>a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966, or]]
    - [ an admission appeal panel or [<sup>F215</sup>exclusion review panel] mentioned in <sup>F213</sup>(c) section 25(5)(c) or (e),
- and the report is considered by that committee [<sup>F216</sup>, authority] or panel. ]

(4) If an authority considering a further report of the Local Commissioner under section 31(2A) above take into consideration a report by a person or body with an interest in the Local Commissioner’s report, they shall not conclude their consideration of the Local Commissioner’s report without also having taken into consideration a report by a person or body with no interest in the Local Commissioner’s report.

(5) [<sup>F217</sup> No individual shall decide or vote ] on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by a Local Commissioner.

<sup>F218</sup>(5A) .....

<sup>F219</sup>(6) .....]

[<sup>F220</sup>(7) <sup>F221</sup>... any functions exercisable under this section by or in relation to [<sup>F222</sup> the Greater London Authority] shall be exercisable by or in relation to the Mayor and the Assembly acting jointly on behalf of the Authority, and references to [<sup>F223</sup>an authority ] shall be construed accordingly.]

**Textual Amendments**

**F208** S. 31A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 28](#)



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- F209** Ss. 31A(1A)-(1C) substituted for s. 31A(1)-(2A) (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(2)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F210** Words in s. 31A(3) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(3)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F211** Words in s. 31A(3)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(3)(b)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F212** S. 31A(3)(aa) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 9(a)**; S.I. 2010/2195, art. 3(2)(l)
- F213** S. 31A(3)(b)(c) substituted for s. 31A(3)(b) (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(3)(c)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F214** S. 31A(3)(b) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12), S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F215** Words in s. 31A(3)(c) substituted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 1 para. 3**; S.I. 2012/1087, art. 3 (with art. 4)
- F216** Word in s. 31A(3) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 9(b)**; S.I. 2010/2195, art. 3(2)(l)
- F217** Words in s. 31A(5) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(4)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F218** S. 31A(5A) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(5)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F219** S. 31A(6) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(5)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F220** S. 31A(7) inserted (8.5.2000) by 1999 c. 29, s. 74(1)(9) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- F221** Words in s. 31A(7) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(6)(a)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F222** Words in s. 31A(7) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(6)(b)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F223** Words in s. 31A(7) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 6(6)(c)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

**Modifications etc. (not altering text)**

- C39** S. 31A: ss. 26-34 modified by S.I. 1991/559, art. 2(3)
- C40** Ss. 31-34 modified by S.I. 1986/452, art. 8(3)

**[<sup>F224</sup>31B Publication of reports etc by Commissioners** **E+W**

- (1) A Local Commissioner may—
- (a) publish all or part of a report or statement under section 30,
  - (b) publish all or part of a report under section 31,
  - (c) arrange for further publication of all or part of a statement published under section 31(2D) or (2G), or
  - (d) publish a summary of a matter which is the subject of a report or statement under section 30 or 31,
- if, after taking into account the public interest as well as the interests of the complainant (if any) and of other persons, he considers it appropriate to do so.
- (2) A Local Commissioner may—

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- (a) supply a copy of all or part of a report, statement or summary mentioned in subsection (1) to any person who requests it, and
  - (b) charge a reasonable fee for doing so.
- (3) Subsection (3) of section 30 applies to—
- (a) any part of a statement under section 30, and
  - (b) any part of a summary of a matter,
- that is published, or a copy of which is supplied, under this section as it applies to a report prepared under section 30.]

#### Textual Amendments

**F224** S. 31B inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 177, 245\(5\)](#); [S.I. 2008/917](#), [art. 2\(1\)\(j\)](#)

## 32 Law of defamation, and disclosure of information. E+W

- (1) For the purposes of the law of defamation, any such publication as is hereinafter mentioned shall be absolutely privileged, that is to say—
- (a) the publication of any matter in communications between a member [<sup>F225</sup>or officer] of an authority and a Local Commissioner, or [<sup>F226</sup>any person discharging or assisting in the discharge of a function of a Local Commissioner ], for the purposes of this Part of this Act;
  - (b) the publication of any matter by a Local Commissioner or by [<sup>F227</sup>any person discharging or assisting in the discharge of a function of a Local Commissioner ], in communicating with a complainant [<sup>F228</sup>, or with the person affected in relation to a matter, ] for the purposes of this Part of this Act;
  - <sup>F229</sup>(ba) the publication of any matter by a Local Commissioner or by [<sup>F230</sup>any person discharging or assisting in the discharge of a function of a Local Commissioner ] in communicating with the Parliamentary Commissioner or the Health Service Commissioner for England or any officer of either such Commissioner for the purposes of this Part of this Act;]
  - (c) the publication of any matter in preparing, making and sending a report or statement in accordance with section 30 or section 31 above, or, subject to section 30(7) above, in making a report available to the public [<sup>F231</sup>or in supplying a copy under section 30(4A) above];
  - (d) the publication of any matter contained in a report by a Local Commissioner which has been made available to the public, being publication by inclusion in a report made or published under [<sup>F232</sup>section 23A ] above.
  - <sup>F233</sup>(e) the publication of any matter by inclusion in a statement published in accordance with section 31(2D), (2E) and (2F) or (2G) above.]
  - <sup>F234</sup>(f) the publication of any matter by inclusion in a report, statement or summary published or supplied under section 31B.]
- (2) Information obtained by a Local Commissioner, or [<sup>F235</sup>any person discharging or assisting in the discharge of a function of a Local Commissioner ], in the course of or for the purposes of an investigation under this Part of this Act shall not be disclosed except—
- (a) for the purposes of the investigation and of any [<sup>F236</sup>report, statement or summary under section 30, 31 or 31B ] above; or

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- [<sup>F237</sup>(aza) for the purposes of an investigation under Part 3A of this Act and of any statement, adverse findings notice or summary under section 34H, 34I or 34J in relation to such an investigation; or]
- [<sup>F238</sup>(aa) for the purposes of a complaint which is being investigated by the Parliamentary Commissioner or the Health Service Commissioner for England (or both); or]
- (b) for the purposes of any proceedings for an offence under the Official Secrets Acts 1911 to 1939 [<sup>F239</sup> or sections 1 to 4 or 18 of the National Security Act 2023] alleged to have been committed in respect of information obtained, by virtue of this Part of this Act, by a Local Commissioner or by [<sup>F240</sup> a person discharging or assisting in the discharge of a function of Local Commissioner ] or for an offence of perjury alleged to have been committed in the course of an investigation under this Part of this Act or for the purposes of an inquiry with a view to the taking of such proceedings, or
- (c) for the purpose of any proceedings under section 29(9) above, and a Local Commissioner and [<sup>F241</sup> persons discharging or assisting in the discharge of a function of a Local Commissioner ] shall not be called upon to give evidence in any proceedings (other than proceedings within paragraph (b) or (c) above) of matters coming to his or their knowledge in the course of an investigation under this Part of this Act.
- (3) A Minister of the Crown or [<sup>F242</sup> any of the authorities to which this Part of this Act applies ] may give notice in writing to a Local Commissioner with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the Minister, or as the case may be of the authority, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest; and where such a notice is given nothing in this Part of this Act shall be construed as authorising or requiring the Local Commissioner or [<sup>F243</sup> any person discharging or assisting in the discharge of a function of a Local Commissioner ] to communicate to any other person, or for any purpose, any document or information specified in the notice, or any document or information of a class so specified:
- Provided that a notice given under this subsection by any authority may be discharged by the Secretary of State.
- [<sup>F244</sup>(3A) A notice under subsection (3) above may not be given electronically.]
- [<sup>F245</sup>(3B) Section 25(4), (4A) and (5) do not apply for the purpose of subsection (3).]
- (4) Nothing in subsection (3) above shall affect the obligations imposed by subsections (3) and (4) of section 29 above.
- (5) Where information is disclosed in accordance with section 29(3) above, being information which is derived from a communication from a government department <sup>F246</sup> ..., and which has not been made public, a Local Commissioner shall not without the written consent of an officer of the government department <sup>F247</sup> ... make a report which includes all or any of that information unless he has given the department <sup>F248</sup> ... not less than one month's notice in writing of his intention.
- (6) The provisions of this section shall apply to the Commissioners of Customs and Excise and Commissioners of Inland Revenue as they apply to a Minister of the Crown.
- [<sup>F249</sup>(7) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 shall be treated for the purposes of subsection (2)

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above as obtained for the purposes of an investigation under this Part of this Act and, in relation to such information, the reference in paragraph (a) of that subsection to the investigation shall have effect as a reference to any investigation.]

