Local Government Act 2000

2000 CHAPTER 22

PART I

PROMOTION OF ECONOMIC, SOCIAL OR ENVIRONMENTAL WELL-BEING ETC

Interpretation

1 Meaning of "local authority" in Part I.

[[F1](1)**]** In this Part "local authority" means—

(a) in relation to England—

(i) a county council,

(ii) a district council,

(iii) a London borough council,

(iv) the Common Council of the City of London in its capacity as a local authority,

(v) the Council of the Isles of Scilly,

[[F2](vi) an eligible parish council,**]**

(b) in relation to Wales, a county council or a county borough council **[**[F3]or a community council**]**.

[[F4](2) A parish council is "eligible" for the purposes of this Part if the council meets the conditions prescribed by the Secretary of State by order for the purposes of this section.**]**

Textual Amendments

F1 S. 1 renumbered as s. 1(1) (1.4.2008 for specified purposes, 31.12.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 77(2)**, 245(5); S.I. 2008/917, art. 5; S.I. 2008/3110, art. 3(a)

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F2 S. 1(1)(a)(vi) inserted (1.4.2008 for specified purposes, 31.12.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 77(3)**, 245(5); S.I. 2008/917, art. 5; S.I. 2008/3110, art. 3(a)

F3 Words in s. 1(1)(b) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 126(1)**, 178(2) (with s. 128)

F4 S. 1(2) inserted (1.4.2008 for specified purposes, 31.12.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 77(4)**, 245(5); S.I. 2008/917, art. 5; S.I. 2008/3110, art. 3(a)

Commencement Information

I1 S. 1 wholly in force at 9.4.2001; s. 1 not in force at Royal Assent see s. 108; s. 1 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 1 in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

Promotion of well-being

2 Promotion of well-being.

(1) Every local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects—

(a) the promotion or improvement of the economic well-being of their area,

(b) the promotion or improvement of the social well-being of their area, and

(c) the promotion or improvement of the environmental well-being of their area.

(2) The power under subsection (1) may be exercised in relation to or for the benefit of—

(a) the whole or any part of a local authority's area, or

(b) all or any persons resident or present in a local authority's area.

(3) In determining whether or how to exercise the power under subsection (1), a local authority **[**[F5]in England**]** must have regard to their strategy under section 4.

[[F6](3A) But, in the case of an eligible parish council, that is subject to section 4A.**]**

[[F7](3B) In determining whether or how to exercise the power under subsection (1), a local authority in Wales must have regard to the community strategy for its area published under section 39(4) of the Local Government (Wales) Measure 2009 or, where the strategy has been amended following a review under section 41 of that Measure, the strategy most recently published under section 41(6).**]**

[[F8](3C) The community strategy for the area of a community council is the strategy referred to in subsection (3B) that is published by the county council or county borough council in whose area lies the community or communities for which the community council is established.**]**

(4) The power under subsection (1) includes power for a local authority to—

(a) incur expenditure,

(b) give financial assistance to any person,

(c) enter into arrangements or agreements with any person,

(d) co-operate with, or facilitate or co-ordinate the activities of, any person,

(e) exercise on behalf of any person any functions of that person, and

(f) provide staff, goods, services or accommodation to any person.

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(5) The power under subsection (1) includes power for a local authority to do anything in relation to, or for the benefit of, any person or area situated outside their area if they consider that it is likely to achieve any one or more of the objects in that subsection.

(6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).

Textual Amendments

F5 Words in s. 2(3) inserted (1.1.2010) by Local Government (Wales) Measure 2009 (nawm 2), s. 53(2), **Sch. 2 para. 2(a)** (with Sch. 3 para. 2); S.I. 2009/3272, art. 2, Sch. 1

F6 S. 2(3A) inserted (31.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 78(2)**, 245(5); S.I. 2008/3110, art. 3(b)

F7 S. 2(3B) inserted (1.1.2010) by Local Government (Wales) Measure 2009 (nawm 2), s. 53(2), **Sch. 2 para. 2(b)** (with Sch. 3 para. 2); S.I. 2009/3272, art. 2, Sch. 1

F8 S. 2(3C) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 126(2)**, 178(2) (with s. 128)

Modifications etc. (not altering text)

C1 S. 2 restricted (8.1.2003) by 2002 c. 41, **s. 55** (with s. 159); S.I. 2002/2811, art. 2, **Sch.**
S. 2 restricted (8.1.2003) by 2002 c. 41, ss. 54, 162(2), **Sch. 3** (with s. 159); S.I. 2002/2811, art. 2, Sch.

C2 S. 2 functions made exercisable concurrently (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), arts. 1, 10, **Sch. 3 para. 7**

Commencement Information

I2 S. 2 wholly in force at 9.4.2001; s. 2 not in force at Royal Assent see s. 108; s. 2 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 2 in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

3 Limits on power to promote well-being.

(1) The power under section 2(1) does not enable a local authority to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in any enactment (whenever passed or made).

(2) The power under section 2(1) does not enable a local authority to raise money (whether by precepts, borrowing or otherwise).

(3) The Secretary of State may by order make provision preventing local authorities from doing, by virtue of section 2(1), anything which is specified, or is of a description specified, in the order.

[[F9](3A) The power under subsection (3) may be exercised in relation to—

(a) all local authorities,

(b) particular local authorities, or

(c) particular descriptions of local authority.**]**

(4) **[**[F10]Subject to subsection (4A),**]** before making an order under subsection (3), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

[[F11](4A) Subsection (4) does not apply to an order under this section which is made only for the purpose of amending an earlier order under this section—

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(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.**]**

(5) Before exercising the power under section 2(1), a local authority must have regard to any guidance for the time being issued by the Secretary of State about the exercise of that power.

(6) Before issuing any guidance under subsection (5), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

(7) In its application to Wales, this section has effect as if for any reference to the Secretary of State there were substituted a reference to **[**[F12]the Welsh Ministers**]**.

(8) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the [M1]Interpretation Act 1978).

Textual Amendments

F9 S. 3(3A) inserted (18.11.2003 for E.; 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 12(2)**; S.I. 2003/2938, art. 3(a) (with art. 8,Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F10 Words in s. 3(4) inserted (18.11.2003 for E.; 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 12(3)**; S.I. 2003/2938, art. 3(a) (with art. 8,Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F11 S. 3(4A) inserted (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 12(4)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F12 Words in s. 3(7) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(2)**, 245(2)

Modifications etc. (not altering text)

C3 S. 3(2) excluded (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 93**, 128(2)(d)

Commencement Information

I3 S. 3 wholly in force at 9.4.2001; s. 3 not in force at Royal Assent see s. 108; s. 3 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 3(3)-(7) in force (W.) at 1.11.2000 by S.I. 2000/2948, **art. 2**; s. 3(1)(2)(8) in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

Marginal Citations

M1 1978 c. 30.

4 Strategies for promoting well-being.

(1) Every local authority **[**[F13]in England**]** must prepare a strategy (referred to in this section as a **[**[F14]sustainable community strategy **]**) for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom.

(2) A local authority may from time to time modify their **[**[F15]sustainable community strategy **]**.

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(3) In preparing or modifying their **[**[F16]sustainable community strategy **]**, a local authority—

(a) must consult and seek the participation of **[**[F17]—

(i) in the case of a responsible local authority, each partner authority and such other persons as the responsible local authority consider appropriate, or

(ii) in any other case, such persons as the authority consider appropriate, [F18]...**]**

[[F19](aa) must, if it is a local authority in England, have regard to the following, so far as they relate to the authority's area—

(i) any arrangements made under section 21 of the Child Poverty Act 2010 (co-operation to reduce child poverty in local area);

(ii) any local child poverty needs assessment prepared under section 22 of that Act (local child poverty needs assessment);

(iii) any joint child poverty strategy prepared under section 23 of that Act (joint child poverty strategy for local area), and**]**

(b) must have regard to any guidance for the time being issued by the Secretary of State.

(4) Before issuing any guidance under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

[F20](5) . . . . . .

[[F21](6) In subsection (3)(a), "responsible local authority" and "partner authority", in relation to a responsible local authority, have the same meanings as in Chapter 1 (local area agreements) of Part 5 of the Local Government and Public Involvement in Health Act 2007 (see sections 103 and 104 of that Act).**]**

Textual Amendments

F13 Words in s. 4(1) inserted (1.1.2010) by Local Government (Wales) Measure 2009 (nawm 2), s. 53(2), **Sch. 2 para. 3(a)**; S.I. 2009/3272, art. 2, Sch. 1

F14 Words in s. 4(1) substituted (23.10.2007) by Sustainable Communities Act 2007 (c. 23), **s. 7(1)**(2)(a)

F15 Words in s. 4(2) substituted (23.10.2007) by Sustainable Communities Act 2007 (c. 23), **s. 7(1)**(2)(a)

F16 Words in s. 4(3) substituted (23.10.2007) by Sustainable Communities Act 2007 (c. 23), **s. 7(1)**(2)(a)

F17 Words in s. 4(3)(a) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 114(2)**, 245(2)

F18 Word in s. 4(3)(a) omitted (25.5.2010) by virtue of Child Poverty Act 2010 (c. 9), **ss. 24(a)**, 31(2)

F19 S. 4(3)(aa) inserted (25.5.2010) by Child Poverty Act 2010 (c. 9), **ss. 24(b)**, 31(2)

F20 S. 4(5) repealed (1.1.2010) by Local Government (Wales) Measure 2009 (nawm 2), s. 53(2), Sch. 2 para. 3(b), **Sch. 4**; S.I. 2009/3272, art. 2, Sch. 1

F21 S. 4(6) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 114(3)**, 245(2)

Modifications etc. (not altering text)

C4 S. 4: functions of local authority not to be sole responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 4(1), **Sch. 3**

C5 S. 4(1) functions made exercisable concurrently (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), arts. 1, 10, **Sch. 3 para. 8**

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Commencement Information

I4 S. 4 wholly in force at 9.4.2001; s. 4 not in force at Royal Assent see s. 108; s. 4 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 4(3)(b)(4)(5) in force (W.) at 1.11.2000 by S.I. 2000/2948, **art. 2**; s. 4(1)(2)(3)(a) in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

[F22 4A Strategies: parishes

(1) The duty in section 4 to prepare a community strategy does not apply to an eligible parish council.

(2) But in exercising the power under section 2(1), an eligible parish council must have regard to any community strategy prepared by a relevant principal council.

(3) In this section "relevant principal council", in relation to a parish council, means any county council, district council or London borough council whose area the parish lies within.**]**

Textual Amendments

F22 S. 4A inserted (31.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 78(3)**, 245(5); S.I. 2008/3110, art. 3(b)

5 Power to amend or repeal enactments.

(1) If the Secretary of State thinks that an enactment (whenever passed or made) prevents or obstructs local authorities from exercising their power under section 2(1) he may by order amend, repeal, revoke or disapply that enactment.

(2) The power under subsection (1) may be exercised in relation to—
- (a) all local authorities,
- (b) particular local authorities, or
- (c) particular descriptions of local authority.

(3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

[F23 (4) In exercising the power under subsection (1), the Secretary of State must not make any provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.

(4A) In exercising the power under subsection (1), the Secretary of State—
- (a) must not make any provision amending, repealing or disapplying any Measure or Act of the National Assembly for Wales without the consent of the National Assembly for Wales, and
- (b) must not make any provision amending, revoking or disapplying subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

(4B) Subsection (4A) does not apply to the extent that the Secretary of State is making incidental or consequential provision.**]**

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(5) **[**[F24]The Welsh Ministers**]** may submit proposals to the Secretary of State that the power under subsection (1) should be exercised in relation to Wales in accordance with those proposals.

(6) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the [M2]Interpretation Act 1978).

[[F25](7) The reference to local authorities in subsection (1) does not include community councils.**]**

Textual Amendments

F23 S. 5(4)-(4B) substituted for s. 5(4) (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(3)**, 245(2)

F24 Words in s. 5(5) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(4)**, 245(2)

F25 S. 5(7) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 126(3)**, 178(2) (with s. 128)

Commencement Information

I5 S. 5 wholly in force at 9.4.2001; s. 5 not in force at Royal Assent see s. 108(4); s. 5 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 5(5) in force (W.) at 1.11.2000 by S.I. 2000/2948, **art. 2**; s. 5(1)-(4)(6) in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

Marginal Citations

M2 1978 c. 30.

Modification of certain enactments

6 Power to modify enactments concerning plans etc.

(1) Subject to subsection (3), the Secretary of State may by order amend, repeal, revoke or disapply any enactment (whenever passed or made) which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter **[**[F26]so far as that enactment has effect in relation to a local authority in England**]**.

(2) The power under subsection (1) may be exercised in relation to—
- (a) all local authorities **[**[F27]in England**]**,
- (b) particular local authorities **[**[F28]in England**]**, or
- (c) particular descriptions of local authority **[**[F29]in England**]**.

(3) The power under subsection (1) may be exercised in relation to a local authority only if the Secretary of State considers—
- (a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or
- (b) that any such enactment should be amended so that it operates more effectively in relation to the authority.

(4) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

[F30](5) . . . . . .

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[F31](6) . . . . . .

(7) An order under this section which would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.

(8) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

Textual Amendments

F26 Words in s. 6(1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(5)(a)**, 245(2)

F27 Words in s. 6(2)(a) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(5)(b)**, 245(2)

F28 Words in s. 6(2)(b) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(5)(b)**, 245(2)

F29 Words in s. 6(2)(c) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(5)(c)**, 245(2)

F30 S. 6(5) repealed (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 115(5)(d), 245(2), **Sch. 18 Pt. 5**

F31 S. 6(6) repealed (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 115(5)(d), 245(2), **Sch. 18 Pt. 5**

Commencement Information

I6 S. 6 wholly in force at 9.4.2001; s. 6 not in force at Royal Assent see s. 108(4); s. 6 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 6(6) in force (W.) at 1.11.2000 by S.I. 2000/2948, **art. 2**; s. 6(1)-(5)(7)(8) in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

7 Power to modify enactments concerning plans etc: Wales.

(1) Subject to subsections (4) and (6), **[**[F32]the Welsh Ministers**]** may by order amend, repeal, revoke or disapply any enactment **[**[F33](whenever passed or made) which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter**]** so far as that enactment has effect in relation to a local authority in Wales.

[F34](2) . . . . . .

(3) The power under subsection (1) may be exercised in relation to—

(a) all local authorities in Wales,

(b) particular local authorities in Wales, or

(c) particular descriptions of local authority in Wales.

(4) The power under subsection (1) may be exercised in relation to a local authority only if **[**[F35]the Welsh Ministers consider**]**—

(a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or

(b) that any such enactment should be amended so that it operates more effectively in relation to the authority.

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(5) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

[F36](6) . . . . . .

(7) In this section "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the [M3]Interpretation Act 1978).

[[F37](8) An order under this section may not make a provision which, if it were a provision of **[**[F38]an Act**]** of the National Assembly for Wales, would be outside the Assembly's legislative competence.

(9) For the purposes of subsection (8), **[**[F39]section 108(4) of the Government of Wales Act 2006 (Legislative competence) has effect as if paragraph (a) were omitted**]**.