### Textual Amendments

- F225** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 29, Sch. 3 para. 8\(2\)\(4\)](#)
- F226** Words in s. 32(1)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(2\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F227** Words in s. 32(1)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F228** Words in s. 32(1)(b) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(3\)\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F229** S. 32(1)(ba) inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\), arts. 1\(1\), 9](#)
- F230** Words in s. 32(1)(ba) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(4\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F231** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\), s. 29, Sch. 3 para. 8\(3\)\(4\)](#)
- F232** Words in s. 32(1)(d) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(5\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F233** S. 32(1)(e) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 194\(1\), Sch. 11 para. 40](#)
- F234** S. 32(1)(f) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(6\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F235** Words in s. 32(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(7\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F236** Words in s. 32(2)(a) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(7\)\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F237** S. 32(2)(aza) inserted (1.10.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 5 para. 10](#); S.I. 2010/1863, art. 2
- F238** S. 32(2)(aa) inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\), arts. 1\(1\), 10](#)
- F239** Words in s. 32(2)(b) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\), reg. 1\(2\), Sch. para. 4\(2\)](#)
- F240** Words in s. 32(2)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(7\)\(c\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F241** Words in s. 32(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(7\)\(d\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F242** Words in s. 32(3) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(8\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F243** Words in s. 32(3) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(8\)\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F244** S. 32(3A) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 178\(1\), 245\(5\)](#); S.I. 2008/917, art. 2(1)(k)
- F245** S. 32(3B) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 7\(9\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F246** Words in s. 32(5) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 13\(5\)\(a\), Sch. 7 \(with s. 38\)](#); S.I. 2005/2800, art. 5(1)(3)
- F247** Words in s. 32(5) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 13\(5\)\(b\), Sch. 7 \(with s. 38\)](#); S.I. 2005/2800, art. 5(1)(3)
- F248** Words in s. 32(5) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 13\(5\)\(c\), Sch. 7 \(with s. 38\)](#); S.I. 2005/2800, art. 5(1)(3)
- F249** S. 32(7) inserted (30.1.2001) by [2000 c. 36, ss. 76\(2\), 87\(2\), Sch. 7 para. 3 \(with ss. 56, 78\)](#)

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**Modifications etc. (not altering text)**

- C41** S. 32: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**
- C42** Ss. 31–34 modified by S.I. 1986/452, **art. 8(3)**
- C43** S. 32 applied (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**
- C44** S. 32(2) modified (28.7.2001) by S.I. 2001/2286, **art. 4, Sch. 3**
- C45** S. 32(2) excluded (19.12.2000 with application in relation to England and to police authorities in Wales and 28.7.2001 otherwise) by 2000 c. 22, **ss. 67(4), 108(4)-(6)**; S.I. 2000/3335, **art. 2**
- C46** S. 32(2)(b) amended by **Official Secrets Act 1989** (c. 6, SIF 39:2), s. 16(3), **Sch. 1 para. 1(e)**
- C47** **S. 32(3)** functions made exercisable concurrently or jointly with the Welsh Ministers by 2006 c. 32, Sch. 3A para. 1 (as inserted (1.4.2018) by **Wales Act 2017** (c. 4), s. 71(4), **Sch. 4 para. 1** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(p))

**F250** **32A. Use of information by Local Commissioner in other capacity** **E+W**

**Textual Amendments**

- F250** S. 32A repealed (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005** (c. 10), s. 40, Sch. 6 para. 14, **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)

**33** **Consultation between Local Commissioner, [F251 the Parliamentary Commissioner and the Health Service Commissioners][F251 and other Commissioners and Ombudsmen].** **W**

- (1) If, at any stage in the course of conducting an investigation under this Part of this Act, a Local Commissioner forms the opinion that [F252 the matters which are the subject of the investigation include ] a matter which could be the subject of an investigation—
- (a) by the Parliamentary Commissioner, in accordance with section 5 of the Act of 1967,
    - F253**(aza) .....
    - F254**(aa) .....
    - F255** ...
  - (b) by the Health Service Commissioner for England **F256** ..., in accordance with [F257 the Act of 1993,]  
[F258 or  
[ by a housing ombudsman under the Housing Act 1996,]  
**F259**(bza)  
[ by the Public Services Ombudsman for Wales, in accordance with the Public  
**F260**(ba) Services Ombudsman (Wales) Act 2005;]  
(c) by the Scottish Public Services Ombudsman in accordance with the Act of 2002,]  
he shall consult with the appropriate Commissioner [F261 or F262 ... Ombudsman][F263 about the matter and, where a complaint was made about the matter, he shall ] , if he considers it necessary, inform the person initiating the complaint under this Part of this Act of the steps necessary to initiate a complaint under the Act of 1967 , **F264** ... [F265 the Act of 1993 [F266, the Public Services Ombudsman (Wales) Act 2005] or under the Act of 2002] , as the case may be.

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- (2) Where, by virtue of subsection (1) above, a Local Commissioner consults the Parliamentary Commissioner, [F267 a housing ombudsman, ] [F268 the Public Services Ombudsman for Wales] [F269, the Scottish Public Services Ombudsman] or [F270 the Health Service Commissioner for England] in relation to [F271 a matter under investigation under this Part of this Act ], he may consult that Commissioner [F272 or [F273 that Ombudsman]] about [F274 anything relating to the matter ], including—
- (a) the conduct of any investigation into the [F275 matter ], and
  - (b) the form, content and publication of any report of the results of such an investigation.
- [F276(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner] forms the opinion that the complaint relates partly to a matter which could be the subject of investigation under this Part of this Act, he shall consult with the appropriate Local Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint [F277. . . of the steps necessary to initiate a complaint under this Part of this Act.
- [F278(3A) If at any stage in the course of conducting an investigation under the Housing Act 1996, a housing ombudsman forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of the Act, the ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the ombudsman considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act.]
- (4) Where, by virtue of subsection (3) [F279 or (3A) ] above, a Local Commissioner is consulted about a complaint under the Act of 1967 [F280 or under the Housing Act 1996 ] [F281. . . , subsection (2) above shall apply (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (1) above.
- (5) Nothing in section 11(2) of the Act of 1967, [F282. . . in [F283 section 15 of the Act of 1993], [F284 in][F285 section [F286 34X] of the Public Services Ombudsman (Wales) Act 2005] [F287, in section 19 of the Act of 2002] or in section 32(2) of this Act (restrictions of disclosure of information) shall apply in relation to the disclosure of information [F288. . . ] in the course of consultations held in accordance with this section.
- (6) In this section the “Act of 1967” means the M2Parliamentary Commissioner Act 1967 and [F289 the “Act of 1993” means the Health Service Commissioners Act 1993.] [F290 and the Act of 2002” means the Scottish Public Services Ombudsman Act 2002]

#### Textual Amendments

- F251** Words in s. 33 sidenote substituted (14.7.2005 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\), Sch. 15 para. 7\(2\)](#); S.I. 2005/1814, arts. 1(2), 2(f)(ii)
- F252** Words in s. 33(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 12 para. 8\(2\)\(a\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F253** S. 33(1)(aza) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 15\(2\)\(a\), Sch. 7 \(with s. 38\)](#); S.I. 2005/2800, art. 5(1)(3)
- F254** S. 33(1)(aa) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 15\(2\)\(a\), Sch. 7 \(with s. 38\)](#); S.I. 2005/2800, art. 5(1)(3)
- F255** Word in s. 33(1)(aa) omitted (14.7.2004) by virtue of [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\), arts. 1, 6\(a\)\(i\)](#)

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- F256** Words in s. 33(1)(b) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(2)(b)**, **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F257** Words in s. 33(1) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(2)**.
- F258** S. 33(1)(c) and word inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(ii)**
- F259** S. 33(1)(bza) inserted (1.4.2013 for E.) by Localism Act 2011 (c. 20), **ss. 182(2)(a)**, 240(2); S.I. 2013/722, art. 2(d)
- F260** S. 33(1)(ba) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(2)(c)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F261** S. 33(1)(aa) and words in s. 33(1) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(2)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F262** Word in s. 33(1) omitted (14.7.2004) by virtue of Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(iii)**
- F263** Words in s. 33(1) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 8(2)(b)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F264** Words in s. 33(1) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(2)(d)**, **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F265** Words in s. 33(1) substituted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(a)(iv)**
- F266** Words in s. 33(1) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(2)(e)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F267** Words in s. 33(2) inserted (1.4.2013 for E.) by Localism Act 2011 (c. 20), **ss. 182(2)(b)**, 240(2); S.I. 2013/722, art. 2(d)
- F268** Words in s. 33(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(3)(a)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F269** Words in s. 33(2) inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(b)(i)**
- F270** Words in s. 33(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(3)(b)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F271** Words in s. 33(2) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 8(3)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F272** Words in s. 33(2) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(3)(b)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F273** Words in s. 33(2) substituted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(b)(ii)**
- F274** Words in s. 33(2) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 8(3)(b)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F275** Word in s. 33(2)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 8(3)(c)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F276** Words in s. 33(3) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(3)(a)**.
- F277** Words in s. 33(3) repealed (5.2.1994) by 1993 c. 46, ss. 20(1), 20(2), 22(4), **Sch. 2 para. 4(3)(b)**, **Sch. 3**.
- F278** S. 33(3A) inserted (1.4.2013 for E.) by Localism Act 2011 (c. 20), **ss. 182(2)(c)**, 240(2); S.I. 2013/722, art. 2(d)
- F279** Words in s. 33(4) inserted (1.4.2013 for E.) by Localism Act 2011 (c. 20), **ss. 182(2)(d)**, 240(2); S.I. 2013/722, art. 2(d)
- F280** Words in s. 33(4) inserted (1.4.2013 for E.) by Localism Act 2011 (c. 20), **ss. 182(2)(e)**, 240(2); S.I. 2013/722, art. 2(d)
- F281** Words in s. 33(4) repealed (5.2.1994) by 1993 c. 46, ss. 20(1), 20(2), 22(4), **Sch. 2 para. 4(4)**, **Sch. 3**.
- F282** Words in s. 33(5) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(4)(a)**, **Sch. 7** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F283** Words in s. 33(5) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(5)**.

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- F284** Words in s. 33(5) inserted (1.4.1999) by 1998 c. 38, s. 125, **Sch. 12 para. 17(4)(a)** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F285** Words in s. 33(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 15(4)(b)** (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F286** Word in s. 33(5) substituted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 7**; S.I. 2014/2718, art. 2(b)
- F287** Words in s. 33(5) inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(c)**
- F288** Words in s. 33(5) repealed (1.4.1999) by 1998 c. 38, s. 125, 152, Sch. 12 para. 17(4)(b), **Sch. 18 Pt. I** (with ss. 139(2), 143(2)); S.I. 1999/782, **art. 2**
- F289** Words in s. 33(6) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20(1), 22(4), **Sch. 2 para. 4(6)**.
- F290** Words in s. 33(6) inserted (14.7.2004) by Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **6(d)**

#### Modifications etc. (not altering text)

- C48** S. 33: ss. 26-34 modified by S.I. 1991/559, **art. 2(3)**

#### Marginal Citations

- M2** 1967 c. 13.

### <sup>F291</sup>33ZA Collaborative working between Local Commissioners and other Commissioners **W**

- (1) If at any stage in the course of conducting an investigation under this <sup>F292</sup>Part of this Act a Local Commissioner forms the opinion that <sup>F293</sup>the matters which are the subject of the investigation include ] a matter within the jurisdiction of —
- (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner for England, or
  - (c) <sup>F294</sup>both]<sup>F294</sup>a housing ombudsman],

he may, subject to subsection (2) below, conduct an investigation under this <sup>F292</sup>Part of this] Act <sup>F295</sup>jointly with that Commissioner or those Commissioners.]]<sup>F295</sup>jointly with any also-involved ombudsman or jointly with any two or more also-involved ombudsmen.]

<sup>F296</sup>(1A) [ In subsection (1) “also-involved ombudsman” means a person within subsection (1) (a), (b) or (c) who, in the opinion of the Local Commissioner concerned, has jurisdiction in relation to a matter that is included among the matters which are the subject of the Local Commissioner’s investigation.]

- (2) A Local Commissioner must obtain the consent of <sup>F297</sup>the person affected] or <sup>F298</sup>the complainant (if any)] before agreeing to a joint investigation referred to in subsection (1) above.
- (3) If a Local Commissioner forms the opinion that a complaint which is being investigated by—
- (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner, or
  - (c) <sup>F299</sup>both]<sup>F299</sup>a housing ombudsman],

relates partly to a matter within his jurisdiction <sup>F300</sup>by virtue of this Part], he may conduct an investigation under this <sup>F301</sup>Part of this] Act <sup>F302</sup>jointly with that Commissioner or those Commissioners.]]<sup>F302</sup>jointly with a person within



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paragraph (a), (b) or (c) who is investigating the complaint or jointly with any two or more such persons.]

- (4) If a Local Commissioner conducts an investigation <sup>F303</sup> ... jointly with another person, the requirements of section 30(1) (so far as relating to a case where the Local Commissioner conducts an investigation under this [<sup>F304</sup>Part of this] Act) may be satisfied by a report made jointly with that person.
- (5) In relation to an investigation which has been conducted jointly with another person a direction given by the Local Commissioner under section 30(7) of this Act may relate only to those parts of a joint report prepared by virtue of subsection (4) above which are specified in the direction.]

#### Textual Amendments

- F291** S. 33ZA inserted (1.8.2007) by [The Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(S.I. 2007/1889\)](#), arts. 1(1), 4
- F292** Words in s. 33ZA(1) inserted (1.10.2010) by [Health Act 2009 c. 21, Sch. 5 para. 11\(2\)](#); S.I. 2010/1863, art. 2
- F293** Words in s. 33ZA(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(2007 c. 028\)](#), Sch. 12 para. 9(2)
- F294** Words in s. 33ZA(1)(c) substituted (1.4.2013 for E.) by [Localism Act 2011 \(2011 c. 20\)](#), ss. 182(4)(b), 240(2); S.I. 2013/722, art. 2(d)
- F295** Words in s. 33ZA(1) substituted (1.4.2013 for E.) by [Localism Act 2011 \(2011 c. 20\)](#), ss. 182(4)(a), 240(2); S.I. 2013/722, art. 2(d)
- F296** S. 33ZA(1A) inserted (1.4.2013 for E.) by [Localism Act 2011 \(2011 c. 20\)](#), ss. 182(5), 240(2); S.I. 2013/722, art. 2(d)
- F297** Words in s. 33ZA(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(2007 c. 028\)](#), Sch. 12 para. 9(3)(a)
- F298** Words in s. 33ZA(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(2007 c. 028\)](#), Sch. 12 para. 9(3)(b)
- F299** Words in s. 33ZA(3)(c) substituted (1.4.2013 for E.) by [Localism Act 2011 \(2011 c. 20\)](#), ss. 182(6)(b), 240(2); S.I. 2013/722, art. 2(d)
- F300** Words in s. 33ZA(3) inserted (1.10.2010) by [Health Act 2009 c. 21, Sch. 5 para. 11\(3\)\(a\)](#); S.I. 2010/1863, art. 2
- F301** Words in s. 33ZA(3) inserted (1.10.2010) by [Health Act 2009 c. 21, Sch. 5 para. 11\(3\)\(b\)](#); S.I. 2010/1863, art. 2
- F302** Words in s. 33ZA(3) substituted (1.4.2013 for E.) by [Localism Act 2011 \(2011 c. 20\)](#), ss. 182(6)(a), 240(2); S.I. 2013/722, art. 2(d)
- F303** Words in s. 33ZA(4) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(2007 c. 028\)](#), Sch. 12 para. 9(4) Sch. 18 Pt. 14
- F304** Words in s. 33ZA(4) inserted (1.10.2010) by [Health Act 2009 c. 21, Sch. 5 para. 11\(4\)](#); S.I. 2010/1863, art. 2

#### <sup>F305</sup>**33ZB Arrangements for provision of administrative and other services** **E+W**

- (1) Arrangements involving the Commission may be entered into by persons within subsection (4) for the provision of administrative, professional or technical services by any one or more of the parties for any one or more of the parties, whether for consideration or otherwise.