(10) Subject to subsection (11), a statutory instrument which contains an order under this section is not to be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

(11) A statutory instrument containing an order under this section which is made only for the purpose of amending an earlier such order—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,

is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.**]**

Textual Amendments

F32 Words in s. 7(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(6)(a)(i)**, 245(2)

F33 Words in s. 7(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(6)(a)(ii)**, 245(2)

F34 S. 7(2) repealed (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 115(6)(b), 245(2), **Sch. 18 Pt. 5**

F35 Words in s. 7(4) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(6)(c)**, 245(2)

F36 S. 7(6) repealed (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 115(6)(d), 245(2), **Sch. 18 Pt. 5**

F37 S. 7(8)-(11) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(7)**, 245(2)

F38 Words in s. 7(8) substituted (5.5.2011) by The Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011 (S.I. 2011/1011), arts. 2, **6(2)**

F39 Words in s. 7(9) substituted (5.5.2011) by The Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011 (S.I. 2011/1011), arts. 2, **6(3)**

Commencement Information

I7 S. 7 wholly in force at 1.11.2000; s. 7 not in force at Royal Assent see s. 108(4); s. 7 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 7 in force (W.) at 1.11.2000 by S.I. 2000/2948, **art. 2**

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Marginal Citations

M3 1978 c. 30.

8 Modification of section 137 of the 1972 Act.

In section 137 of the [M4]Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised), for subsection (9) there is substituted—

"(9) Subject to subsection (10) below, in this section "local authority" means a parish or community council.

(10) In subsection (3) above "local authority" means—

(a) in relation to England, a county council, a district council, a London borough council, the Common Council or a parish council,

(b) in relation to Wales, a county council, a county borough council or a community council."

Commencement Information

I8 S. 8 wholly in force at 9.4.2001; s. 8 not in force at Royal Assent see s. 108(4); s. 8 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 8 in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

Marginal Citations

M4 1972 c. 70.

Procedure for orders under section 5 or 6

9 Procedure for orders under section 5 or 6.

(1) Before the Secretary of State makes an order under section 5 or 6 he must consult—

(a) such local authorities,

(b) such representatives of local government, and

(c) such other persons (if any),

as appear to him to be likely to be affected by his proposals.

(2) Where those proposals affect any local authorities in Wales, the Secretary of State must also consult **[**[F40]the Welsh Ministers**]**.

(3) If, following consultation under the preceding provisions of this section, the Secretary of State proposes to make an order under section 5 or 6 he must lay before each House of Parliament a document which—

(a) explains his proposals,

(b) sets them out in the form of a draft order,

(c) gives details of consultation under subsection (1), and

(d) where consultation has taken place under subsection (2), sets out the views of **[**[F41]the Welsh Ministers**]**.

(4) Where a document relating to proposals is laid before Parliament under subsection (3), no draft of an order under section 5 or 6 to give effect to the proposals (with or without

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modifications) is to be laid before Parliament in accordance with section 105(6) until after the expiry of the period of sixty days beginning with the day on which the document was laid.

(5) In calculating the period mentioned in subsection (4) no account is to be taken of any time during which—

(a) Parliament is dissolved or prorogued, or

(b) either House is adjourned for more than four days.

(6) In preparing a draft order under section 5 or 6 the Secretary of State must consider any representations made during the period mentioned in subsection (4).

(7) A draft order under section 5 or 6 which is laid before Parliament in accordance with section 105(6) must be accompanied by a statement of the Secretary of State giving details of—

(a) any representations considered in accordance with subsection (6), and

(b) any changes made to the proposals contained in the document laid before Parliament under subsection (3).

[[F42](8) Nothing in this section applies to an order under section 5 or 6 which is made only for the purpose of amending an earlier order under that section—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.**]**

Textual Amendments

F40 Words in s. 9(2) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(8)(a)**, 245(2)

F41 Words in s. 9(3)(d) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(8)(b)**, 245(2)

F42 S. 9(8) inserted (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 13**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

Commencement Information

I9 S. 9 wholly in force at 9.4.2001; s. 9 not in force at Royal Assent see s. 108(4); s. 9 in force (E.) at 18.10.2000 by S.I. 2000/2836, **arts. 1(3)**, 2(a); s. 9 in force (W.) at 9.4.2001 by S.I. 2001/1471, **art. 2**

[[F43]9A Procedure for orders under section 7

(1) Before the Welsh Ministers make an order under section 7 they must consult—

(a) such local authorities in Wales,

(b) such representatives of local government in Wales, and

(c) such other persons (if any),

as appear to them to be likely to be affected by their proposals.

(2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 7 they must lay before the National Assembly for Wales a document which—

(a) explains their proposals,

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(b) sets them out in the form of a draft order, and

(c) gives details of consultation under subsection (1).

(3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 7 to give effect to the proposals (with or without modifications) is to be laid before the National Assembly for Wales until after the expiry of the period of sixty days beginning with the day on which the document was laid.

(4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.

(5) In preparing a draft order under section 7 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).

(6) A draft order under section 7 which is laid before the National Assembly for Wales must be accompanied by a statement of the Welsh Ministers giving details of—

(a) any representations considered in accordance with subsection (5), and

(b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2).

(7) Nothing in this section applies to an order under section 7 which is made only for the purpose of amending an earlier order under that section—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.**]**

Textual Amendments

F43 S. 9A inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 115(9)**, 245(2)

F44[F44PART 1A

Arrangements with respect to local authority governance in England

Textual Amendments

F44 Pt. 1A inserted (3.12.2011 for specified purposes, 15.1.2012 for the insertion of Pt. 1A Ch. 4 so far as not already in force and ss. 9B, 9C and 9R for specified purposes, 9.3.2012 for the insertion of ss. 9H-9HE in so far as not already in force and s. 9R for specified purposes, 4.5.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 2 para. 1**; S.I. 2011/2896, art. 2(e); S.I. 2012/57, art. 4(1)(b) (with arts. 6, 7, 9-11); S.I. 2012/628, art. 2(a); S.I. 2012/1008, art. 4(b)

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CHAPTER 1

PERMITTED FORMS OF GOVERNANCE

9B Permitted forms of governance for local authorities in England

(1) A local authority must operate—
- (a) executive arrangements,
- (b) a committee system, or
- (c) prescribed arrangements.

(2) Executive arrangements must conform with any provisions made by or under this Part which relate to such arrangements (see, in particular, Chapter 2).

(3) A committee system must conform with any provisions made by or under this Part which relate to such a system (see, in particular, Chapter 3).

(4) In this Part—

"a committee system" means the arrangements made by a local authority, which does not operate executive arrangements or prescribed arrangements, for or in connection with the discharge of its functions in accordance with—
- (a) Part 6 of the Local Government Act 1972, and
- (b) this Part;

"executive arrangements" means arrangements by a local authority—
- (a) for and in connection with the creation and operation of an executive of the authority, and
- (b) under which certain functions of the authority are the responsibility of the executive;

"prescribed arrangements" means such arrangements as may be prescribed in regulations made by the Secretary of State under section 9BA.

9BA Power of Secretary of State to prescribe additional permitted governance arrangements

(1) The Secretary of State may by regulations make provision prescribing arrangements that local authorities may operate for and in connection with the discharge of their functions.

(2) In particular, the regulations—
- (a) must include provision about how, and by whom, the functions of a local authority are to be discharged, and
- (b) may include provision enabling functions to be delegated.

(3) Regulations under this section may, in particular, include provision which applies or reproduces (with or without modifications) any provisions of, or any provision made under, Chapters 2 to 4 of this Part.

(4) In considering whether or how to exercise the power in this section, the Secretary of State must have regard to any proposals made under subsection (5).

(5) A local authority may propose to the Secretary of State that the Secretary of State make regulations prescribing arrangements specified in the proposal if the authority considers that the conditions in subsection (6) are met.

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(6) The conditions are—

(a) that the operation by the authority of the proposed arrangements would be an improvement on the arrangements which the authority has in place for the discharge of its functions at the time that the proposal is made to the Secretary of State,

(b) that the operation by the authority of the proposed arrangements would be likely to ensure that the decisions of the authority are taken in an efficient, transparent and accountable way, and

(c) that the arrangements, if prescribed under this section, would be appropriate for all local authorities, or for any particular description of local authority, to consider.

(7) A proposal under subsection (5)—

(a) must describe the provision which the authority considers should be made under subsection (2) in relation to the proposed arrangements, and

(b) explain why the conditions in subsection (6) are met in relation to the proposed arrangements.

CHAPTER 2

EXECUTIVE ARRANGEMENTS

Local authority executives

9C Local authority executives

(1) The executive of a local authority must take a form specified in subsection (2) or (3).

(2) The executive may consist of—

(a) an elected mayor of the authority, and

(b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

(3) The executive may consist of—

(a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and

(b) two or more councillors of the authority appointed to the executive by the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).

(4) A local authority executive may not include the chairman or vice-chairman of the authority.

(5) The number of members of a local authority executive may not exceed 10 or such other number as may be specified in regulations made by the Secretary of State.

(6) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under subsection (3)(a).

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Executive functions

9D Functions which are the responsibility of an executive

(1) This section has effect for the purposes of determining which of the functions of a local authority that operates executive arrangements are the responsibility of an executive of the authority under those arrangements.

(2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of the local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.

(3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—
- (a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
- (b) to be a function which may be the responsibility of such an executive under such arrangements, or
- (c) to be a function which—
  - (i) to the extent provided by the regulations, is to be the responsibility of such an executive under such arrangements, and
  - (ii) to the extent provided by the regulations, is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—
- (a) to be a function which is to be the responsibility of an executive of the authority,
- (b) to be a function which is not to be the responsibility of such an executive, or
- (c) to be a function which—
  - (i) to the extent provided by the arrangements, is to be the responsibility of such an executive, and
  - (ii) to the extent provided by the arrangements, is not to be the responsibility of such executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority that operates executive arrangements—
- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of the local authority, and
- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

(6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the Local Government Act 1972, or any provision of that section, does not apply to that function.

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(8) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(9) In this section—

"action" in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

(a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,

(b) the doing of anything incidental or conducive to the discharge of the function, or

(c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b);

"function" means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

9DA Functions of an executive: further provision

(1) Any reference in the following provisions of this Chapter to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of section 9D, the responsibility of the executive under such arrangements.

(2) Any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) is to be regarded as exercisable by the executive on behalf of the authority, and

(b) may be discharged only in accordance with any provisions made by or under this Part or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England) which apply to the discharge of any such function by that form of executive.

(3) Accordingly, any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) may not be discharged by the authority,

(b) is not to be a function to which section 101(1) of the Local Government Act 1972 applies, and

(c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 9EB.

(4) Subject to any provision made under subsection (5), any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Chapter.

(5) The Secretary of State may by regulations make provision with respect to the discharge of any function of a local authority that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the local authority (including provision disapplying section 101 of the Local Government Act 1972 or any provision of that section).

(6) In this section "function" has the same meaning as in section 9D.

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Discharge of functions

9E Discharge of functions: general

(1) Subject to any provision made under section 9EA or 9EB, any functions which, under executive arrangements, are the responsibility of—
  (a) a mayor and cabinet executive, or
  (b) a leader and cabinet executive (England),
are to be discharged in accordance with this section.

(2) The senior executive member—
  (a) may discharge any of those functions, or
  (b) may arrange for the discharge of any of those functions—
    (i) by the executive,
    (ii) by another member of the executive,
    (iii) by a committee of the executive,
    (iv) by an area committee, or
    (v) by an officer of the authority.

(3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the senior executive member otherwise directs, the executive may arrange for the discharge of any of those functions—
  (a) by a committee of the executive,
  (b) by an area committee, or
  (c) by an officer of the authority.

(4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the senior executive member otherwise directs, the member who may discharge the functions may arrange for the discharge of any of those functions—
  (a) by an area committee, or
  (b) by an officer of the authority.

(5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions—
  (a) by an area committee, or
  (b) by an officer of the authority.

(6) Where by virtue of this section any functions may be discharged by an area committee, then, unless the senior executive member otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.

(7) Any arrangements made by virtue of this section by a senior executive member, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the senior executive member, executive, member or committee by whom the arrangements are made from exercising those functions.

(8) In this section—
  "area committee", in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (9);

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"senior executive member" means—

(a) in the case of a mayor and cabinet executive, the elected mayor;

(b) in the case of a leader and cabinet executive (England), the executive leader.

(9) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—

(a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority, and

(b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part.

9EA Discharge of functions of and by another local authority

(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

(a) by a relevant authority (other than the local authority), or

(b) by a relevant executive (other than an executive of the local authority) or a committee or specified member of such an executive.

(2) The Secretary of State may by regulations make provision for or in connection with enabling a relevant authority in England to arrange for the discharge of any of its functions by a relevant executive (other than an executive of the relevant authority) or a committee or specified member of such an executive.

(3) The reference in subsection (2) to the functions of a relevant authority in England, in a case where the authority is operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority's executive.

(4) Regulations under subsection (1) or (2) may, in particular, include provision—

(a) requiring, in the case of arrangements for the discharge of any functions by a relevant executive or a committee or member of such an executive, the approval of the authority of which the executive is part to such arrangements;

(b) which, in the case of arrangements for the discharge of any functions by a relevant authority, enables any of those functions to be delegated;

(c) which, in the case of arrangements for the discharge of any functions by a relevant executive or a committee or member of such an executive, enables any of those functions to be delegated.

(5) The provision made under subsection (4)(b) may, in particular, apply or reproduce (with or without modifications) any provisions of section 101(2) to (4) of the Local Government Act 1972.

(6) The provision made under subsection (4)(c) may, in particular, apply or reproduce (with or without modifications) any provisions of section 9E.

(7) In this section—

"relevant authority" means a local authority within the meaning of section 101 of the Local Government Act 1972;

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"relevant executive" means an executive of a local authority under either this Part or Part 2;

"specified" means specified in regulations under this section.

9EB Joint exercise of functions

(1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.

(2) The provision which may be made under subsection (1) includes, in particular, provision—

(a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,

(b) as to the circumstances in which—

(i) the authority, and

(ii) the executive or a committee or specified member of the executive,

are both to be parties to the arrangements,

(c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,

(d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,

(e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,

(f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.

(3) In this section "specified" means specified in regulations under this section.

Overview and scrutiny committees

9F Overview and scrutiny committees: functions

(1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Chapter as overview and scrutiny committees).

(2) Executive arrangements by a local authority must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees, and any joint overview and scrutiny committees, have power between them)—

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

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(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,

(d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,

(e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,

(f) in the case of the overview and scrutiny committee, or committees, of an authority to which section 244 of the National Health Service Act 2006 applies—

(i) to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning given by that Act as extended by that section) in the authority's area, and

(ii) to make reports and recommendations on such matters in accordance with the regulations.

(3) In subsection (2) "joint overview and scrutiny committee", in relation to a local authority ("the authority concerned"), means—

(a) a joint overview and scrutiny committee within the meaning given by subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,

(b) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given by subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or

(c) a joint overview and scrutiny committee within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 (joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned.

(4) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—

(a) to recommend that the decision be reconsidered by the person who made it, or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.

(5) An overview and scrutiny committee of a local authority may not discharge any functions other than—

(a) its functions under this section and sections 9FA to 9FI, or

(b) its functions under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters).

9FA Overview and scrutiny committees: supplementary provision

(1) An overview and scrutiny committee of a local authority—

(a) may appoint one or more sub-committees, and

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(b) may arrange for the discharge of any of its functions by any such sub-committee.

(2) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (1)(b).