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- (2) For the purposes of subsection (1), arrangements for the provision of services involve the Commission if the Commission is one of the parties to the arrangements and at least one of the following conditions is met—
- (a) the Commission is the party, or one of the parties, by whom the services are to be provided;
  - (b) the Commission is the party, or one of the parties, to whom the services are to be provided.
- (3) The arrangements that may be entered into under subsection (1) include arrangements for—
- (a) the Commission, or
  - (b) the Commission jointly with any one or more of the parties,
- to have the function of discharging, on behalf of a party, any function of that party which is of an administrative, professional or technical nature.
- (4) The persons within this subsection are—
- (a) the Commission,
  - (b) the Parliamentary Commissioner,
  - (c) the Health Service Commissioner for England, and
  - (d) the person administering a scheme approved under Schedule 2 to the Housing Act 1996 (scheme for enabling complaints to be investigated by a housing ombudsman).]

#### Textual Amendments

**F305** S. 33ZB inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 44\(1\)](#), [240\(1\)\(c\)](#)

#### [<sup>F306</sup>**33A Disclosure of information by Local Commissioner to Information Commissioner.** **E+W**]

- (1) A Local Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part of this Act if the information appears to the Local Commissioner to relate to—
- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—
    - [<sup>F307</sup>(i) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement),]
    - (ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or
    - (iii) Part IV of that Act (enforcement), or
  - [<sup>F308</sup>(b) the commission of an offence under—
    - (i) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
    - (ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]

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(2) Nothing in section 32(2) of this Act shall apply in relation to the disclosure of information in accordance with this section.]

**Textual Amendments**

- F306** S. 33A inserted (30.1.2001) by 2000 c. 36, ss. 76(2), 87(2), **Sch. 7 para. 4** (with ss. 56, 78)
- F307** S. 33A(1)(a)(i) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 5(a)** (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)
- F308** S. 33A(1)(b) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 5(b)** (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)

**34 Interpretation of Part III. E+W**

(1) In this Part of this Act, unless the context otherwise requires—

“action” includes failure to act, and other expressions connoting action shall be construed accordingly,

[<sup>F309</sup>“the Commission” means the Commission for Local Administration in England,]

[<sup>F310</sup>“executive” and “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000;]

[<sup>F311</sup>“housing ombudsman” means a housing ombudsman under a scheme approved under Schedule 2 to the Housing Act 1996,]

“local authority” means a county council [<sup>F312</sup>in England] , . . . <sup>F313</sup> a district council, [<sup>F314</sup>the Broads Authority]<sup>F315</sup> . . . , a London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly,

[<sup>F316</sup>“mayor and cabinet executive” [<sup>F317</sup>has] the same meaning as in Part II of the Local Government Act 2000;]

“member”,

(a) <sup>F318</sup>[<sup>F319</sup>in relation to the Greater London Authority, means—

(i) the Mayor of London,

(ii) the Deputy Mayor, or

(iii) a member of the London Assembly;]

(b) <sup>F320</sup> . . .

(c) <sup>F320</sup> . . .

<sup>F321</sup> . . .

[<sup>F321</sup>“person affected” —

(a) in relation to a matter which is the subject of a complaint made or to be made under this Part of this Act, means the member of the public who claims or is alleged to have sustained injustice in consequence of the matter, and

(b) in relation to a matter coming to the attention of a Local Commissioner to which section 26D applies, means the member of the public who the Local Commissioner considers has, or may have, sustained injustice in consequence of the matter;]

“Parliamentary Commissioner” means the Parliamentary Commissioner for Administration,

<sup>F322</sup>

.....

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“tribunal” includes the person constituting a tribunal consisting of one person.

[<sup>F323</sup>(1A) In this Part of this Act, except as otherwise provided, references to something being done in writing are to it being done in writing whether electronically or otherwise (and references to anything written shall be interpreted accordingly).]

(2) Section 269 of the <sup>M3</sup>Local Government Act 1972 (which relates to the meaning of “England” and “Wales” in Acts passed after 1st April 1974) shall apply to this Part of this Act as if it had been passed after that date.

(3) It is hereby declared that nothing in this Part of this Act authorises or requires a Local Commissioner to question the merits of a decision taken without maladministration by an authority in the exercise of a discretion vested in that authority.

#### Textual Amendments

- F309** Words in s. 34(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 16\(2\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F310** S. 34(1): definition of “executive” and “executive arrangements” inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [arts. 2\(b\)](#), 10(2) and definition of “executive” and “executive arrangements” inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 10\(2\)](#)
- F311** Words in s. 34(1) inserted (1.4.2013 for E.) by [Localism Act 2011 \(c. 20\)](#), [ss. 182\(7\)](#), 240(2); S.I. 2013/722, art. 2(d)
- F312** Words in s. 34(1) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 16\(3\)\(a\)](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F313** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)
- F314** Words inserted by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), ss. 21, 23(2), 27(2), [Sch. 6 para. 12](#)
- F315** Words in s. 34(1) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 6 para. 16\(3\)\(b\)](#), [Sch. 7](#) (with s. 38); S.I. 2005/2800, art. 5(1)(3)
- F316** S. 34(1): definition of “mayor and cabinet executive” and “mayor and council manager executive” inserted (E.) (6.5.2002) by [S.I. 2002/1057](#), [art. 8\(2\)](#)
- F317** Word in s. 34 substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 3 para. 15\(2\)](#)
- F318** S. 34(1)(a) and word “(b)” inserted (8.5.2000) by 1999 c. 29, [s. 74\(10\)](#) (with [Sch. 12 para. 9\(1\)](#))
- F319** Paragraph in s. 34 renumbered as (c) (8.5.2000) by 1999 c. 29, [s. 74\(10\)](#) (with [Sch. 12 para. 9\(1\)](#))
- F320** Words in s. 34(1) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 10\(a\)](#), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F321** Words in s. 34(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 12 para. 10\(b\)](#); S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F322** Definition repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), [Sch. 12 Pt. II](#)
- F323** S. 34(1A) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 178\(2\)](#), 245(5); S.I. 2008/917, art. 2(1)(k)

#### Modifications etc. (not altering text)

- C49** S. 34: ss. 26-34 modified by [S.I. 1991/559](#), [art. 2\(3\)](#)
- C50** Ss. 31-34 modified by [S.I. 1986/452](#), [art. 8\(3\)](#)

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### Marginal Citations

M3 1972 c. 70.

## <sup>F324</sup>PART 3A E+W

### INVESTIGATION OF COMPLAINTS ABOUT PRIVATELY ARRANGED OR FUNDED ADULT SOCIAL CARE

### Textual Amendments

**F324** Pt. 3A inserted (1.10.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 5 para. 2](#); S.I. 2010/1863, art. 2

*Private adult social care: matters subject to investigation*

### **34A Interpretation: “adult social care provider” and “adult social care”** E+W

- (1) This section applies for the purposes of this Part.
- (2) “Adult social care” means social care within the meaning of Part 1 of the Health and Social Care Act 2008 which is provided to persons aged 18 or over.
- (3) “Adult social care provider” means a person who carries on an activity which—
  - (a) involves, or is connected with, the provision of adult social care, and
  - (b) is a regulated activity within the meaning of Part 1 of the 2008 Act.
- (4) Action is to be treated as action taken by an adult social care provider if it is taken by—
  - (a) a person employed by that provider,
  - (b) a person acting on behalf of that provider, or
  - (c) a person to whom that provider has delegated any functions.
- (5) Action is also to be treated as action taken by an adult social care provider if—
  - (a) that provider provides adult social care by means of an arrangement with another person, and
  - (b) the action is taken by or on behalf of the other person in carrying out the arrangement.

### **34B Power to investigate** E+W

- (1) Under this Part, a Local Commissioner may investigate a matter—
  - (a) which relates to action taken by an adult social care provider in connection with the provision of adult social care, and
  - (b) in relation to which Condition 1 or 2 is met.
- (2) But a Local Commissioner may not conduct an investigation under this Part in respect of any action or matter described in Schedule 5A.
- (3) Condition 1 is met if a complaint about the matter which satisfies sections 34C and 34D has been made to a Local Commissioner.

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- (4) Any question whether Condition 1 is met in relation to a matter is to be determined by a Local Commissioner.
- (5) Condition 2 is met if—
  - (a) the matter has come to the attention of a Local Commissioner, and
  - (b) section 34E applies to the matter.
- (6) Before investigating a matter under this Part a Local Commissioner must be satisfied that—
  - (a) the matter has been brought, by or on behalf of the person affected, to the notice of the adult social care provider to which it relates and that that provider has been afforded a reasonable opportunity to investigate the matter and to respond, or
  - (b) in the particular circumstances, it is not reasonable to expect the matter to be brought to the notice of that provider or for that provider to be afforded a reasonable opportunity to investigate the matter and to respond.
- (7) In subsection (6) the reference to a person affected includes a reference to that person's personal representatives.
- (8) In deciding whether to initiate, continue or discontinue an investigation, a Local Commissioner must, subject to the provisions of this section and sections 34C to 34E, act in accordance with the Local Commissioner's own discretion.
- (9) Without prejudice to the discretion conferred by subsection (8), a Local Commissioner who is satisfied with action which the adult social care provider concerned has taken or proposes to take may in particular decide—
  - (a) not to investigate a matter, or
  - (b) to discontinue an investigation of a matter.
- (10) Her Majesty may by Order in Council amend Schedule 5A by adding, omitting or changing a description of an action or matter.
- (11) A statutory instrument containing an Order in Council made under subsection (10) is subject to annulment in pursuance of a resolution of either House of Parliament.

### **34C Who can complain** E+W

- (1) A complaint about a matter under this Part may only be made—
  - (a) by a member of the public who claims to have sustained injustice in consequence of the matter (“P”),
  - (b) by a person authorised in writing by P to act on P's behalf, or
  - (c) in accordance with subsection (2).
- (2) Where a member of the public by whom a complaint about a matter might have been made under this Part (“D”) has died or is otherwise unable to authorise a person to act on D's behalf, the complaint may be made—
  - (a) by D's personal representatives (if any), or
  - (b) by a person who appears to a Local Commissioner to be suitable to represent D.

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### **34D Procedure for making complaints** **E+W**

- (1) Subject to subsection (3), a complaint about a matter under this Part must be made—
  - (a) in writing, and
  - (b) before the end of the permitted period.
- (2) In subsection (1)(b), the “permitted period” means the period of 12 months beginning with—
  - (a) the day on which the person affected first had notice of the matter, or
  - (b) if the person affected has died without having notice of the matter—
    - (i) the day on which the personal representatives of the person affected first had notice of the matter, or
    - (ii) if earlier, the day on which the complainant first had notice of the matter.
- (3) A Local Commissioner may disapply either or both of the requirements in subsection (1)(a) and (b) in relation to a particular complaint.

### **34E Matters coming to attention of Local Commissioner** **E+W**

- (1) This section applies to a matter which has come to the attention of a Local Commissioner if—
  - (a) the matter came to the Local Commissioner's attention during the course of an investigation under Part 3 or this Part,
  - (b) (subject to subsection (3)) the matter came to the Local Commissioner's attention—
    - (i) before the person affected or that person's personal representatives had notice of the matter, or
    - (ii) in any other case, before the end of the permitted period, and
  - (c) it appears to the Local Commissioner that a member of the public has, or may have, suffered injustice in consequence of the matter.
- (2) In subsection (1)(b)(ii), “the permitted period” means the period of 12 months beginning with—
  - (a) the day on which the person affected first had notice of the matter, or
  - (b) if the person affected has died without having notice of the matter, the day on which the personal representatives of the person affected first had notice of the matter.
- (3) A Local Commissioner may disapply the requirement in subsection (1)(b) in relation to a particular matter.

#### *Investigations by a Local Commissioner*

### **34F Procedure in respect of investigations** **E+W**

- (1) A Local Commissioner who proposes to investigate a matter under this Part must give the following persons an opportunity to comment on the matter—
  - (a) the adult social care provider concerned;
  - (b) any person who is alleged in the complaint (if any) to have taken or authorised the action which would be the subject of the investigation;

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- (c) any person who otherwise appears to the Local Commissioner to have taken or authorised that action.
- (2) Every investigation under this Part is to be conducted in private.
- (3) Subject to subsection (2), the procedure for conducting an investigation is to be such as the Local Commissioner considers appropriate in the circumstances of the case.
- (4) The Local Commissioner may, in particular—
  - (a) obtain information from such persons and in such manner as the Local Commissioner thinks fit,
  - (b) make such inquiries as the Local Commissioner thinks fit, and
  - (c) determine whether any person may be represented (by counsel, solicitor or otherwise) in the investigation.
- (5) The Local Commissioner may, if the Local Commissioner thinks fit, pay to the person by whom the complaint (if any) was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part—
  - (a) sums in respect of the expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time.

### **34G Investigations: further provisions** E+W

- (1) For the purposes of an investigation under this Part a Local Commissioner may require the following persons to furnish information or produce documents relevant to the investigation—
  - (a) the adult social care provider concerned;
  - (b) any other person who in the Local Commissioner's opinion is able to furnish any such information or produce any such documents.
- (2) Nothing in subsection (1) affects the restriction imposed by section [F32534X] of the PSOWA 2005.
- (3) For the purposes of an investigation under this Part a Local Commissioner has the same powers as the High Court in respect of—
  - (a) the attendance and examination of witnesses, and
  - (b) the production of documents.
- (4) To assist in any investigation, a Local Commissioner may obtain advice from any person who in the Local Commissioner's opinion is qualified to give it.
- (5) A Local Commissioner may pay to any such person giving advice such fees or allowances as the Local Commissioner may determine.
- (6) A Local Commissioner may appoint and pay a mediator or other appropriate person to assist in the conduct of an investigation under this Part.
- (7) Any person appointed under subsection (6) is to be deemed to be an officer of the Commission in carrying out functions under that appointment.
- (8) No person may be compelled for the purposes of an investigation under this Part to give any evidence or produce any document which the person could not be compelled to give or produce in civil proceedings before the High Court.
- (9) If any person without lawful excuse—



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- (a) obstructs a Local Commissioner in the performance of the Local Commissioner's functions under this Part,
- (b) obstructs any person discharging or assisting in the discharge of those functions, or
- (c) is guilty of an act or omission in relation to an investigation under this Part which, if that investigation were a proceeding in the High Court, would constitute contempt of court,

the Local Commissioner may certify the offence to the High Court.

- (10) Where an offence is so certified, the High Court may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged (“D”), and after hearing any statement that may be offered in defence, deal with D in any manner in which the High Court could deal with D if D had committed the like offence in relation to the High Court.

#### Textual Amendments

**F325** Word in s. 34G(2) substituted (1.11.2014) by [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#), s. 199(2), [Sch. 3 para. 8](#); S.I. 2014/2718, art. 2(b)

#### *Statements etc. about investigations*

### **34H** Statements about investigations **E+W**

- (1) A Local Commissioner must prepare a written statement in accordance with subsections (2) to (4) if the Local Commissioner—
- (a) decides not to investigate a matter under this Part,
  - (b) decides to discontinue such an investigation, or
  - (c) completes such an investigation.
- (2) In a case falling within subsection (1)(a) or (b), the statement must set out the Local Commissioner's reasons for the decision.
- (3) In a case falling within subsection (1)(c), the statement must—
- (a) set out the Local Commissioner's conclusions on the investigation, and
  - (b) include any recommendations the Local Commissioner considers it appropriate to make.
- (4) The recommendations the Local Commissioner may make are recommendations with respect to action which, in the Local Commissioner's opinion, the adult social care provider concerned should take—
- (a) to remedy any injustice sustained by the person affected in consequence of the action of the provider which was the subject of the investigation, and
  - (b) to prevent injustice being caused in the future in consequence of similar action of the provider.
- (5) The Local Commissioner must send a copy of a statement prepared under this section to each of the persons concerned.
- (6) The persons concerned are—
- (a) the complainant (if any);

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- (b) the adult social care provider concerned;
  - (c) any person who is alleged in the complaint (if any) to have taken or authorised the action which was the subject of the investigation;
  - (d) any person who otherwise appears to the Local Commissioner to have taken or authorised such action.
- (7) The Local Commissioner may send a copy of a statement prepared under this section to—
- (a) the Care Quality Commission, and
  - (b) any local authority which appears to the Commissioner to have an interest in the subject matter of the statement.
- (8) The statement must identify the adult social care provider concerned unless—
- (a) the provider is an individual, or a particular individual would, in the opinion of the Local Commissioner, be likely to be identified as a result of identifying the provider, and
  - (b) the Local Commissioner considers that it is not appropriate for the individual to be identified.
- (9) The statement must not—
- (a) mention the name of any person other than the provider, or
  - (b) contain any particulars which, in the opinion of the Local Commissioner, are likely to identify any other person and can be omitted without impairing the effectiveness of the statement,
- unless, after taking into account the public interest as well as the interests of that person, the complainant (if any) and of other persons, the Local Commissioner considers it necessary to mention the name of that person or to include in the statement any such particulars.