(3) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.

(4) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority.

(5) Subject to any provision made by or under paragraphs 6 to 8 of Schedule A1 and to section 20(6) of the Police and Justice Act 2006, any persons who are not members of the local authority are not entitled to vote at any meeting of its overview and scrutiny committee, or any sub-committee of such a committee, on any question which falls to be decided at that meeting, unless permitted to do so under paragraphs 11 and 12 of that Schedule.

(6) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—

(a) as a committee or sub-committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and

(b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

(7) Subsections (2) and (5) of section 102 of the Local Government Act 1972 apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

(8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—

(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,

(b) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and

(c) may invite other persons to attend meetings of the committee.

(9) It is the duty of any member or officer mentioned in paragraph (a) or (b) of subsection (8) to comply with any requirement mentioned in that paragraph.

(10) A person is not obliged by subsection (9) to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

(11) In exercising, or deciding whether to exercise, any of its functions an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State.

(12) Guidance under subsection (11) may make different provision for different cases or for different descriptions of committee or sub-committee.

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9FB Scrutiny officers

(1) Subject as follows, a local authority must designate one of its officers to discharge the functions in subsection (2).

(2) Those functions are—
- (a) to promote the role of the authority's overview and scrutiny committee or committees,
- (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees,
- (c) to provide support and guidance to—
  - (i) members of the authority,
  - (ii) members of the executive of the authority, and
  - (iii) officers of the authority,

  in relation to the functions of the authority's overview and scrutiny committee or committees.

(3) An officer designated by a local authority under this section is to be known as the authority's "scrutiny officer".

(4) A local authority may not designate any of the following under this section—
- (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
- (b) the authority's monitoring officer designated under section 5 of that Act;
- (c) the authority's chief finance officer, within the meaning of that section.

(5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.

(6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.

9FC Reference of matters to overview and scrutiny committee etc

(1) Executive arrangements by a local authority must include provision which—
- (a) enables any member of an overview and scrutiny committee of the authority to refer to the committee any matter which is relevant to the functions of the committee,
- (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee, and
- (c) enables any member of the authority to refer to an overview and scrutiny committee of the authority of which the member of the authority is not a member any matter which is relevant to the functions of the committee and is not an excluded matter.

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables the person to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

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(3) In considering whether to exercise the power which a member of an authority has by virtue of subsection (1)(c) in any case, the member must have regard to any guidance for the time being issued by the Secretary of State.

(4) Guidance under subsection (3) may make different provision for different cases.

(5) In subsection (1)(c) "excluded matter" means any matter which is—

(a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

9FD Dealing with references under section 9FC(1)(c)

(1) This section applies where a matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to section 9FC(1)(c).

(2) In considering whether or not to exercise any of its powers under section 9F(2) in relation to the matter, the committee may have regard to—

(a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and

(b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 9F(2) in relation to the matter.

(3) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of—

(a) its decision, and

(b) the reasons for it.

(4) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 9F(2) in relation to the matter.

(5) Subsection (4) is subject to section 9FG (confidential and exempt information).

9FE Duty of authority or executive to respond to overview and scrutiny committee

(1) This section applies where an overview and scrutiny committee of a local authority makes a report or recommendations to the authority or the executive, otherwise than—

(a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(b) by virtue of subsection (3)(a) of that section.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the authority or executive—

(a) to consider the report or recommendations,

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(b) to respond to the overview and scrutiny committee indicating what (if any) action the authority, or the executive, proposes to take,

(c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response, and

(d) if the overview and scrutiny committee provided a copy of the report or recommendations to a member of the authority under section 9FD(4), to provide the member with a copy of the response.

(4) The notice served under subsection (3) must require the authority or executive to comply with it within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.

(5) It is the duty of an authority or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

(6) Subsections (2) and (5) are subject to section 9FG and to any provision made under section 9GA(8) (confidential and exempt information).

(7) In this section—

(a) references to an overview and scrutiny committee include references to a sub-committee of such a committee;

(b) references to "the authority" or "the executive", in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

9FF Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities

(1) This section applies where—

(a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—

(i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(ii) by virtue of subsection (3)(a) of that section, and

(b) the report or any of the recommendations relates to functions of a relevant partner authority so far as exercisable in relation to—

(i) the authority's area, or

(ii) the inhabitants of that area.

(2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising its functions.

(3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.

(4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.

(5) Subsection (2) does not apply if—

(a) the relevant partner authority is a health service body, and

(b) either—

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(i) the relevant committee is a non-unitary district council committee, or

(ii) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).

(6) In subsection (5) "health service body" means—

(a) a National Health Service trust,

(b) an NHS foundation trust, or

(c) a Primary Care Trust.

(7) Subsections (2) and (3) are subject to section 9FG (confidential and exempt information).

(8) In this section—

"the authority", in relation to a relevant committee, means—

(a) in the case of an overview and scrutiny committee, the local authority by which it is established, and

(b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,

"the executive", in relation to a relevant committee, means the executive of the authority,

"non-unitary district council committee" means—

(a) an overview and scrutiny committee of a district council for a district in a county for which there is a county council, or

(b) a sub-committee of such a committee,

"relevant committee" means an overview and scrutiny committee or a sub-committee of such a committee,

"relevant partner authority", in relation to a relevant committee other than a non-unitary district council committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police, and

"relevant partner authority", in relation to a relevant committee that is a non-unitary district council committee, means—

(a) the county council for the county concerned, or

(b) any person (other than the district council concerned) who is a partner authority in relation to that county council for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than a chief officer of police.

9FG Publication etc of reports, recommendations and responses: confidential and exempt information

(1) This section applies to—

(a) the publication under section 9FE of any document comprising—

(i) a report or recommendations of an overview and scrutiny committee, or

(ii) a response of a local authority to any such report or recommendations, and

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(b) the provision of a copy of such a document—

(i) to a member of a local authority under section 9FD(4) or section 9FE, or

(ii) to a relevant partner authority under section 9FF,

by an overview and scrutiny committee or a local authority.

(2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—

(a) must exclude any confidential information, and

(b) may exclude any relevant exempt information.

(3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—

(a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and

(b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

(5) Subsection (6) applies if, by virtue of subsection (2), (3) or (4), an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—

(a) excludes information, or

(b) replaces part of the report or recommendations with a summary.

(6) The overview and scrutiny committee is nevertheless to be taken for the purposes of section 9FE(3)(c) or (d) to have published or provided a copy of the report or recommendations.

(7) In this section, references to relevant exempt information are references to—

(a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered, and

(b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered.

(8) In this section—

"confidential information" has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),

"exempt information" has the meaning given by section 100I of that Act and, in relation to—

(a) any report or recommendations of an overview and scrutiny committee which has functions under section 9F(2)(f) (national health service functions), or

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(b) any response to such a report or recommendations,

also includes information which is exempt information under section 246 of the National Health Service Act 2006, and

"relevant partner authority", in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 9FF, has the same meaning as in that section.

(9) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

9FH Overview and scrutiny committees: flood risk management

(1) This section applies to a local authority that operates executive arrangements and that is a lead local flood authority.

(2) The arrangements required under section 9F(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

(3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—
- (a) information;
- (b) a response to a report.

(4) The Secretary of State may make regulations about the duty under subsection (3) which may, in particular, include provision—
- (a) about the procedure to be followed in relation to requests and compliance with them,
- (b) about notices to be served in relation to requests,
- (c) for exemptions from the duty,
- (d) requiring persons to attend to give information orally,
- (e) about the nature of the information and responses that may be requested, and
- (f) about the publication of requests, information and responses.

(5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee made in the course of arrangements under subsection (2).

(6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.

(7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

9FI Overview and scrutiny committees: provision of information etc by certain partner authorities

(1) The Secretary of State may by regulations make provision, in relation to a relevant committee—

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(a) as to information which relevant partner authorities must provide to the relevant committee, and

(b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.

(2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—

(a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or

(b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).

(3) For the purposes of subsection (1), "relevant committee" and "relevant partner authority" have the meanings given by section 9FF.

(4) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.

(5) The power conferred by subsection (4) does not affect the power conferred by section 105(2)(b).

Further provision in relation to executives

9G Meetings and access to information etc

(1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.

(2) Subject to regulations under section 9GA(4), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.

(3) A written record must be kept of prescribed decisions made at meetings of local authority executives, or committees of such executives, which are held in private.

(4) A written record must be kept of prescribed decisions made by individual members of local authority executives.

(5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.

(6) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

9GA Meetings and access to information etc: further provision and regulations

(1) Written records under section 9G(3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.

(2) Regulations under subsection (1) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

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(3) The Secretary of State may by regulations make provision—

(a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),

(b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,

(c) for or in connection with requiring written records falling within paragraph (b) to include reasons,

(d) for or in connection with requiring any such written records to be made available to members of the public,

(e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.

(4) The Secretary of State may by regulations make provision—

(a) as to the circumstances in which meetings mentioned in section 9G(2), or particular proceedings at such meetings, must be open to the public,

(b) as to the circumstances in which meetings mentioned in section 9G(2), or particular proceedings at such meetings, must be held in private,

(c) with respect to the information which is to be included in written records kept by virtue of this section or section 9G,

(d) with respect to the reasons which are to be included in any such written records,

(e) with respect to the persons who are to produce, keep or make available any such written records,

(f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(h) for or in connection with requiring information to be made available by electronic means,

(i) for or in connection with conferring rights on members of the public or members of local authorities, overview and scrutiny committees or sub-committees in relation to records or documents,

(j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section or section 9G.

(5) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.

(6) The provision which may be made under subsection (5) includes provision—

(a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,

(b) as to the way or form in which prescribed information is to be made available.

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(7) The Secretary of State may by regulations make provision which, in relation to meetings of—
  (a) local authority executives or committees of such executives, or
  (b) joint committees, or sub-committees of such committees, falling within subsection (3)(a),

applies or reproduces (with or without modifications) any provisions of Part 5A of the Local Government Act 1972.

(8) The Secretary of State may by regulations make provision, in relation to—
  (a) the publication by executives of local authorities under section 9FE of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or
  (b) the provision by such executives under that section of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 9FG (confidential and exempt information).

(9) In this section—

"joint committee" means a joint committee falling within section 101(5)(a) of the Local Government Act 1972,

"prescribed" means prescribed by regulations made by the Secretary of State.

9GB Further provision

Schedule A1 (which makes further provision in relation to executive arrangements under this Part) has effect.

9GC Absence of requirement for political balance

Neither—
  (a) a local authority executive, nor
  (b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

Elected mayors etc

9H Elected mayors etc

(1) In this Part "elected mayor", in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.

(2) An elected mayor is to be entitled to the style of "mayor".

(3) A reference in any enactment (whenever passed or made) to—
  (a) a member of a local authority, or
  (b) a councillor of a local authority,

does not include a reference to an elected mayor of the authority.

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(4) But subsection (3) is subject to—

(a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as a member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and

(b) any other contrary intention that appears in any enactment (whenever passed or made).

(5) Section 2(2A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (4)(b).

(6) Elections for the return of an elected mayor are to take place on the ordinary day of election in each of the relevant election years.

(7) The term of office of an elected mayor of a local authority is to be four years.

(8) This section is subject to regulations under section 9HB or 9HE.

9HA Election as elected mayor and councillor

(1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy arises in the office of councillor.

(2) If the person who is returned at an election ("the mayoral election") as the elected mayor of a local authority—

(a) is a councillor of the authority, and

(b) was returned as such a councillor at an election held at an earlier time than the mayoral election,

a vacancy shall arise in the office of councillor.

(3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.

(4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if the person is a candidate in both such elections and is returned both as the elected mayor and as a councillor.

9HB Time of elections etc

The Secretary of State may by regulations make provision—

(a) as to the dates on which and years in which elections for the return of elected mayors may or must take place,

(b) as to the intervals between elections for the return of elected mayors,

(c) as to the term of office of elected mayors, and

(d) as to the filling of vacancies in the office of elected mayor.

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9HC Voting at elections of elected mayors

(1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—
  (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and
  (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates

(2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.

(3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

9HD Entitlement to vote

(1) The persons entitled to vote as electors at an election for the return of an elected mayor are those who on the day of the poll—
  (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
  (b) are registered in the register of local government electors at an address within the authority's area.

(2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

9HE Power to make provision about elections

(1) The Secretary of State may by regulations make provision as to—
  (a) the conduct of elections for the return of elected mayors, and
  (b) the questioning of elections for the return of elected mayors and the consequences of irregularities.

(2) Regulations made under subsection (1)(a) may, in particular, include provision—
  (a) about the registration of electors,
  (b) for disregarding alterations in a register of electors,
  (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses), and
  (d) for the combination of polls at elections for the return of elected mayors and other elections.

(3) Regulations under this section may—
  (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,
  (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to

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be used both for the original purpose and in relation to elections for the return of elected mayors, and

(c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

(4) Before making any regulations under this section, the Secretary of State must consult the Electoral Commission.

(5) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) is exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.

(6) No return of an elected mayor at an election is to be questioned except by an election petition under the provisions of Part 3 of the Representation of the People Act 1983 as applied by or incorporated in regulations under this section.

Leader and cabinet executives (England)

9I Election and term of office of leader

Executive arrangements by a local authority which provide for a leader and cabinet executive (England)—

(a) must include provision with respect to the election of the executive leader, including provision for an election where there is a vacancy in the office of executive leader, and

(b) may include provision with respect to the term of office of the executive leader.

9IA Removal of leader

(1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) must include provision for the council to remove the executive leader by resolution.

(2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—

(a) at the meeting at which the leader is removed from office, or

(b) at a subsequent meeting.

9IB Leader to continue to hold office as councillor

(1) A person who is the executive leader of a leader and cabinet executive (England) remains a member of the council during the period that the person is the executive leader.

(2) Accordingly, any enactment which provides for the person's earlier retirement as a councillor does not apply.

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(3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

9IC No other means of removing leader

(1) This section applies to a local authority which operates a leader and cabinet executive (England).

(2) An executive leader may not be removed from office except in accordance with section 9IA or regulations under section 9ID.

9ID Regulations

(1) The Secretary of State may by regulations make provision—
- (a) as to the election and removal from office of executive leaders of leader and cabinet executives (England),
- (b) as to the term of office of an executive leader of a leader and cabinet executive (England), and
- (c) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).

(2) Sections 9I to 9IC are subject to regulations under this section.

CHAPTER 3

THE COMMITTEE SYSTEM

9J Secretary of State's power to prohibit delegation of functions etc

(1) The Secretary of State may by regulations—
- (a) specify or describe any function of a committee system local authority that is to be a non-delegable function;
- (b) specify or describe cases or circumstances in which any specified or described function of a committee system local authority is to be a non-delegable function;
- (c) specify or describe any action in connection with the discharge of a function of a committee system local authority that is to be a non-delegable action;
- (d) specify or describe cases or circumstances in which any specified or described action in connection with the discharge of a function of a committee system local authority is to be a non-delegable action.

(2) If a function or action is non-delegable—
- (a) it must be carried out by the local authority, and
- (b) such provisions of section 101 of the Local Government Act 1972 as may be specified in regulations under this section do not apply to it.

(3) In this Part "committee system local authority" means a local authority that operates a committee system.

(4) For the purposes of this section, something is specified or described if it is specified or described in regulations made by the Secretary of State under this section.

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(5) In this section—

"action" in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

(a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,

(b) the doing of anything incidental or conducive to the discharge of the function, or

(c) the doing of anything expedient in connection with the discharge of the function or any action within paragraph (a) or (b);

"function" means a function of any nature, whether conferred or otherwise arising before, on or after this section comes into force.

9JA Overview and scrutiny committee

(1) A committee system local authority may by resolution appoint one or more committees as the authority's overview and scrutiny committee or, as the case may be, committees.

(2) The Secretary of State may by regulations make provision about—

(a) the functions, composition and procedure of a committee that has been appointed as an overview and scrutiny committee under this section, and

(b) the appointment by committee system local authorities of joint committees and sub-committees as overview and scrutiny committees.

(3) Provision under subsection (2) may, in particular, include provision which applies or reproduces (with or without modifications) any provision of, or made under, sections 9F to 9FI or paragraphs 6 to 13 of Schedule A1.

9JB Overview and scrutiny: flood risk management

(1) A committee system local authority that is a lead local flood authority must review and scrutinise the exercise by risk management authorities of—

(a) flood risk management functions, or

(b) coastal erosion risk management functions,

which may affect the local authority's area.

(2) A local authority may issue such reports and recommendations as it considers appropriate in the course of exercising the function in subsection (1).

(3) A risk management authority must comply with a request made by a local authority in the course of exercising the function in subsection (1) for—

(a) information;

(b) a response to a report.

(4) The Secretary of State may make regulations about the duty under subsection (3) which may, in particular, include provision—

(a) about the procedure to be followed in relation to requests and compliance with them,

(b) about notices to be served in relation to requests,

(c) for exemptions from the duty,

(d) requiring persons to attend to give information orally,

(e) about the nature of the information and responses that may be requested, and

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(f) about the publication of requests, information and responses.

(5) A risk management authority must have regard to any reports or recommendations mentioned in subsection (2) that relate to it.

(6) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

CHAPTER 4

CHANGING GOVERNANCE ARRANGEMENTS

Changes to governance arrangements by local authorities: general provision

9K Changing from one form of governance to another

(1) A local authority may—
(a) cease to operate its existing form of governance, and
(b) start to operate a different form of governance.

(2) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

9KA Executive arrangements: different form of executive

(1) A local authority which operates executive arrangements may—
(a) vary the arrangements so that they provide for a different form of executive, and
(b) if it makes such a variation, vary the arrangements in such other respects (if any) as it considers appropriate.

(2) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

9KB Executive arrangements: other variation of arrangements

A local authority which operates executive arrangements may vary those arrangements so that they—
(a) differ from the existing arrangements in any respect, but
(b) still provide for the same form of executive.

9KC Resolution of local authority

(1) A resolution of a local authority is required in order for the authority to make a change in governance arrangements.

(2) As soon as practicable after passing such a resolution a local authority must—
(a) secure that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at its principal office for inspection by members of the public, and
(b) publish in one or more newspapers circulating in its area a notice which—

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(i) states that the authority has resolved to make a change in its governance arrangements,

(ii) states the date on which the change is to have effect,

(iii) describes the main features of the change,

(iv) states that copies of a document setting out the provisions of the arrangements that are to have effect following the resolution are available at the authority's principal office for inspection by members of the public, and

(v) specifies the address of the authority's principal office.

(3) Subsection (4) applies if a local authority passes a resolution in accordance with this section ("Resolution A") which makes a change in governance arrangements of the kind set out in—

(a) section 9K (change from one form of governance to another), or

(b) section 9KA (change to a different form of executive).

(4) The local authority may not pass another resolution that makes a change in governance arrangements of a kind mentioned in subsection (3) ("Resolution B") before the end of the period of 5 years beginning with the date Resolution A is passed, unless Resolution B is approved in a referendum held in accordance with this Chapter.

(5) This section does not apply to a change in governance arrangements effected by an order under section 9N (power by order to require, and give effect to, referendum on change to mayor and cabinet executive).

Implementation of certain changes to governance arrangements

9L Implementation: change in form of governance or change in form of executive

(1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in—

(a) section 9K (change from one form of governance to another), or

(b) section 9KA (change to a different form of executive).

(2) At a relevant change time, the local authority must—

(a) cease operating the old form of governance or (as the case may be) old form of executive, and

(b) start operating the form of governance or (as the case may be) form of executive which the change in governance arrangements provides for.

(3) Subject to subsection (2) and section 9MB(2), the local authority may take steps for the purposes of preparing for the change or implementing it (including steps relating to transitional arrangements).

(4) If the local authority is not currently operating a mayor and cabinet executive and the change does not provide for the local authority to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is a time during—

(a) the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or

(b) a later annual meeting of the local authority specified in that resolution.

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(5) If the local authority is not currently operating a mayor and cabinet executive and the change provides for the local authority to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is—
  (a) a time during the third day after the day of the declaration of the result of the poll at the first election of the mayor, or
  (b) if a person is returned as the mayor at that first election without a poll being taken, a time during the third day after the day on which a poll would have been taken.

(6) If the local authority is currently operating a mayor and cabinet executive and the change provides for the local authority to cease to operate a mayor and cabinet executive, a "relevant change time" for the purposes of subsection (2) is a time during the third day after the day on which the next ordinary election of a mayor was expected to be held when the resolution to make the change in governance arrangements was passed.

Referendums

9M Cases in which change is subject to approval in a referendum in accordance with sections 9MA and 9MB

(1) A change in governance arrangements which a local authority proposes to make by resolution is subject to approval in a referendum in either of the following cases.

(2) The first case is where—
  (a) the proposed change in governance arrangements is of a kind set out in—
    (i) section 9K (change from one form of governance to another), or
    (ii) section 9KA (change to a different form of executive), and
  (b) the implementation of the local authority's existing form of governance or existing form of executive was approved in a referendum under this Chapter.

(3) The second case is where the local authority resolves that a proposed change in governance arrangements is to be subject to approval in a referendum.

9MA Referendum: proposals by local authority

(1) This section applies to a local authority which wishes to make a change in governance arrangements that is subject to approval in a referendum under section 9M.

(2) The local authority must draw up proposals for the change.

(3) The proposals must include—
  (a) a timetable with respect to the implementation of the proposals,
  (b) details of any transitional arrangements which are necessary for the implementation of the proposals, and
  (c) a statement that the change in governance arrangements is to be subject to approval in a referendum.

(4) Subsections (5) and (6) apply where the proposed change in governance arrangements is of the kind set out in—
  (a) section 9K (change from one form of governance to another), or

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(b) section 9KA (change to a different form of executive).

(5) If the proposed change in governance arrangements would result in the local authority having executive arrangements, the proposals must state the extent to which the functions specified in regulations under section 9D(3)(b) are to be the responsibility of the executive which will be operated if the proposals are implemented.

(6) The proposals (particularly any provision about timetables and transitional matters included in accordance with subsection (3)) must be such as to ensure that the proposed change can take effect (so far as required to) in accordance with section 9L(2).

(7) After drawing up the proposals, the local authority must—

(a) secure that copies of a document setting out the proposals are available at its principal office for inspection by members of the public at all reasonable times, and

(b) publish in one or more newspapers circulating in its area a notice which—

(i) states that the authority has drawn up the proposals,

(ii) describes the main features of the proposals,

(iii) states that copies of a document setting out the proposals are available at the authority's principal office for inspection by members of the public at such times as may be specified in the notice, and

(iv) specifies the address of the authority's principal office.

9MB Requirement to hold and give effect to referendum

(1) This section applies to a local authority which wishes to make a change in governance arrangements that is subject to approval in a referendum under section 9M.

(2) The local authority must, after complying with section 9MA(7), hold a referendum on its proposals before taking any steps to implement them.

(3) The local authority may not pass a resolution which makes the proposed change unless the result of the referendum is to approve the proposals.

(4) Any such resolution must be passed within the period of 28 days beginning with the day when the referendum is held.

(5) Any such resolution must be passed at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object.

9MC Referendum following petition

(1) The Secretary of State may by regulations make provision for or in connection with requiring a local authority which receives a petition which complies with the provisions of the regulations to hold a referendum, in such circumstances as may be prescribed in the regulations, on whether the authority should have a relevant type of governance arrangement.

(2) Regulations under subsection (1) may, in particular, include provision—

(a) as to the form and content of petitions (including provision for petitions in electronic form),

(b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,

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(c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,

(d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),

(e) as to the action which may, may not or must be taken by a local authority in connection with any petition,

(f) as to the manner in which a petition is to be presented to a local authority,

(g) as to the verification of any petition,

(h) as to the date on which, or the time by which, a referendum must be held,

(i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(j) as to the action which may, may not or must be taken by a local authority after a referendum, and

(k) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and (unless such regulations otherwise provide) is to be 5 per cent of the number of local government electors at each of those times.

(5) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

9MD Referendum following direction

(1) The Secretary of State may by regulations make provision for or in connection with enabling the Secretary of State, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether it should have a relevant type of governance arrangements specified in the direction.

(2) Regulations under this section may, in particular, include provision—

(a) as to the date on which, or the time by which, a referendum must be held,

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the action which may, may not or must be taken by a local authority after a referendum, and

(d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

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9ME Referendum following order

(1) The Secretary of State may by order make provision requiring every local authority, or every local authority falling within a description of authority specified in the order, to hold a referendum on whether they should have a relevant type of governance arrangements specified in the order.

(2) An order under this section may, in particular, include provision—
- (a) as to the date on which, or the time by which, a referendum must be held,
- (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
- (c) as to the action which may, may not or must be taken by a local authority after a referendum, and
- (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) This section is subject to section 9NA (effect of order requiring, and giving effect to, referendum on change to mayor and cabinet executive).

9MF Further provision with respect to referendums

(1) If a local authority holds a referendum under this Chapter ("Referendum A") it may not hold, or be required to hold, another referendum under this Chapter ("Referendum B") within the period of ten years beginning with the date of Referendum A, unless subsection (2) or (3) applies.

(2) This subsection applies if—
- (a) Referendum A was held by the authority by virtue of an order under section 9N (power by order to require, and give effect to, referendum on change to mayor and cabinet executive), and
- (b) the proposal for the authority to operate a mayor and cabinet executive was rejected in Referendum A.

(3) This subsection applies if Referendum B is required to be held by virtue of an order made under section 9N.

(4) If the result of a referendum held by virtue of regulations, an order or a direction made under any provision of this Chapter is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals.

(5) If the result of a referendum held by virtue of regulations, an order or a direction made under any provision of this Chapter is to reject the proposals to which the referendum relates, the local authority concerned may not implement those proposals.

(6) Subsections (4) and (5) do not apply to a referendum held by virtue of section 9N (but see section 9N(2)(c)).

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9MG Voting in and conduct of referendums

(1) The persons entitled to vote in a referendum held by a local authority under this Chapter are those who on the day of the referendum—
  (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and
  (b) are registered in the register of local government electors at an address within the authority's area.

(2) The Secretary of State may by regulations make provision as to the conduct of referendums under this Chapter.

(3) The Secretary of State may by regulations make provision for the combination of polls at referendums under this Chapter with polls at any elections.

(4) Regulations under subsection (2) or (3) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.

(5) Regulations under subsection (2) may, in particular, include provision—
  (a) as to the question to be asked in a referendum,
  (b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),
  (c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),
  (d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,
  (e) as to when, where and how voting in a referendum is to take place,
  (f) as to how the votes cast in a referendum are to be counted, and
  (g) for disregarding alterations in a register of electors.

(6) Before making any regulations under this section that include provision as to the question to be asked in a referendum, the Secretary of State must consult the Electoral Commission.

Further provisions as to mayor and cabinet executive

9N Requiring referendum on change to mayor and cabinet executive

(1) The Secretary of State may by order require a specified local authority to hold a referendum on whether the authority should operate a mayor and cabinet executive.

(2) An order under this section may include provision—
  (a) as to the date on which, or the time by which, a referendum must be held,
  (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  (c) as to the effect of a referendum and the action which may, may not or must be taken by a local authority after a referendum,
  (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

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(3) Provision made by virtue of subsection (2) may, in particular, apply or reproduce (with or without modifications) any provisions of, or made under, this Chapter.

(4) In this section "specified" means specified in an order made by the Secretary of State under this section.

9NA Effect of section 9N order

(1) Subject as follows, the provisions of this Chapter listed in subsection (2) do not apply to a local authority in relation to whom an order under section 9N has been made (and has not been revoked) unless the proposal for the authority to operate a mayor and cabinet executive has been rejected in the referendum held under the order.

(2) Those provisions are—
- (a) section 9K (changing from one form of governance to another);
- (b) section 9KA (executive arrangements: different form of executive);
- (c) section 9MC (referendum following petition);
- (d) section 9MD (referendum following direction);
- (e) section 9ME (referendum following order).

9NB Variation of mayoral executive

(1) This section applies to a change in governance arrangements of the kind set out in section 9KB (variation of executive arrangements) if the local authority is operating a mayor and cabinet executive.

(2) The local authority may not resolve to make a change in governance arrangements unless the elected mayor has given written consent to the proposed change.

Miscellaneous

9O General

(1) A local authority may not—
- (a) cease to operate a form of governance, or
- (b) vary executive arrangements,

other than in accordance with this Chapter.

(2) In making a change in governance arrangements, the local authority must comply with any directions given by the Secretary of State in connection with the making of such a change.

9OA Interpretation

(1) This section applies for the purposes of this Chapter.

(2) References to a change in governance arrangements are references to any change of a kind set out in sections 9K to 9KB.

(3) References to a relevant type of governance arrangement are references to—
- (a) a leader and cabinet executive (England);

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(b) a mayor and cabinet executive;
(c) a committee system;
(d) any prescribed arrangements.

(4) References to a form of governance are references to—
(a) executive arrangements;
(b) a committee system;
(c) any prescribed arrangements.

CHAPTER 5

SUPPLEMENTARY

Local authority constitution

9P Local authority constitution

(1) A local authority must prepare and keep up to date a document (referred to in this section as its constitution) which contains—
(a) a copy of the authority's standing orders for the time being,
(b) a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,
(c) such information as the Secretary of State may direct, and
(d) such other information (if any) as the authority considers appropriate.

(2) In the case of a committee system local authority, the authority's constitution must also contain a statement as to whether the authority has resolved to have an overview and scrutiny committee under section 9JA.

(3) A local authority must ensure that copies of its constitution are available at its principal office for inspection by members of the public at all reasonable hours.

(4) A local authority must supply a copy of its constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Guidance

9Q Guidance

(1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.

(2) Guidance under this section may make different provision for different cases or descriptions of local authority.

Interpretation

9R Interpretation of Part 1A

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

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"committee system" has the meaning given by section 9B,

"committee system local authority" has the meaning given by section 9J(3),

"elected mayor" has the meaning given by section 9H,

"electoral area" has the meaning given by section 203(1) of the Representation of the People Act 1983,

"enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978),

"executive", in relation to a local authority, is to be construed in accordance with section 9C,

"executive arrangements" has the meaning given by section 9B,

"executive leader" has the meaning given by section 9C(3)(a),

"first preference vote" has the meaning given by section 9HC,

"leader and cabinet executive (England)" has the meaning given by section 9C(3),

"local authority" means a county council in England, a district council or a London borough council,

"local government elector" has the meaning given by section 270(1) of the Local Government Act 1972,

"mayor and cabinet executive" has the meaning given by section 9C(2),

"ordinary day of election", in relation to a local authority, means the day of ordinary elections of councillors of the authority,

"the political balance requirements" means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989,

"prescribed arrangements" has the meaning give by section 9B, and

"second preference vote" has the meaning given by section 9HC.