### **34I Adverse findings notices** E+W

- (1) This section applies where an adult social care provider receives a statement prepared under section 34H which contains recommendations.
- (2) The adult social care provider concerned must—
- (a) consider the statement, and
  - (b) notify the Local Commissioner within the required period of the action which the provider has taken or proposes to take.
- (3) The Local Commissioner may by notice require the provider to arrange for an adverse findings notice to be published in accordance with subsections (4) and (5) if the Local Commissioner—
- (a) does not receive the notification mentioned in subsection (2)(b) within the required period or is satisfied before the end of that period that the adult social care provider concerned has decided to take no action,
  - (b) is not satisfied with the action which the provider concerned has taken or proposes to take, or
  - (c) does not within a period of one month beginning with the end of the required period, or such longer period as the Local Commissioner may agree in writing, receive confirmation that the provider has taken action, as proposed, to the satisfaction of the Local Commissioner.

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- (4) An adverse findings notice is a notice, in such form as the adult social care provider concerned and the Local Commissioner may agree, consisting of—
- (a) details of any action recommended in the statement which the provider has not taken;
  - (b) such supporting material as the Local Commissioner may require;
  - (c) if the provider so requires, an explanation of the provider's reasons for having taken no action on, or not the action recommended in, the statement.
- (5) The adverse findings notice must be published by the adult social care provider in such manner as the Local Commissioner may direct.
- (6) If the adult social care provider—
- (a) fails to arrange for the publication of the adverse findings notice in accordance with subsections (4) and (5), or
  - (b) is unable, within the period of one month beginning with the date on which the provider received the notice under subsection (3), or such longer period as the Local Commissioner may agree in writing, to agree with the Local Commissioner the form of the adverse findings notice to be published,
- the Local Commissioner must arrange for an adverse findings notice to be published in such manner as the Local Commissioner considers appropriate.
- (7) The adult social care provider concerned must reimburse the Commission on demand any reasonable expenses incurred by the Local Commissioner in performing the duty under subsection (6).
- (8) In this section the “required period” means—
- (a) the period of one month beginning with the date on which the adult social care provider concerned received the statement, or
  - (b) such longer period as the Local Commissioner may agree in writing.

### **34J Publication of statements etc. by Local Commissioner** E+W

- (1) A Local Commissioner may—
- (a) publish all or part of a statement under section 34H,
  - (b) arrange for further publication of all or part of an adverse findings notice published under section 34I(3) or (6), or
  - (c) publish a summary of a matter which is the subject of a statement or adverse findings notice under section 34H or 34I,
- if, after taking into account the public interest as well as the interests of the complainant (if any) and of other persons, the Local Commissioner considers it appropriate to do so.
- (2) A Local Commissioner may—
- (a) supply a copy of all or part of a statement, adverse findings notice or summary mentioned in subsection (1) to any person who requests it, and
  - (b) charge a reasonable fee for doing so.
- (3) Subsections (8) and (9) of section 34H apply to any part of a summary of a matter that is published, or a copy of which is supplied, under this section as they apply to a statement prepared under that section.

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### 34K Disclosure of information **E+W**

- (1) Information obtained by a Local Commissioner, or any person discharging or assisting in the discharge of a function of a Local Commissioner, in the course of or for the purposes of an investigation under this Part must not be disclosed except—
  - (a) for the purposes of the investigation and of any statement, adverse findings notice or summary under section 34H, 34I or 34J,
  - (b) for the purposes of an investigation under Part 3 and of any report, statement or summary under section 30, 31 or 31B in relation to such an investigation,
  - (c) for the purposes of a complaint which is being investigated by the Parliamentary Commissioner or the Health Service Commissioner (or both),
  - (d) for the purposes of any proceedings for an offence under the Official Secrets Acts 1911 to 1989 [<sup>F326</sup>or sections 1 to 4 or 18 of the National Security Act 2023] alleged to have been committed in respect of information obtained, by virtue of this Part, by a Local Commissioner or by a person discharging or assisting in the discharge of a function of a Local Commissioner,
  - (e) for the purposes of any proceedings for an offence of perjury alleged to have been committed in the course of an investigation under this Part,
  - (f) for the purposes of an inquiry with a view to the taking of proceedings of a kind mentioned in paragraph (d) or (e), or
  - (g) for the purposes of proceedings under section 34G(10).
- (2) A Local Commissioner or a person discharging or assisting in the discharge of a function of a Local Commissioner may not be called upon to give evidence in any proceedings (other than proceedings within paragraphs (d), (e) or (g) of subsection (1)) of matters coming to his or her knowledge in the course of an investigation under this Part.
- (3) A Local Commissioner must not prepare a statement under section 34H which includes government information unless the Local Commissioner has—
  - (a) obtained the written consent of an officer of the government department concerned, or
  - (b) given the department not less than one month's notice in writing of the intention to include the information in a statement.
- (4) In subsection (3) “government information” means information disclosed under section 34G(1) which—
  - (a) is derived from a communication with a government department, and
  - (b) has not been made public.
- (5) Information obtained from the Information Commissioner by virtue of section 76 of the Freedom of Information Act 2000 is to be treated for the purposes of subsection (1) as obtained for the purposes of an investigation under this Part and, in relation to such information, the reference in paragraph (a) of that subsection to the investigation has effect as a reference to any investigation.

#### Textual Amendments

**F326** Words in s. 34K(1)(d) inserted (20.12.2023) by [The National Security Act 2023 \(Consequential Amendments of Primary Legislation\) Regulations 2023 \(S.I. 2023/1386\)](#), reg. 1(2), **Sch. para. 4(3)**

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### 34L Law of defamation **E+W**

- (1) For the purposes of the law of defamation the following are absolutely privileged—
- (a) the publication of any matter in communications between an adult social care provider and a Local Commissioner, or any person discharging or assisting in the discharge of a function of a Local Commissioner, for the purposes of this Part;
  - (b) the publication of any matter by a Local Commissioner or by any person discharging or assisting in the discharge of a function of a Local Commissioner, in communicating for the purposes of this Part with a person mentioned in subsection (2);
  - (c) the publication of any matter in preparing, making and sending a statement in accordance with section 34H;
  - (d) the publication of any matter by inclusion in an adverse findings notice published in accordance with section 34I(3), (4) and (5) or (6);
  - (e) the publication of any matter by inclusion in a statement, adverse findings notice or summary published or supplied under section 34J;
  - (f) the publication of any matter contained in a report by a Local Commissioner which has been made available to the public, being publication by inclusion in a report made or published under section 34S.
- (2) The persons mentioned in subsection (1)(b) are—
- (a) a complainant or the person affected in relation to a matter;
  - (b) the Parliamentary Commissioner, the Health Service Commissioner or any officer of either such Commissioner;
  - (c) the Care Quality Commission or any officer of that Commission;
  - (d) a local authority.

*Arrangements with other Commissioners etc.*

### 34M Consultation with other Commissioners **E+W**

- (1) Subsection (2) applies if, at any stage in the course of an investigation under this Part, a Local Commissioner forms the opinion that the matters which are the subject of the investigation include a matter which could be the subject of an investigation by—
- (a) the Parliamentary Commissioner, in accordance with the PCA 1967;
  - (b) the Health Service Commissioner, in accordance with the HSCA 1993;
  - (c) the Scottish Public Services Ombudsman in accordance with the SPSOA 2002; or
  - (d) the Public Services Ombudsman for Wales, in accordance with the PSOWA 2005 [<sup>F327</sup> or the PSOWA 2019].
- (2) The Local Commissioner—
- (a) must consult with the appropriate Commissioner or Ombudsman about the matter, and
  - (b) where a complaint was made about the matter must, if the Local Commissioner considers it necessary, inform the person initiating the complaint under this Part of the steps necessary to initiate a complaint under the PCA 1967, the HSCA 1993, the SPSOA 2002 or the PSOWA 2005, as the case may be.