(2) In this Part "relevant election years", in relation to a local authority, means the years specified in the second column of the following table in relation to that type of authority.

Type of local authority	*Relevant election years*
Metropolitan district	2014 and every fourth year afterwards
County	2013 and every fourth year afterwards
London borough	2014 and every fourth year afterwards
Non-metropolitan district	2011 and every fourth year afterwards

(3) Any reference in this Part to the chairman of a local authority—

(a) is a reference to that person whether or not the person is entitled to another style, and

(b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part 1 of that Schedule as the mayor of the borough.

(4) Any reference in this Part to the vice-chairman of a local authority—

(a) is a reference to that person whether or not the person is entitled to another style, and

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(b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part 1 of that Schedule as the deputy mayor.

(5) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.

(6) Section 101 of the Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.

(7) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.

(8) Any directions given by the Secretary of State under any provision of this Part—

(a) may be varied or revoked by subsequent directions given by the Secretary of State under that provision, and

(b) may make different provision for different cases, different local authorities or different descriptions of local authority.**]**

PART II

ARRANGEMENTS WITH RESPECT TO EXECUTIVES ETC.

Modifications etc. (not altering text)

C6 Pt. II (ss. 10-48) restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(a)**

C7 Pt. II extended (1.9.2003 for E., 1.9.2003 for W.) by Education Act 2002 (c. 32), **ss. 183(4)(b)**, 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. II

C8 Pt. II modified (21.6.2004) by Isles of Scilly (Functions) (Review and Scrutiny of Health Services) Order 2004 (S.I. 2004/1412), arts. 1, **2**

C9 Pt. II applied in part (with modifications) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **7(4)**

C10 Pt. II applied in part (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **16(7)**

C11 Pt. II modified (29.8.2008) by The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 (S.I. 2008/2113), regs. 1, **10**

Executive arrangements

10 Executive arrangements.

(1) In this Part "executive arrangements" means arrangements by a local authority **[**[F45] in Wales **]**—

(a) for and in connection with the creation and operation of an executive of the authority, and

(b) under which certain functions of the authority are the responsibility of the executive.

(2) Executive arrangements by a local authority **[**[F45]in Wales **]** must conform with any provisions made by or under this Part which relate to such arrangements.

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Textual Amendments

F45 Words in s. 10 inserted (15.1.2012 for specified purposes, 4.5.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 10**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11); S.I. 2012/1008, art. 4(b)

Commencement Information

I10 S. 10 wholly in force at 28.7.2001; s. 10 not in force at Royal Assent see s. 108; s. 10 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Local authority executives

11 Local authority executives.

[[F46](1) The executive of a local authority must take a form specified in subsections (2) to (5) that is applicable to the authority.**]**

(2) **[**[F47]**[**[F48]In the case of any local authority in England or Wales, the **][**[F48]The**]** executive may consist of—**]**

(a) an elected mayor of the authority, and

(b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

[[F49](2A) **[**[F50]In the case of any local authority in England, the executive may consist of—

(a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and

(b) two or more councillors of the authority appointed to the executive by the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).**]]**

(3) **[**[F51]**[**[F52]In the case of any local authority in Wales, the **][**[F52]The **]** executive may consist of—**]**

(a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and

(b) two or more councillors of the authority appointed to the executive by one of the following—

(i) the executive leader, or

(ii) the authority.

Such an executive is referred to in this Part as a **[**[F53]leader and cabinet executive (Wales)**]**.

(4) **[**[F54]**[**[F55]In the case of any local authority in Wales, the executive may consist of—**]**

(a) an elected mayor of the authority, and

(b) an officer of the authority (referred to in this Part as the council manager) appointed to the executive by the authority.**]**

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Such an executive is referred to in this Part as a mayor and council manager executive.

(5) **[**[F56]**[**[F57]In the case of a local authority in England or Wales, the**][**[F57] The**]** executive**]** may take any such form as may be prescribed in regulations made by the **[**[F58]Secretary of State**][**[F58]Welsh Ministers**]**.

(6) Regulations under subsection (5) may, in particular, provide for—

(a) a form of executive some or all of the members of which are elected by the local government electors for the authority's area to a specified post in the executive associated with the discharge of particular functions,

(b) a form of executive some or all of the members of which are elected by those electors but not to any such post,

(c) the system of voting that will be used for elections under paragraph (a) or (b).

(7) A local authority executive may not include the chairman or vice-chairman of the authority.

(8) The number of members of a mayor and cabinet executive or a leader and cabinet executive **[**[F59](Wales)**]** may not exceed 10.

(9) The **[**[F60]Secretary of State**][**[F60]Welsh Ministers**]** may by regulations **[**[F61]specify**]** a different maximum number of members of an executive to which **[**[F62]subsection (8)**]** applies, but the power under this subsection may not be exercised **[**[F63]**[**[F64]in relation to Wales**]]** so as to provide for a maximum number which exceeds 10.

[[F65](9A) **[**[F66]In this Part, a reference to a leader and cabinet executive is a reference to either or both of the following, as appropriate in the context—

(a) a leader and cabinet executive (England);

(b) a leader and cabinet executive (Wales).**]]**

(10) Section 101 of the [M5]Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under **[**[F67]subsection **[**[F68](2A)(a) or**]** (3)(a)**]** or appointing councillors **[**[F69]or an officer **]**to the executive under subsection (3)(b)(ii) **[**[F70]or (4)(b)**]**.

Textual Amendments

F46 S. 11(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(2)**, 245(2)

F47 Words in s. 11(2) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(3)**, 245(2)

F48 Word in s. 11(2) substituted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F49 S. 11(2A) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(4)**, 245(2)

F50 S. 11(2A) repealed (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 11(3), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F51 Words in s. 11(3) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(5)(a)**, 245(2)

F52 Word in s. 11(3) substituted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(4)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F53 Words in s. 11(3) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(5)(b)**, 245(2)

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F54 S. 11(4) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(2)(a), 178(2), **Sch. 4 Pt. B**

F55 Words in s. 11(4) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(6)**, 245(2)

F56 Words in s. 11(5) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(7)**, 245(2)

F57 Words in s. 11(5) substituted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(5)(a)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F58 Words in s. 11(5) substituted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(5)(b)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F59 Word in s. 11(8) inserted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(6)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F60 Words in s. 11(9) substituted (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 11(7)(a)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F61 Word in s. 11(9) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(8)(a)**, 245(2)

F62 Words in s. 11(9) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(8)(b)**, 245(2)

F63 Words in s. 11(9) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(8)(c)**, 245(2)

F64 Words in s. 11(9) repealed (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 11(7)(b), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F65 S. 11(9A) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(9)**, 245(2)

F66 S. 11(9A) repealed (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 11(8), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F67 Words in s. 11(10) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 62(10)**, 245(2)

F68 Words in s. 11(10) repealed (15.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 11(9), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F69 Words in s. 11(10) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(2)(b)(i), 178(2), **Sch. 4 Pt. B**

F70 Words in s. 11(10) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(2)(b)(ii), 178(2), **Sch. 4 Pt. B**

Modifications etc. (not altering text)

C12 S. 11 applied (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **16(2)**

Commencement Information

I11 S. 11 wholly in force at 28.7.2001; s. 11 not in force at Royal Assent see s. 108; s. 11 in force at 7.8.2000 in so far as it confers power to make an order or regulations, gives directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 11 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 11(5)(6)(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M5 1972 c. 70.

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12 Additional forms of executive.

(1) In deciding whether to make regulations under section 11(5) prescribing a particular form of executive, or which provision to make under section 17 in relation to that form of executive, the Secretary of State must have regard to—

(a) any proposals made to him under subsection (2),

(b) the extent to which he considers that the operation by a local authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way,

(c) the extent to which that form of executive differs from the forms of executive for the time being permitted by or under section 11,

(d) the number and description of authorities for which he considers that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive to consider.

(2) For the purposes of subsection (1), a local authority may propose to the Secretary of State a form of executive in relation to which the authority consider that the conditions mentioned in subsection (3) are satisfied.

(3) Those conditions are—

(a) that the operation by the authority of executive arrangements involving that form of executive would be an improvement on the arrangements which the authority have in place for the discharge of their functions at the time that the proposal is made to the Secretary of State,

(b) that the operation by the authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way, and

(c) that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive for all local authorities, or for any particular description of local authority, to consider.

(4) A proposal under subsection (2)—

(a) must describe the form of executive to which it relates,

(b) must describe the provision which the authority consider should be made under section 17 in relation to that form of executive, and

(c) must explain why the authority consider that the conditions mentioned in subsection (3) are satisfied in relation to that form of executive.

Commencement Information

I12 S. 12 wholly in force at 28.7.2001; s. 12 not in force at Royal Assent see s. 108; s. 12 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 12(1) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 12 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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Executive functions

13 Functions which are the responsibility of an executive.

(1) This section has effect for the purposes of determining the functions of a local authority which are the responsibility of an executive of the authority under executive arrangements.

(2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of a local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.

(3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—
- (a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
- (b) to be a function which may be the responsibility of such an executive under such arrangements, or
- (c) to be a function which—
  - (i) to the extent provided by the regulations is to be the responsibility of such an executive under such arrangements, and
  - (ii) to the extent provided by the regulations is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—
- (a) to be a function which is to be the responsibility of an executive of the authority,
- (b) to be a function which is not to be the responsibility of such an executive, or
- (c) to be a function which—
  - (i) to the extent provided by the arrangements is to be the responsibility of such an executive, and
  - (ii) to the extent provided by the arrangements is not to be the responsibility of such an executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority—
- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of a local authority, and
- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

(6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the [M6]Local Government Act 1972, or any provision of that section, does not apply to that function.

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(8) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of this section, the responsibility of the executive under such arrangements.

(9) Any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) is to be regarded as exercisable by the executive on behalf of the authority, and

(b) may be discharged only in accordance with any provisions made by or under this Part **[**[F71]or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England) **]** which apply to the discharge of any such function by that form of executive.

(10) Accordingly any function which is the responsibility of an executive of a local authority under executive arrangements—

(a) may not be discharged by the authority,

(b) is not to be a function to which section 101(1) of the [M7]Local Government Act 1972 applies, and

(c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 20.

(11) Subject to any provision made under subsection (12), any function which, under executive arrangements, is not the responsibility of an executive of a local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.

(12) The Secretary of State may by regulations make provision with respect to the discharge of any function which, under executive arrangements, is not the responsibility of an executive of a local authority (including provision disapplying section 101 of the [M8]Local Government Act 1972 or any provision of that section).

(13) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(14) In this section—

"action" in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

(a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,

(b) the doing of anything incidental or conducive to the discharge of the function, or

(c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),

"function" means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

Textual Amendments

F71 Words in s. 13(9)(b) inserted (12.12.2008 for specified purposes, 1.4.2009 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 236(9)**, 245(5); S.I. 2008/3110, arts. 2(h), 4(i)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Modifications etc. (not altering text)

C13 S. 13 modified (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **8(5)**

C14 S. 13 modified (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **8(5)**

C15 S. 13 modified (temp. until 1/4/2009) (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), arts. 1, **8(5)**

C16 S. 13 modified (temp. until 1/4/2009) (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), arts. 1, **8(5)**

C17 S. 13 modified (temp. until 1/4/2009) (26.2.2008) by The Wiltshire (Structural Change) Order 2008 (S.I. 2008/490), arts. 1, **8(5)**

C18 S. 13 modified (temp. until 1/4/2009) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **9(5)**

C19 S. 13 modified (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **6(5)**

C20 S. 13 modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **6(5)**

Commencement Information

I13 S. 13 wholly in force at 28.7.2001; s. 13 not in force at Royal assent see s. 108; s. 13 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 13 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 13(3)(5)(6)(12)-(14) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 13 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M6 1972 c. 70.

M7 1972 c. 70.

M8 1972 c. 70.

Provisions with respect to executive arrangements

14 [F72Discharge of functions: general]

[F73(1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of—

(a) a mayor and cabinet executive, or

(b) a leader and cabinet executive (England),

are to be discharged in accordance with this section.]

(2) The [F74senior executive member] —

(a) may discharge any of those functions, or

(b) may arrange for the discharge of any of those functions—

(i) by the executive,

(ii) by another member of the executive,

(iii) by a committee of the executive, or

(iv) by an officer of the authority.

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(3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the **[**[F75]senior executive member**]** otherwise directs, the executive may arrange for the discharge of any of those functions—

(a) by a committee of the executive, or

(b) by an officer of the authority.

(4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the **[**[F76]senior executive member**]** otherwise directs, **[**[F77]the member who may discharge the function**]** may arrange for the discharge of any of those functions by an officer of the authority.

(5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the **[**[F78]senior executive member**]** otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.

(6) Any arrangements made by virtue of this section by **[**[F79]a senior executive member**]**, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent **[**[F80]the senior executive member**]**, executive, member or committee by whom the arrangements are made from exercising those functions.

[[F81](7) In this section "senior executive member" means—

(a) in the case of a mayor and cabinet executive: the elected mayor;

(b) in the case of a leader and cabinet executive (England): the executive leader.**]**

Textual Amendments

F72 Words in s. 14 title substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(2)**, 245(2)

F73 S. 14(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(3)**, 245(2)

F74 Words in s. 14(2) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(4)**, 245(2)

F75 Words in s. 14(3) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(4)**, 245(2)

F76 Words in s. 14(4) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(5)(a)**, 245(2)

F77 Words in s. 14(4) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(5)(b)**, 245(2)

F78 Words in s. 14(5) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(6)**, 245(2)

F79 Words in s. 14(6) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(7)(a)**, 245(2)

F80 Words in s. 14(6) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(7)(b)**, 245(2)

F81 S. 14(7) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(8)**, 245(2)

Modifications etc. (not altering text)

C21 Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

C22 S. 14 applied (with modifications) (temp. until 1/4/2009) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **7(2)**(3)

C23 Ss. 14-16 applied (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **s. 20(6)**(7)(9), 324(3); S.I. 2009/3345, art. 2, Sch. para. 2

C24 S. 14 applied (with modifications) (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **4(2)**

C25 S. 14 modified (temp.) (25.3.2010) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **4(2)**

C26 S. 14(5) applied (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **9(2)**

C27 S. 14(5) modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **6(2)**

C28 S. 14(5) modified (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **6(2)**

C29 S. 14(6) applied (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **9(3)**

C30 S. 14(6) modified (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **6(3)**

C31 S. 14(6) modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **6(3)**

Commencement Information

I14 S. 14 wholly in force at 28.7.2001; s. 14 not in force at Royal Assent see s. 108; s. 14 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

15 [F82Discharge of functions: leader and cabinet executive (Wales)]

(1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a **[**F83leader and cabinet executive (Wales)**]** are to be discharged in accordance with this section.

(2) The executive arrangements may make provision with respect to the allocation of any functions which are the responsibility of the executive among the following persons—
- (a) the executive,
- (b) any members of the executive,
- (c) any committees of the executive, and
- (d) any officers of the authority.

(3) If the executive arrangements make such provision as is mentioned in subsection (2), any person to whom a function is allocated in accordance with that provision may discharge the function.