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- (3) Consultation under subsection (2)(a) in relation to a matter under investigation under this Part may be about anything relating to the matter, including—
  - (a) the conduct of any investigation into the matter, and
  - (b) the form, content and publication of any report or statement of the results of or conclusions on such an investigation.
- (4) Subsection (5) applies if, at any stage in the course of conducting an investigation under the PCA 1967, the Parliamentary Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part.
- (5) The Parliamentary Commissioner—
  - (a) must consult with the appropriate Local Commissioner about the complaint, and
  - (b) if the Parliamentary Commissioner considers it necessary, must inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part.
- (6) Where a Local Commissioner is consulted about a complaint under the PCA 1967 by virtue of subsection (5), subsection (3) applies (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (2).
- (7) Nothing in the following provisions applies in relation to the disclosure of information in the course of consultations held in accordance with this section—
  - (a) section 11(2) of the PCA 1967;
  - (b) section 15 of the HSCA 1993;
  - (c) section 19 of the SPSOA 2002;
  - (d) section [F32834X] of the PSOWA 2005;
  - (e) section 34K(1) of this Act.

#### Textual Amendments

**F327** Words in s. 34M(1)(d) inserted (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 8**; S.I. 2019/1096, reg. 2

**F328** Word in s. 34M(7)(d) substituted (1.11.2014) by Social Services and Well-being (Wales) Act 2014 (anaw 4), s. 199(2), **Sch. 3 para. 9**; S.I. 2014/2718, art. 2(b)

### 34N Collaborative working with other Commissioners E+W

- (1) If, at any stage in the course of an investigation under this Part, a Local Commissioner forms the opinion that the matters which are the subject of the investigation include a matter within the jurisdiction of—
  - (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner, or
  - (c) both,
 the Local Commissioner may conduct an investigation under this Part jointly with that Commissioner or those Commissioners.
- (2) A Local Commissioner must obtain the consent of the person affected or the complainant (if any) before agreeing to a joint investigation referred to in subsection (1).

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- (3) If a Local Commissioner forms the opinion that a complaint being investigated by—
- (a) the Parliamentary Commissioner,
  - (b) the Health Service Commissioner, or
  - (c) both,

relates partly to a matter within the Local Commissioner's jurisdiction by virtue of this Part, the Local Commissioner may conduct an investigation under this Part jointly with that Commissioner or those Commissioners.

- (4) If a Local Commissioner conducts an investigation jointly with another person, the requirements of section 34H(1)(c) and (5) (so far as relating to a case where the Local Commissioner conducts an investigation under this Part) may be satisfied by a statement or report made jointly with that person.

### 34O Disclosure of information by Local Commissioner to Information Commissioner **E+W**

- (1) A Local Commissioner may disclose to the Information Commissioner any information obtained by, or furnished to, the Local Commissioner under or for the purposes of this Part if the information appears to the Local Commissioner to relate to—

- (a) a matter in respect of which the Information Commissioner could exercise any power conferred by—

[<sup>F329</sup>(i) sections 142 to 154, 160 to 164 or 174 to 176 of, or Schedule 15 to, the Data Protection Act 2018 (certain provisions relating to enforcement),]

(ii) section 48 of the Freedom of Information Act 2000 (practice recommendations), or

(iii) Part 4 of that Act (enforcement), or

- [<sup>F330</sup>(b) the commission of an offence under—

(i) a provision of the Data Protection Act 2018 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or

(ii) section 77 of the Freedom of Information Act 2000 (offence of altering etc records with intent to prevent disclosure).]

- (2) Nothing in section 34K(1) applies in relation to the disclosure of information in accordance with this section.

#### Textual Amendments

**F329** S. 34O(1)(a)(i) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 6(a) (with ss. 117, 209, 210, Sch. 20 para. 47(1)); S.I. 2018/625, reg. 2(1)(g)

**F330** S. 34O(1)(b) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 6(b) (with ss. 117, 209, 210, Sch. 20 para. 47(2)); S.I. 2018/625, reg. 2(1)(g)

### 34P Disclosure of information by Local Commissioner to Care Quality Commission **E+W**

- (1) A Local Commissioner may disclose to the Care Quality Commission any information obtained by, or furnished to, the Local Commissioner under or for the purposes of

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this Part if the information appears to the Local Commissioner to relate to a matter in respect of which the Care Quality Commission has functions under any enactment.

- (2) Nothing in section 34K(1) applies in relation to the disclosure of information in accordance with this section.

### *General*

#### **34Q Arrangements etc. to be made by Commission** E+W

- (1) The Commission must—
- (a) divide the matters which may be investigated under this Part into such categories as it considers appropriate, and
  - (b) allocate, or make arrangements for allocating, responsibility for each category of matter to one or more of the Local Commissioners.
- (2) The Commission—
- (a) must make arrangements for Local Commissioners to deal with matters for which they do not have responsibility pursuant to subsection (1), and
  - (b) must publish information about the procedures for making complaints under this Part.

#### **34R Review, recommendations, advice and guidance** E+W

- (1) In each financial year in which the Commission conducts a review under section 23(12), it must also review the operation (since the last review was made under this subsection) of the provisions of this Part about the investigation of matters.
- (2) The Commission may convey to government departments and the Care Quality Commission any recommendations or conclusions reached in the course of a review under subsection (1).
- (3) The Commission may—
- (a) provide to adult social care providers or any adult social care provider such advice and guidance about good practice as appears to the Commission to be appropriate, and
  - (b) arrange for the advice and guidance to be published for the information of the public.
- (4) Before providing advice or guidance under subsection (3) the Commission must consult such persons as appear to it to be appropriate.

#### **34S Annual reports** E+W

- (1) Every Local Commissioner must for each financial year—
- (a) prepare a general report on the discharge of the Local Commissioner's functions under this Part, and
  - (b) submit it to the Commission not later than 2 months after the end of the year to which it relates.
- (2) The Commission must for each financial year prepare a general report on the discharge of its functions under this Part (the “Part 3A annual report”).



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- (3) The Part 3A annual report must be prepared as soon as may be after the Commission has received the reports for the year from Local Commissioners under subsection (1).
- (4) The Commission must arrange for the publication of—
  - (a) the Part 3A annual report, and
  - (b) the reports which are submitted under subsection (1).
- (5) The Commission must lay a copy of the Part 3A annual report before Parliament.

### 34T Interpretation of Part 3A E+W

- (1) In this Part—
  - “adult social care” and “adult social care provider” have the meanings given by section 34A;
  - “Health Service Commissioner” means the Health Service Commissioner for England;
  - “the HSCA 1993” means the Health Service Commissioners Act 1993;
  - “the PCA 1967” means the Parliamentary Commissioner Act 1967;
  - “person affected”—
    - (a) in relation to a matter which is the subject of a complaint made or to be made under this Part, means a member of the public who claims or is alleged to have sustained injustice in consequence of the matter, and
    - (b) in relation to a matter coming to the attention of a Local Commissioner to which section 34E applies, means the member of the public who the Local Commissioner considers has, or may have, sustained injustice in consequence of the matter;
  - “the PSOWA 2005” means the Public Services Ombudsman (Wales) Act 2005;
  - [<sup>F331</sup>“the PSOWA 2019” means the Public Services Ombudsman (Wales) Act 2019,]
  - “the SPSOA 2002” means the Scottish Public Services Ombudsman Act 2002.
- (2) The following terms have the same meaning in this Part as they have in Part 3—
  - (a) action (and other expressions connoting action) (see section 34);
  - (b) the Commission (see section 34);
  - (c) local authority (see section 34);
  - (d) Local Commissioner (see section 23(3));
  - (e) Parliamentary Commissioner (see section 34).
- (3) Section 34(1A) applies for the purposes of this Part as it applies for the purposes of Part 3.]