(4) If or to the extent that the functions which are the responsibility of the executive are not allocated in accordance with such provision as is mentioned in subsection (2), the executive leader—
- (a) may discharge any of those functions, or
- (b) may arrange for the discharge of any of those functions—
  - (i) by the executive,
  - (ii) by another member of the executive,
  - (iii) by a committee of the executive, or

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(iv) by an officer of the authority.

(5) Where by virtue of this section any functions may be discharged by a local authority executive, the executive may arrange for the discharge of any of those functions—

(a) by a committee of the executive, or

(b) by an officer of the authority.

(6) Where by virtue of this section any functions may be discharged by a member of a local authority executive, that member may arrange for the discharge of any of those functions by an officer of the authority.

(7) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, the committee may arrange for the discharge of any of those functions by an officer of the authority.

(8) Where the executive leader makes or has made any arrangements under subsection (4)(b)(i), (ii) or (iii), he may direct that subsection (5), (6) or (7) (as the case may be) is not to apply to any of the functions which are the subject of those arrangements or is not to apply to any of those functions in such cases or circumstances as he may direct.

(9) Any arrangements made by virtue of this section by an executive leader, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the executive leader, executive, member or committee by whom the arrangements are made from exercising those functions.

(10) The reference in subsection (2)(b) to the members of the executive includes a reference to the executive leader, and subsection (6) in its application for the purposes of subsection (2)(b) is to be construed accordingly.

Textual Amendments

F82 S. 15 title substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(9)(a)**, 245(2)

F83 Words in s. 15(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 63(9)(b)**, 245(2)

Modifications etc. (not altering text)

C23 Ss. 14-16 applied (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **s. 20(6)**(7)(9), 324(3); S.I. 2009/3345, art. 2, Sch. para. 2

C32 Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

C33 S. 15 modified (26.2.2008) by The Wiltshire (Structural Change) Order 2008 (S.I. 2008/490), arts. 1, **6(2)**

C34 S. 15 modified (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), arts. 1, **6(2)**

C35 S. 15 modified (temp.) (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **6(2)**

C36 S. 15 modified (temp.) (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **6(2)**

C37 S. 15 modified (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), arts. 1, **6(2)**

C38 S. 15(7)(9) modified (temp.) (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **8(2)**(3)

C39 S. 15(7)(9) modified (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), arts. 1, **8(2)**(3)

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C40 S. 15(7) modified (temp.) (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **11(3)**

C41 S. 15(7)(9) modified (temp.) (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **8(2)**(3)

C42 S. 15(7)(9) modified (26.2.2008) by The Wiltshire (Structural Change) Order 2008 (S.I. 2008/490), arts. 1, **8(2)**(3)

C43 S. 15(7)(9) modified (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), arts. 1, **8(2)**(3)

C44 S. 15(7) modified (temp.) (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **11(3)**

C45 S. 15(8) extended (16.11.2000 with application to local authorities in England only) by S.I. 2000/2851, **regs. 1(2)**, 4(2)

Commencement Information

I15 S. 15 wholly in force at 28.7.2001; s. 15 not in force at Royal Assent see s. 108; s. 15 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 15 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

16 Discharge of functions: mayor and council manager executive.

[[F84](1) Subject to any provision made under section 18, 19 or 20, the functions which, under executive arrangements, are the responsibility of a mayor and council manager executive are to be discharged in accordance with this section.

(2) The council manager—

(a) may discharge any of those functions, or

(b) may arrange for the discharge of any of those functions—

(i) by the executive, or

(ii) by an officer of the authority.

(3) In deciding—

(a) whether or how to discharge any functions, or

(b) whether to arrange for any functions to be discharged by the executive or an officer of the authority,

the council manager must have regard to any advice given by the elected mayor.

(4) Where by virtue of this section any functions may be discharged by the executive of a local authority, the executive may arrange for the discharge of any of those functions by an officer of the authority.

(5) Any arrangements made by virtue of this section by a council manager or executive for the discharge of any functions by an executive or officer are not to prevent the council manager or executive by whom the arrangements are made from exercising those functions.**]**

Textual Amendments

F84 S. 16 repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(3), 178(2), **Sch. 4 Pt. B**

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Modifications etc. (not altering text)

C23 Ss. 14-16 applied (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), **s. 20(6)**(7)(9), 324(3); S.I. 2009/3345, art. 2, Sch. para. 2

C46 Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

Commencement Information

I16 S. 16 wholly in force at 28.7.2001; s. 16 not in force at Royal Assent see s. 108; s. 16 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 16 in force at 28.7.2001 in so far as not already in force see. 108(4)-(6)

17 Discharge of functions: s. 11(5) executive.

(1) The Secretary of State may by regulations make provision with respect to the ways in which any functions which, under executive arrangements, are the responsibility of an executive which takes a form prescribed in regulations under section 11(5) are to be discharged.

(2) The provision which may be made by regulations under this section includes provision which applies or reproduces (with or without modifications) any provisions of section 14, 15 or 16.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).

(4) Any provision made by regulations under this section is subject to any provision made under section 18, 19 or 20.

Modifications etc. (not altering text)

C47 Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

Commencement Information

I17 S. 17 wholly in force at 1.11.2000; s. 17 not in force at Royal Assent see s. 108; s. 17 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 17 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

18 Discharge of functions by area committees.

(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive by an area committee of that authority.

(2) Regulations under this section may impose limitations or restrictions on the arrangements which may be made by virtue of the regulations (including limitations or restrictions on the functions which may be the subject of such arrangements).

(3) In this section—

[F85"area committee" means—

((a)) in relation to a local authority in England, a committee or sub-committee of the authority which satisfies the conditions in subsection (4);

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((b)) in relation to a local authority in Wales, a committee or sub-committee of the authority which satisfies the conditions in subsection (6);**]**

"specified" means specified in regulations under this section.

(4) A committee or sub-committee of a local authority **[**[F86]in England **]** satisfies the conditions in this subsection if—

(a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,

(b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part, and

(c) either or both of the conditions in subsection (5) are satisfied in relation to that part.

(5) Those conditions are—

(a) that the area of that part does not exceed two-fifths of the total area of the authority,

(b) that the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

[[F87](6) A committee or sub-committee of a local authority in Wales satisfies the conditions in this subsection if—

(a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,

(b) that part consists of the whole of one or more electoral divisions of the authority,

(c) all the members of the authority who are elected for that electoral division, or those electoral divisions, are entitled to be members of the committee or sub-committee,

(d) no members of the authority, other than those mentioned in paragraph (c), may be members of the committee or sub-committee, and

(e) either or both of the conditions in subsection (7) are satisfied in relation to that part.

(7) Those conditions are—

(a) that the area of that part does not exceed one-half of the total area of the authority;

(b) that the population of that part, as estimated by the authority, does not exceed one-half of the total population of the area of the authority as so estimated.**]**

Textual Amendments

F85 Words in s. 18(3) substituted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 55(2)**, 178(2)

F86 Words in s. 18(4) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 55(3)**, 178(2)

F87 S. 18(6)(7) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 55(4)**, 178(2)

Modifications etc. (not altering text)

C48 Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Commencement Information

I18 S. 18 wholly in force at 1.11.2000; s. 18 not in force at Royal Assent see s. 108; s. 18 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 18 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

19 Discharge of functions of and by another local authority.

(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority (within the meaning of this Part), or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

(a) by another local authority (within the meaning of section 101 of the [M9]Local Government Act 1972), or

(b) by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.

(2) The Secretary of State may by regulations make provision for or in connection with enabling a local authority (within the meaning of section 101 of that Act) to arrange for the discharge of any of their functions by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.

(3) The reference in subsection (2) to the functions of a local authority, in a case where the authority are operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority's executive.

(4) Regulations under subsection (1) or (2) may include provision—

(a) requiring, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, the approval of the authority to such arrangements,

(b) which, in the case of arrangements for the discharge of any functions by a local authority, enables any of those functions to be delegated,

(c) which, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, enables any of those functions to be delegated.

(5) The provision which may be made under subsection (4)(b) includes provision which applies or reproduces (with or without modifications) any provisions of section 101(2) to (4) of the [M10]Local Government Act 1972.

(6) The provision which may be made under subsection (4)(c) includes provision which applies or reproduces (with or without modifications) any provisions of section 14(3) to (6), 15(5) to (9) or 16(3) to (5).

(7) Nothing in subsection (4), (5) or (6) affects the generality of the power under subsection (1) or (2).

(8) In this section "specified" means specified in regulations under this section.

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Commencement Information

I19 S. 19 wholly in force at 1.11.2000; s. 19 not in force at Royal Assent see s. 108; s. 19 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 19 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Marginal Citations

M9 1972 c. 70.

M10 1972 c. 70.

20 Joint exercise of functions.

(1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the [M11]Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.

(2) The provision which may be made under subsection (1) includes provision—

(a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,

(b) as to the circumstances in which—

(i) the authority, and

(ii) the executive or a committee or specified member of the executive,

are both to be parties to the arrangements,

(c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the [M12]Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,

(d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,

(e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,

(f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).

(4) In this section "specified" means specified in regulations under this section.

Commencement Information

I20 S. 20 wholly in force at 1.11.2000; s. 20 not in force at Royal Assent see s. 108; s. 20 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 20 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

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Marginal Citations

M11 1972 c. 70.

M12 1972 c. 70.

21 Overview and scrutiny committees.

(1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Part as overview and scrutiny committees).

(2) Executive arrangements by a local authority must ensure that their overview and scrutiny committee has power (or their overview and scrutiny committees **[**[F88], and any joint overview and scrutiny committees, **]** have power between them)—

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,

(d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,

(e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,

[[F89](f) in the case of the overview and scrutiny committee or committees of an authority to which **[**[F90]section 244 of the National Health Service Act 2006 or section 184 of the National Health Service (Wales) Act 2006 applies, to review and scrutinise, in accordance with regulations under either of those sections, matters relating to the health service (within the meaning given by the Act concerned, and as extended by the section concerned) **]** in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.**]**

[[F91](2A) In subsection (2), "joint overview and scrutiny committee", in relation to a local authority ("the authority concerned"), means—

(a) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,

(b) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section,

(c) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 185 of the National Health Service (Wales) Act 2006 appointed by the authority concerned and one or more other local authorities,

(d) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section)

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of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or

(e) a joint overview and scrutiny committee **[**[F92]—

(i) within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 **[**[F93](joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned **]][**[F94], or

(ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned**]**.**]**

(3) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—

(a) to recommend that the decision be reconsidered by the person who made it, or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.

(4) [F95]...an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section **[**[F96], sections 21A to 21C **][**[F97]or any functions which may be conferred on it by virtue of regulations under section 21E **]**.

[F98](5) . . . . . .

(6) An overview and scrutiny committee of a local authority—

(a) may appoint one or more sub-committees, and

(b) may arrange for the discharge of any of its functions by any such sub-committee.

(7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (6)(b).

[F99](8) . . . . . .

(9) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.

(10) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority, but (subject to any provision made by or under paragraphs 7 to 9 of Schedule 1) any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting **[**[F100], unless permitted to do so under paragraph 12 of that Schedule**]**.

(11) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—

(a) as a committee or sub-committee of a principal council for the purposes of Part VA of the [M13]Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and

(b) as a body to which section 15 of the [M14]Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

(12) Subsections (2) and (5) of section 102 of the [M15]Local Government Act 1972 are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

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(13) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—

(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,

[[F101](aa) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England),**]** and

(b) may invite other persons to attend meetings of the committee.

(14) It is the duty of any member or officer mentioned in **[**[F102]paragraph (a) or (aa) of subsection (13) to comply with any requirement mentioned in that paragraph**]**.

(15) A person is not obliged by subsection (14) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

[[F103](16) In exercising, or deciding whether to exercise, any of its functions—

(a) an overview and scrutiny committee of a local authority in England, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State; and

(b) an overview and scrutiny committee of a local authority in Wales, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Welsh Ministers.

(17) Guidance under subsection (16) may make different provision for different cases or for different descriptions of committee or sub-committee.**]**

Textual Amendments

F88 Words in s. 21(2) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(a)**, 245(5); S.I. 2008/3110, art. 4(g)

F89 S. 21(2)(f) inserted (1.1.2003 for E., otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **ss. 7(1)**, 70(2) (with s. 7(2)-(5), 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a)

F90 Words in s. 21(2)(f) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 205** (with Sch. 3 Pt. 1)

F91 S. 21(2A) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(b)**, 245(5); S.I. 2008/3110, art. 4(g)

F92 Words in s. 21(2A)(e) inserted and renumbered as s. 21(2A)(e)(i) (11.5.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 58(5)(a)**, 178(1)

F93 Words in s. 21(2A)(e) substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(2)**, 148(2)(a)(ii)

F94 Words in s. 21(2A)(e) inserted (11.5.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 58(5)(b)**, 178(1)

F95 Words in s. 21(4) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 18 Pt. 8**; S.I. 2008/591, art. 2(d)(i)

F96 Words in s. 21(4) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(c)(i)**, 245(5); S.I. 2008/3110, art. 4(g)

F97 Words in s. 21(4) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(c)(ii)**, 245(5); S.I. 2008/3110, art. 4(g)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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F98 S. 21(5) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 18 Pt. 8**; S.I. 2008/591, art. 2(d)(i)

F99 S. 21(8) repealed (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 127(1)(d), 245(5), **Sch. 18 Pt. 6**; S.I. 2008/3110, art. 4(g)

F100 Words in s. 21(10) inserted (18.11.2003) by Local Government Act 2003 (c. 26), s. 128(3)(e), **Sch. 7 para. 80**; S.I. 2003/2938, art. 2(a) (with art. 8Sch.)

F101 S. 21(13)(aa) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 120(1)**, 245(5); S.I. 2008/3110, art. 4(b)

F102 Words in s. 21(14) substituted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 120(2)**, 245(5); S.I. 2008/3110, art. 4(b)

F103 S. 21(16)(17) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 125**, 245(5); S.I. 2008/3110, art. 2(b)

Modifications etc. (not altering text)

C49 S. 21 applied (with modifications) (1.1.2003 for E. otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **s. 10(3)**(4), 70(2) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a) (and the said amending Health and Social Care Act 2001 (c. 15), s. 10 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

C50 S. 21 applied (with modifications) (1.3.2007) by National Health Service Act 2006 (c. 41), **s. 247(3)**(4), 277(1)

C51 S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Wiltshire (Structural Change) Order 2008 (S.I. 2008/490), arts. 1, **8(4)**

C52 S. 21 excluded (temp.) (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **8(4)**

C53 S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), arts. 1, **8(4)**

C54 S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), arts. 1, **8(4)**

C55 S. 21 excluded (temp.) (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **8(4)**

C56 S. 21 excluded (temp. until 31/3/2009) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **9(4)**

C57 S. 21 excluded (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **6(4)**

C58 S. 21 excluded (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **6(4)**

C59 S. 21(4) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **ss. 8(7)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

C60 S. 21(4) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **ss. 8(3)(b)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

C61 S. 21(4) excluded (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 245(7)**, 277(1)

C62 S. 21(4) excluded (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 185(7)**, 208(1) (with s. 19(3))

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C63 S. 21(4): power to apply conferred by 2007 c. 28, s. 123(5)(b)(i) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

C64 S. 21(6)-(15) applied (with modifications) (E.) (1.1.2003) by S.I. 2002/3048, **reg. 7(3)**

C65 S. 21(6)-(15) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **ss. 8(3)(b)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

C66 S. 21(6)-(12): power to apply conferred by 2007 c. 28, s. 123(5)(b)(i) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

C67 S. 21(10) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by Health and Social Care Act 2001 (c. 15), **ss. 8(8)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(a); S.I. 2006/1407, Sch. 1 Pt. II para. 8(a) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

C68 S. 21(10) excluded (1.3.2007) by National Health Service (Wales) Act 2006 (c. 42), **ss. 185(8)**, 208(1) (with s. 19(3))

C69 S. 21(10) excluded (1.3.2007) by National Health Service Act 2006 (c. 41), **ss. 245(8)**, 277(1)

Commencement Information

I21 S. 21 wholly in force at 28.7.2001; s. 21 not in force at Royal Assent see s. 108; s. 21 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 21 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M13 1972 c. 70.