#### Textual Amendments

**F331** Words in s. 34T(1) inserted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#), s. 77(1), [Sch. 5 para. 9](#); S.I. 2019/1096, reg. 2

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## PART IV E+W

### MISCELLANEOUS AND GENERAL

#### 35 E +W **Removal or relaxation of controls affecting certain local authority functions.**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in the first column of Schedule 6 to this Act shall have effect subject to the amendments specified in the second column of that Schedule.
- (2) Without prejudice to section 43(4) below, any reference in Schedule 6 to this Act to any enactment includes a reference to that enactment as applied by any other enactment, including a local Act.
- (3) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (4) An order made under this section—
  - (a) may be revoked or varied by a further order so made, and
  - (b) may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.
- (5) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.
- (6) In this section “local authority” means any local authority within the meaning of the <sup>M4</sup>Local Government Act 1972, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple, the Council of the Isles of Scilly, a port health authority, [<sup>F332</sup>Transport for London] and a Passenger Transport Executive.

#### **Textual Amendments**

**F332** Words in s. 35(6) substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), [Sch. 1 para. 5](#)

#### **Modifications etc. (not altering text)**

**C51** S. 35(3): application continued by [Weights and Measures Act 1985 \(c. 72, SIF 131\)](#), s. 196(1), [Sch. 11 para. 19](#)

#### **Marginal Citations**

**M4** 1972 c. 70.

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**36 Recovery by local authorities of establishment charges. E+W**

- (1) In any case where a local authority—
- (a) are empowered under any enactment to carry out any works or do any other thing on or in relation to any land or building, and
  - (b) by virtue of that or any other enactment are entitled to recover from any person expenses incurred by them in exercising that power,
- the local authority shall be entitled to recover, together with and in like manner as the expenses which are recoverable as mentioned in paragraph (b) above, such sum as appears to them to be reasonable in respect of their establishment charges.
- (2) The provisions of subsection (1) above shall have effect in substitution for any provision contained in any enactment, including an enactment in a local Act, under which a local authority who have exercised any such power as is referred to in subsection (1)(a) above have power to recover any sum in respect of their establishment charges or any element or elements of those charges.
- (3) In this section “local authority” has the same meaning as in section 35 above.

**Modifications etc. (not altering text)**

**C52** S. 36 applied by [Housing Act 1988 \(c. 50, SIF 61\)](#), **ss. 65(5), 68(4)**

**37** ..... <sup>F333</sup> **E+W**

**Textual Amendments**

**F333** S. 37 repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), **ss. 3, 6, Sch. 1 Pt. I**

**38** ..... <sup>F334</sup> **E+W**

**Textual Amendments**

**F334** S. 38 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), **ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 para. 3(1)(2)(3), 17, 40(4), 41(1), 57(6), 58, Sch. 27 Pt. I**

**39 Compensation for loss of office : extension of cases for which regulations may provide. E+W**

For subsection (3) of section 259 of the <sup>M5</sup>Local Government Act 1972 (regulations providing for compensation for loss of office attributable to that Act may extend to persons whose loss is attributable to any such transfer or relinquishment of functions as is referred to in paragraph (c) of the new subsection set out below) there shall be substituted the following subsection :—

- “(3) Without prejudice to subsection (1) above, regulations under this section may make provision in relation to persons who suffer loss of employment or loss or diminution of emoluments which is attributable to—

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- (a) the provisions of any such order as is referred to in section 326(1) of the Public Health Act 1936 ;
- (b) an existing local authority ceasing, as respects the whole or part of their area, to be a food and drugs authority, within the meaning of the Food and Drugs Act 1955 ;
- (c) any transfer or relinquishment of functions under any of the provisions of the Public Health Act 1936 which are incorporated in the Food and Drugs Act 1955 or in the Slaughterhouses Act 1974 ; or
- (d) the provisions of an order under section 46 of the Children and Young Persons Act 1969 ;

and, without prejudice to the repeal of any enactment by this Act, regulations making provision for any of the cases specified in paragraphs (a) to (d) above may provide that the provisions as to compensation made for that case by section 326 of the Public Health Act 1936, section 129(1) of the Food and Drugs Act 1955 or, as the case may be, paragraph 2 of Schedule 3 to the Children and Young Persons Act 1969 shall not apply in relation to persons to whom the provisions of theregulations apply.”

**Modifications etc. (not altering text)**

**C53** The text of s. 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M5** 1972 c. 70.

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.....<sup>F335</sup> **E+W**

**Textual Amendments**

**F335** S. 40 repealed by [Highways Act 1980 \(c. 66\)](#), [Sch. 25](#)

**41 Expenses.** **E+W**

There shall be defrayed out of money provided by Parliament—

- (a) any sums required for the payment of grants under this Act or any other expenses of a Minister under this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other Act.

**42 Minor and consequential amendments and repeals.** **E+W**

- (1) Schedule 7 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Schedule 8 to this Act are here by repealed to the extent specified in the third column of that Schedule.

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**Modifications etc. (not altering text)**

**C54** The text of s. 42 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**43 Short title, commencement, construction, application and extent. E+W**

- (1) This Act may be cited as the Local Government Act 1974.
- (2) Part II, other than sections 16 and 22, and sections 35, 37 and 42 of this Act and Schedules 6 to 8 to this Act shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) An order under subsection (2) above appointing a day for the coming into operation of any provision of Schedules 6 to 8 to this Act may contain such savings with respect to the operation of that provision as appear to the Secretary of State to be appropriate.
- (4) Any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.
- (5) In their application to the Isles of Scilly, the provisions of Parts I and IV of this Act shall have effect subject to such modifications as the Secretary of State may by order made by statutory instrument direct.
- (6) . . . . .<sup>F336</sup>, this Act shall not extend to Scotland or to Northern Ireland.

**Textual Amendments**

**F336** Words repealed by [House of Commons Disqualification Act 1975 \(c. 24\)](#), [Sch. 3](#) and [Northern Ireland Assembly Disqualification Act 1975 \(c. 25\)](#), [Sch. 3 Pt. I](#)

**Modifications etc. (not altering text)**

**C55** Power of appointment conferred by s. 43(2) fully exercised: [S.I. 1974/335](#), 1977/943 and 1978/1583

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 33(1) word repealed by [2004 c. 34 Sch. 15 para. 7\(3\)\(b\)](#)[Sch. 16](#) (This amendment is not applied to [legislation.gov.uk](#). [Sch. 15 para. 7](#) repealed (1.4.2006) by [2005 c. 10, Sch. 7](#); [S.I. 2005/2800](#), art. 5(1)(3))
- s. 33(1) words inserted by [2022 c. 30 Sch. 10 para. 2\(2\)\(b\)](#)
- s. 33(2) word repealed by [2004 c. 34 Sch. 15 para. 7\(4\)\(b\)](#) (This amendment is not applied to [legislation.gov.uk](#). [Sch. 15 para. 7](#) repealed (1.4.2006) by [2005 c. 10, Sch. 7](#); [S.I. 2005/2800](#), art. 5(1)(3))
- s. 33(2) words inserted by [2022 c. 30 Sch. 10 para. 2\(3\)](#)
- s. 33(4) words substituted by [2022 c. 30 Sch. 10 para. 2\(5\)\(a\)](#)
- s. 33(4) words substituted by [2022 c. 30 Sch. 10 para. 2\(5\)\(b\)](#)
- s. 33ZA(1)(b) word omitted by [2022 c. 30 Sch. 10 para. 3\(2\)\(a\)](#)
- s. 33ZA(1A) words substituted by [2022 c. 30 Sch. 10 para. 3\(3\)](#)
- s. 33ZA(3) words substituted by [2022 c. 30 Sch. 10 para. 3\(4\)\(c\)](#)
- s. 33ZA(3)(b) word omitted by [2022 c. 30 Sch. 10 para. 3\(4\)\(a\)](#)
- s. 33ZB(4)(c) word omitted by [2022 c. 30 Sch. 10 para. 4\(a\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(bzb) inserted by [2022 c. 30 Sch. 10 para. 2\(2\)\(a\)](#)
- s. 33(3B) inserted by [2022 c. 30 Sch. 10 para. 2\(4\)](#)
- s. 33ZA(1)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(2\)\(b\)](#)
- s. 33ZA(3)(d) and word inserted by [2022 c. 30 Sch. 10 para. 3\(4\)\(b\)](#)
- s. 33ZB(4)(e)(f) inserted by [2022 c. 30 Sch. 10 para. 4\(b\)](#)