M14 1989 c. 42.

M15 1972 c. 70.

[F104 21ZA Scrutiny officers

(1) Subject as follows, a local authority in England must designate one of their officers to discharge the functions in subsection (2).

(2) Those functions are—

(a) to promote the role of the authority's overview and scrutiny committee or committees;

(b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;

(c) to provide support and guidance to—

(i) members of the authority,

(ii) members of the executive of the authority, and

(iii) officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees.

(3) An officer designated by a local authority under this section is to be known as the authority's “scrutiny officer”.

(4) A local authority may not designate any of the following under this section—

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(a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
(b) the authority's monitoring officer designated under section 5 of that Act;
(c) the authority's chief finance officer, within the meaning of that section.

(5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.

(6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.**]**

Textual Amendments

F104 S. 21ZA inserted (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 31**, 148(2)(a)(i); S.I. 2009/3318, art. 4(c)

[F105 21A Reference of matters to overview and scrutiny committee etc

(1) Executive arrangements by a local authority must include provision which—
(a) enables any member of an overview and scrutiny committee of the authority to refer to the committee any matter which is relevant to the functions of the committee,
(b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee, and
(c) in the case of a local authority in England, enables any member of the authority to refer to an overview and scrutiny committee of the authority of which he is not a member any local government matter which is relevant to the functions of the committee.

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(3) In considering whether to exercise the power which he has by virtue of subsection (1)(c) in any case, a member of an authority must have regard to any guidance for the time being issued by the Secretary of State.

(4) Guidance under subsection (3) may make different provision for different cases.

(5) Subsections (6) to (8) apply where a local government matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to subsection (1)(c).

(6) In considering whether or not to exercise any of its powers under section 21(2) in relation to the matter, the committee may have regard to—
(a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
(b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 21(2) in relation to the matter.

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Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(7) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of—
  (a) its decision, and
  (b) the reasons for it.

(8) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 21(2) in relation to the matter.

(9) Subsection (8) is subject to section 21D.

(10) In this section "local government matter", in relation to a member of a local authority, means a matter which—
  (a) relates to the discharge of any function of the authority,
  (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
  (c) is not an excluded matter.

(11) In subsection (10)(c), "excluded matter" means any matter which is—
  (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  (b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.**]**

Textual Amendments

F105 S. 21A inserted (12.12.2008 for specified purposes, 1.4.2009 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 119**, 245(5); S.I. 2008/3110, arts. 2(a), 4(a)

Modifications etc. (not altering text)

C70 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

[F106 21B Duty of authority or executive to respond to overview and scrutiny committee

(1) This section applies where an overview and scrutiny committee of a local authority in England makes a report or recommendations to the authority or the executive, otherwise than—
  (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
  (b) by virtue of subsection (3)(a) of that section.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the authority or executive—
  (a) to consider the report or recommendations,
  (b) to respond to the overview and scrutiny committee indicating what (if any) action the authority propose, or the executive proposes, to take,

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(c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response,

(d) if the overview and scrutiny committee provided a copy of the report or recommendations to a member of the authority under section 21A(8), to provide the member with a copy of the response,

and to do so within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.

(4) It is the duty of an authority or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

(5) Subsections (2) and (4) are subject to section 21D and to any provision made under section 22(12A).

(6) In this section—

(a) references to an overview and scrutiny committee include references to a sub-committee of such a committee; and

(b) references to "the authority" or "the executive", in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

Textual Amendments

F106 Ss. 21B-21D inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Modifications etc. (not altering text)

C70 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

21C Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities

(1) This section applies where—

(a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—

(i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(ii) by virtue of subsection (3)(a) of that section, and

(b) the report or any of the recommendations relates to a local improvement target which—

(i) relates to a relevant partner authority, and

(ii) is specified in a local area agreement of the authority.

(2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising their functions.

(3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.

(5) Subsection (2) does not apply if—

(a) the relevant partner authority is a health service body, and

(b) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).

(6) In subsection (5), "health service body" means—

(a) a National Health Service trust,

(b) an NHS foundation trust, or

(c) a Primary Care Trust.

(7) Subsections (2) and (3) are subject to section 21D.

(8) In this section—

"the authority", in relation to a relevant committee, means—

(a) in the case of an overview and scrutiny committee, the local authority by which it is established, and

(b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,

"the executive", in relation to a relevant committee, means the executive of the authority,

"local improvement target" and "local area agreement" have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007 (local area agreements),

"relevant committee" means—

(a) any overview and scrutiny committee of—

(i) a county council in England,

(ii) a district council in England, other than a council for a district in a county for which there is a county council, or

(iii) a London borough council, or

(b) a sub-committee of an overview and scrutiny committee within paragraph (a), and

"relevant partner authority", in relation to a relevant committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than—

(a) **[**[F107]a local policing body, or**]**

(b) a chief officer of police;

and references to a target relating to a relevant partner authority are to be construed in accordance with section 105(3) of the Local Government and Public Involvement in Health Act 2007.

Textual Amendments

F106 Ss. 21B-21D inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

F107 Words in s. 21C(8) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 254**; S.I. 2011/3019, art. 3, Sch. 1

Modifications etc. (not altering text)

C70 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

21D Publication etc of reports, recommendations and responses: confidential and exempt information

(1) This section applies to—

(a) the publication under section 21B of any document comprising—

(i) a report or recommendations of an overview and scrutiny committee, or

(ii) a response of a local authority to any such report or recommendations, and

(b) the provision of a copy of such a document—

(i) to a member of a local authority under section 21A(8) or section 21B, or

(ii) to a relevant partner authority under section 21C,

by an overview and scrutiny committee or a local authority.

(2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—

(a) must exclude any confidential information, and

(b) may exclude any relevant exempt information.

(3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—

(a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and

(b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

(5) If by virtue of subsection (2), (3) or (4) an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—

(a) excludes information, or

(b) replaces part of the report or recommendations with a summary,

it is nevertheless to be taken for the purposes of section 21B(3)(c) or (d) to have published or provided a copy of the report or recommendations.

(6) In this section—

"confidential information" has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),

"exempt information" has the meaning given by section 100I of that Act, and, in relation to—

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(a) any report or recommendations of an overview and scrutiny committee which has functions under section 21(2)(f), or

(b) any response to such a report or recommendations,

also includes information which is exempt information under section 246 of the National Health Service Act 2006,

"relevant exempt information" means—

(a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered, and

(b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered, and

"relevant partner authority", in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 21C, has the same meaning as in that section.

(7) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.**]**

Textual Amendments

F106 Ss. 21B-21D inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Modifications etc. (not altering text)

C70 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

C71 S. 21D applied (E.) (12.8.2009) by The Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009 (S.I. 2009/1919), regs. 1(1), **8** (with reg. 12)

[F108 21E Overview and scrutiny committees of certain district councils: functions with respect to partner authorities

(1) This section applies to any district council which is a partner authority in relation to a county council ("the related county council").

(2) The Secretary of State may by regulations make provision under which a district council to which this section applies may confer on their overview and scrutiny committee, or any of their overview and scrutiny committees, power to make reports and recommendations to the related county council, or that council's executive, which relate to any local improvement target which—

(a) relates to a relevant partner authority, and

(b) is specified in a local area agreement of the county council.

(3) Regulations under subsection (2) may make provision applying or reproducing any provision of section 21B, 21C or 21D (with or without modifications).

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(4) For the purposes of this section—

(a) "relevant partner authority", in relation to a district council, means—

(i) the related county council, or

(ii) any other authority which are a partner authority in relation to that county council, other than—

[[F109](a) a local policing body, or**]**

(b) a chief officer of police,

(b) "local area agreement", "local improvement target" and "partner authority" have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, and

(c) section 105(2) or (3) of that Act applies for the purpose of determining whether a local improvement target relates to a relevant partner authority.**]**

Textual Amendments

F108 S. 21E inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 124**, 245(5); S.I. 2008/3110, art. 4(f)

F109 S. 21E(4)(a)(ii)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 255**; S.I. 2011/3019, art. 3, Sch. 1

[[F110]**21F Overview and scrutiny committees: flood risk management**

(1) This section applies to a local authority which is a lead local flood authority for an area in England.

(2) The arrangements required under section 21(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.

(3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—

(a) information;

(b) a response to a report.

(4) The Secretary of State may make regulations about the duty under subsection (3) (which may, in particular, include provision about (i) procedure, (ii) notices, (iii) exemptions, (iv) requirement to attend to give information orally, (v) the nature of information and responses that may be required, and (vi) publication).

(5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee in the course of arrangements under subsection (2).

(6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.

(7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F110 S. 21F inserted (1.10.2010 for specified purposes, 6.4.2011 in so far as not already in force) by Flood and Water Management Act 2010 (c. 29), s. 49(3), **Sch. 2 para. 54** (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.; S.I. 2011/694, art. 4(1)(j)

22 Access to information etc.

(1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.

(2) Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.

(3) A written record must be kept of prescribed decisions made at meetings of local authorities executives, or committees of such executives, which are held in private.

(4) A written record must be kept of prescribed decisions made by individual members of local authority executives.

(5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.

(6) Written records under subsections (3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.

(7) Regulations under subsection (6) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

(8) The Secretary of State may by regulations make provision—

(a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),

(b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,

(c) for or in connection with requiring written records falling within paragraph (b) to include reasons,

(d) for or in connection with requiring any such written records to be made available to members of the public,

(e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.

(9) The Secretary of State may by regulations make provision—

(a) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be open to the public,

(b) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be held in private,

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(c) with respect to the information which is to be included in written records kept by virtue of this section,

(d) with respect to the reasons which are to be included in any such written records,

(e) with respect to the persons who are to produce, keep or make available any such written records,

(f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

(h) for or in connection with requiring information to be made available by electronic means,

(i) for or in connection with conferring rights on members of the public, members of local authorities or overview and scrutiny committees or sub-committees in relation to records or documents,

(j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section.

(10) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.

(11) The provision which may be made under subsection (10) includes provision—

(a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,

(b) as to the way or form in which prescribed information is to be made available.

(12) The Secretary of State may by regulations make provision which, in relation to meetings of—

(a) local authority executives or committees of such executives, or

(b) joint committees, or sub-committees of such committees, falling within subsection (8)(a),

applies or reproduces (with or without modifications) any provisions of Part VA of the [M16]Local Government Act 1972.

[[F111](12A) The Secretary of State may by regulations make provision, in relation to—

(a) the publication by executives of local authorities in England under section 21B, or under any provision of regulations under section 21E which applies or reproduces (with or without modifications) any provision of section 21B, of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or

(b) the provision by such executives under that section of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 21D.**]**

(13) In this section—

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"joint committee" means a joint committee falling within section 101(5)(a) of the [M17]Local Government Act 1972,

"prescribed" means prescribed by regulations made by the Secretary of State.

Textual Amendments

F111 S. 22(12A) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 122(2)**, 245(5); S.I. 2008/3110, art. 4(d)

Commencement Information

I22 S. 22 wholly in force at 28.7.2001; s. 22 not in force at Royal Assent see s. 108; s. 22 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 22 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 22(6)-(13) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 22 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M16 1972 c. 70.

M17 1972 c. 70.

[F112 22A Overview and scrutiny committees of certain authorities in England: provision of information etc by certain partner authorities

(1) The Secretary of State may by regulations make provision, in relation to a relevant committee—

(a) as to information which relevant partner authorities must provide to the relevant committee, and

(b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.

(2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—

(a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or

(b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).

(3) For the purposes of subsection (1), "relevant committee" and "relevant partner authority" have the meanings given by section 21C.

(4) The Secretary of State may also by regulations make provision, in relation to a relevant district council committee—

(a) as to information which associated authorities must provide to the relevant district council committee, and

(b) as to information which may not be disclosed by an associated authority to the relevant district council committee.

(5) In subsection (4), references to information do not include information in respect of which provision may be made in exercise of the power conferred by section 20(5)(c)

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or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters).

(6) For the purposes of subsection (4)—

"relevant district council committee" means—

(a) an overview and scrutiny committee of a district council which is not a responsible local authority ("the district council"), or

(b) a sub-committee of such a committee;

"associated authority", in relation to a relevant district council committee, means—

(a) the county council which is the responsible local authority in relation to the district council, or

(b) any person (other than the district council) which is a partner authority in relation to that county council, other than—

(i) **[**[F113]a local policing body, or**]**

(ii) a chief officer of police;

and for this purpose, "responsible local authority" and "partner authority" have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007.

(7) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.

(8) The power conferred by subsection (7) does not affect the power conferred by section 105(2)(b).**]**

Textual Amendments

F112 S. 22A inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 121(1)**, 245(5); S.I. 2008/3110, art. 4(c)

F113 Words in s. 22A(6) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 256**; S.I. 2011/3019, art. 3, Sch. 1

23 Further provision.

Schedule 1 (which makes further provision in relation to executive arrangements) has effect.

Commencement Information

I23 S. 23 wholly in force at 28.7.2001; s. 23 not in force at Royal Assent see s. 108; s. 23 in force at 7.8.2000 for certain purposes in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(c); s. 23 in force at 26.10.2000 in relation to England only for certain purposes by S.I. 2000/2849, **arts. 1(3)**, 2(c); s. 23 in force at 1.11.2000 in relation to Wales for certain purposes by S.I. 2000/2948, **art. 2**; s. 23 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

24 Absence of requirement for political balance.

Neither—

(a) a local authority executive, nor

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(b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the [M18]Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

Commencement Information

I24 S. 24 wholly in force at 28.7.2001; s. 24 not in force at Royal Assent see s. 108; s. 24 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 24 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M18 1989 c. 42.

Procedure with respect to operation of executive arrangements

25 Proposals.

(1) Subject to section 31, every local authority must—

(a) draw up proposals for the operation of executive arrangements, and

(b) send a copy of the proposals to the **[**[F114] Welsh Ministers**]**.

(2) Before drawing up proposals under this section, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(3) In drawing up proposals under this section, a local authority must decide—

(a) which form the executive is to take, and

(b) the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.

(4) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(5) A local authority must comply with any directions given by the **[**[F115]Welsh Ministers**]** for the purposes of this section.

(6) Proposals under this section must include—

(a) such details of the executive arrangements as the **[**[F116]Welsh Ministers**]** may direct,

(b) a timetable with respect to the implementation of the proposals, and

(c) details of any transitional arrangements which are necessary for the implementation of the proposals.

(7) A copy of proposals under this section which is sent to the **[**[F117]Welsh Ministers**]** must be accompanied by a statement which describes—

(a) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and

(b) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.

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(8) The **[**[F118]Welsh Ministers**]** may by order specify a date by which every local authority, or every local authority falling within any description of authority specified in the order, must comply with this section.

Textual Amendments

F114 Words in s. 25(1)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 30**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F115 Words in s. 25(5) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 30**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F116 Words in s. 25(6)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 30**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F117 Words in s. 25(7) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 30**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F118 Words in s. 25(8) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 30**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

Commencement Information

I25 S. 25 wholly in force at 28.7.2001; s. 25 not in force at Royal Assent see s. 108; s. 25 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 25 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 25(5)(6)(8) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 25 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

26 Proposals not requiring referendum.

(1) Where a local authority's proposals under section 25 do not involve a form of executive for which a referendum is required, the authority must implement the proposals in accordance with the timetable included in the proposals.

(2) Any reference in this Part to a form of executive for which a referendum is required is a reference to—

(a) a mayor and cabinet executive, **[**[F119]or **]**

(b) **[**[F120]a mayor and council manager executive, or**]**

(c) a form of executive prescribed in regulations under section 11(5) which is expressed in those regulations to be a form of executive for which a referendum is required.

Textual Amendments

F119 Word in s. 26(2)(a) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 34(4)(a)**, 178(2)

F120 S. 26(2)(b) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(4)(b), 178(2), **Sch. 4 Pt. B**

Commencement Information

I26 S. 26 wholly in force at 28.7.2001; s. 26 not in force at Royal Assent see s. 108; s. 26 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 26 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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27 Referendum in case of proposals involving elected mayor.

(1) Where a local authority's proposals under section 25 involve a form of executive for which a referendum is required, the authority—

(a) must hold a referendum on their proposals before taking any steps to implement them, and

(b) must draw up and send to the **[**[F121]Welsh Ministers**]** an outline of the fall-back proposals (referred to in this section as outline fall-back proposals) that they intend to implement if the proposals under section 25 are rejected in a referendum.

(2) Fall-back proposals are proposals—

(a) for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or

(b) for the operation of alternative arrangements of a particular type permitted by regulations under section 32.

(3) For the purpose of drawing up outline fall-back proposals, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(4) Outline fall-back proposals must include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals under section 25 are rejected in a referendum.

(5) A local authority must send a copy of their outline fall-back proposals to the **[**[F122]Welsh Ministers**]** at the same time that a copy of the proposals under section 25 is sent to **[**[F123]them**]**.

(6) A local authority may not hold a referendum under this section before the end of the period of two months beginning with the date on which a copy of the proposals under section 25 is sent to the **[**[F124]Welsh Ministers**]**.

(7) If the result of a referendum under subsection (1) is to approve a local authority's proposals under section 25, the authority must implement the proposals in accordance with the timetable included in the proposals.

(8) If the result of a referendum under subsection (1) is to reject a local authority's proposals under section 25, the authority—

(a) may not implement those proposals,

(b) must draw up detailed fall-back proposals which are based on the outline fall-back proposals, and

(c) must send a copy of the detailed fall-back proposals to the **[**[F125]Welsh Ministers**]**.

(9) In drawing up outline fall-back proposals or detailed fall-back proposals under this section, a local authority must comply with any directions given by the **[**[F126]Welsh Ministers**]**.

(10) Outline fall-back proposals and detailed fall-back proposals must include such details of the executive arrangements or alternative arrangements to which they relate as the **[**[F127]Welsh Ministers**]** may direct.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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(11) Subsections (2), (3)(b), (4) and (6)(c) of section 25 are to apply to detailed fall-back proposals involving executive arrangements as they apply to proposals under that section.

(12) Subsections (2), (4) and (6)(c) of that section are to apply to detailed fall-back proposals involving alternative arrangements as they apply to proposals under that section.

(13) A local authority must implement detailed fall-back proposals in accordance with the timetable mentioned in subsection (4).

Textual Amendments

F121 Words in s. 27(1)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F122 Words in s. 27(5) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F123 Word in s. 27(5) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F124 Words in s. 27(6) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F125 Words in s. 27(8)(c) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F126 Words in s. 27(9) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F127 Words in s. 27(10) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 31(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

Modifications etc. (not altering text)

C72 S. 27(1)(a) applied (W.) (9.12.2004) by The Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 (S.I. 2004/3158), regs. 1(1), **5(1)**

C73 S. 27(8)-(12) modified (E.) (28.7.2007) by Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), regs. 1(2), **14(6)**

C74 S. 27(13) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), regs. 1(1), **17(7)**

C75 S. 27(13) applied (with modifications) (W.) (23.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), regs. 1(2), **13(7)**

Commencement Information

I27 S. 27 wholly in force at 28.7.2001; s. 27 not in force at Royal Assent see s. 108; s. 27 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 27 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 27(9)(10) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 27 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

28 Approval of outline fall-back proposals.

(1) A local authority may apply to the **[**[F128]Welsh Ministers**]** for the approval of outline fall-back proposals involving fall-back proposals which are not permitted by or under this Part but which would be so permitted if the necessary regulations were made under section 11(5) or 32 (as the case may be).

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(2) The form and content of an application under subsection (1) must comply with any directions given by the **[**[F129]Welsh Ministers**]**.

(3) Where the **[**[F130]Welsh Ministers approve**]** a local authority's proposals under subsection (1)—

(a) the authority may use those proposals as their outline fall-back proposals for the purposes of section 27, and

(b) the timetable referred to in section 27(13) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

Textual Amendments

F128 Words in s. 28(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 32(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F129 Words in s. 28(2) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 32(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F130 Words in s. 28(3) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 32(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

Commencement Information

I28 S. 28 wholly in force at 28.7.2001; s. 28 not in force at Royal Assent see s. 108; s. 28 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 28 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 28(1)(2) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 28 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

29 Operation of, and publicity for, executive arrangements.

(1) A resolution of a local authority is required in order for the authority to operate executive arrangements.

(2) As soon as practicable after passing such a resolution a local authority must—

(a) secure that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at all reasonable hours, and

(b) publish in one or more newspapers circulating in their area a notice which—

(i) states that they have resolved to operate the arrangements,

(ii) states the date on which they are to begin operating the arrangements,

(iii) describes the main features of the arrangements,

(iv) states that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and

(v) specifies the address of their principal office.

(3) **[**[F131]A local authority **[**[F132]in Wales**]** which pass a resolution under this section may not at any subsequent time cease to operate executive arrangements unless, by virtue of any provision made under section 33(5), the authority operate alternative arrangements in place of the executive arrangements.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F131 S. 29(3) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 36(1)(a), 178(2), **Sch. 4 Pt. B** (with s. 36(5)-(8))

F132 Words in s. 29(3) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 3 para. 23**

Modifications etc. (not altering text)

C76 S. 29(1) applied (E.) (12.4.2001) by S.I. 2001/1003, **reg. 10(1)**

C77 S. 29(1) applied (W.) (25.11.2002) by S.I. 2002/2880, **reg. 7(1)**

C78 S. 29(1) applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), regs. 1(1), **17(8)(a)**

C79 S. 29(1) applied (9.12.2004) by The Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 (S.I. 2004/3158), regs. 1(1), **9(1)**

C80 S. 29(1) applied (E.) (28.7.2007) by Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), regs. 1(2), **17(8)(a)**

C81 S. 29(1) applied (W.) (23.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), regs. 1(2), **13(8)(a)**

C82 S. 29(2) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), regs. 1(1), **17(8)(b)**

C83 S. 29(2) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), regs. 1(1), **17(9)(b)**

C84 S. 29(2) applied (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 71(7)**, 245(2)

C85 S. 29(2) applied (with modifications) (W.) (23.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), regs. 1(2), **13(8)(b)**

C86 S. 29(2) applied (with modifications) (W.) (23.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), regs. 1(2), **13(9)(b)**

C87 S. 29(2) applied (with modifications) (E.) (28.7.2007) by Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), regs. 1(2), **17(8)(b)**

Commencement Information

I29 S. 29 wholly in force at 28.7.2001; s. 29 not in force at Royal Assent see s. 108; s. 29 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 29 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

30 Operation of different executive arrangements.

[[F133](1) The Secretary of State may by regulations make provision for or in connection with the operation by a local authority **[**[F134]in Wales**]** which are operating executive arrangements ("the existing arrangements") of executive arrangements ("the different arrangements") which differ from the existing arrangements in any respect.

(2) The provision which may be made by virtue of subsection (1) includes provision—

(a) which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29,

(b) for or in connection with requiring the consent of an elected mayor under the existing arrangements to the operation of the different arrangements,

(c) with respect to changes to the existing arrangements as a result of changes to the functions which are the responsibility of an executive.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F133 S. 30 repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 54(2), 178(2), **Sch. 4 Pt. C**

F134 Words in s. 30(1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 3 para. 24**

Commencement Information

I30 S. 30 wholly in force at 1.11.2000; s. 30 not in force at Royal Assent see s. 108; s. 30 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 30 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Alternative arrangements.

31 Alternative arrangements in case of certain local authorities.

[[F135](A1) In this section references to a local authority are references to a local authority in England.**]**

(1) This section applies to—

(a) any local authority which falls within subsection (2), and

(b) any local authority which falls within any description of local authority specified in regulations made by the Secretary of State under this section.

(2) A local authority falls within this subsection if—

(a) it is the council for a district comprised in an area for which there is a county council, and

(b) the resident population of the authority's area on 30th June 1999 was less than 85,000.

(3) For the purposes of subsection (2)(b) the resident population of any area on 30th June 1999 is to be taken to be the Registrar General's estimate of that population on that date.

(4) A local authority to which this section applies must either—

(a) draw up proposals for the operation of alternative arrangements of a particular type permitted by regulations under section 32, or

(b) draw up proposals under section 25.

(5) In deciding whether to draw up proposals under this section or proposals under section 25, a local authority to which this section applies must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(6) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(7) A local authority which draw up proposals under this section must comply with such requirements as may be specified in regulations made by the Secretary of State under this section.

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Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.

(9) Nothing in subsection (8) affects the generality of the power under subsection (7).

Textual Amendments

F135 S. 31(A1) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 36(1)(b)**, 178(2) (with s. 36(5)-(8))

Commencement Information

I31 S. 31 wholly in force at 28.7.2001; s. 31 not in force at Royal Assent see s. 108; s. 31 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 31 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 31(1)(b) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 31 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

32 Alternative arrangements.

[[F136](A1) In this section references to a local authority are references to a local authority in England.**]**

(1) The Secretary of State may by regulations specify arrangements by a local authority with respect to the discharge of their functions (referred to in this Part as alternative arrangements) which are arrangements of a type—

(a) which do not involve the creation and operation of an executive of the authority,

(b) which include arrangements for the appointment of committees or sub-committees of the authority to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority, and

(c) which the Secretary of State considers are likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

(2) The arrangements which may be specified by regulations under this section include—

(a) arrangements for the discharge of functions of a local authority by individual members of the authority or by individual members of any committee or sub-committee of the authority,

(b) arrangements for the appointment of committees or sub-committees of a local authority the membership of which is determined otherwise than in accordance with the political balance requirements.

[[F137](3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b), including—

(a) in the case of regulations made by the Secretary of State, provision which applies or reproduces (with or without modifications)—

(i) any provision of sections 21 to 21D or paragraphs 7 and 9 to 11 of Schedule 1,

(ii) any provision made under section 21E or 22A,

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(iii) any provision of section 246 of, or Schedule 17 to, the National Health Service Act 2006, or

(iv) any provision made under section 244 of that Act, and

(b) in the case of regulations made by the Welsh Ministers, provision which applies or reproduces (with or without modifications)—

(i) any provision of section 21 or 21A(1)(a) or (b) or (2) or paragraphs 8 to 11 of Schedule 1,

(ii) any provision of Schedule 17 to the National Health Service Act 2006,

(iii) any provision of section 186 of, or Schedule 11 to, the National Health Service (Wales) Act 2006, or

(iv) any provision made under section 184 of that Act.**]**

(4) Regulations under this section may make provision for the purpose of determining the functions of a local authority which may, may not or must be the subject of alternative arrangements of any particular type.

(5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

Textual Amendments

F136 S. 32(A1) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 36(1)(c)**, 178(2) (with s. 36(5)-(8))

F137 S. 32(3) substituted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(2)**, 245(5); S.I. 2008/3110, art. 4(g)

Commencement Information

I32 S. 32 wholly in force at 1.11.2000; s. 32 not in force at Royal Assent see s. 108; s. 32 in force at 7.8.2000 in relation to England only by S.I. 2000/2187 , **arts. 1(3)** , 2(a) ; s. 32 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948 , **art. 2**

33 Operation of alternative arrangements.

[[F138]**[**[F139](A1) In this section references to a local authority are references to a local authority in Wales.**]**

(1) A local authority may not operate alternative arrangements unless permitted or required to do so by virtue of any provision made by or under this Part.

(2) A resolution of a local authority is required in order for the authority to operate alternative arrangements.

(3) Subsection (2) of section 29 is to apply for the purposes of this section as it applies for the purposes of that section.

(4) A local authority which pass a resolution under this section to operate alternative arrangements may not at any subsequent time cease to operate those arrangements unless, by virtue of any provision made under subsection (9) or section 34, 35 or 36, the authority operate executive arrangements in place of those arrangements.

(5) The Secretary of State may by regulations make provision for or in connection with enabling a local authority to which section 31 applies which are operating

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executive arrangements to operate alternative arrangements in place of the executive arrangements.

(6) The provision which may be made by virtue of subsection (5) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27 or 28.

(7) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate alternative arrangements which differ from the existing alternative arrangements in any respect.

(8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.

(9) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate executive arrangements in place of the alternative arrangements.

(10) The provision which may be made by virtue of subsection (9) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29.

(11) Nothing in subsection (6), (8) or (10) affects the generality of the power under subsection (5), (7) or (9) (as the case may be).**]**

Textual Amendments

F138 S. 33 repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 36(1)(d), 178(2), **Sch. 4 Pt. B** (with s. 36(5)-(8))

F139 S. 33(A1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 3 para. 25**

Modifications etc. (not altering text)

C88 S. 33(2) applied (W.) (25.11.2002) by S.I. 2002/2880, **reg. 7(2)**

C89 S. 33(2) applied (E.) (12.4.2001) by S.I. 2001/1003, **reg. 10(2)**

C90 S. 33(2) applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), regs. 1(1), **17(9)(a)**

C91 S. 33(2) applied (W.) (9.12.2004) by The Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 (S.I. 2004/3158), regs. 1(1), **9(2)**

C92 S. 33(2) applied (W.) (23.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), regs. 1(2), **13(9)(a)**

Commencement Information

I33 S. 33 wholly in force at 28.7.2001; s. 33 not in force at Royal Assent see s. 108; s. 33 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 33 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 33(5)-(11) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 33 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

[F140 Changing governance arrangements: general provisions

Textual Amendments

F140 Ss. 33A-33O and cross-headings inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 64**, 245(2)

[[F142 Changing] governance arrangements

[F141 33ZA

For provision about changing the governance arrangements of local authorities [F143]... see Part 4 of the Local Government (Wales) Measure 2011.]

Textual Amendments

F141 S. 33ZA inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 54(3)**, 178(2)

F142 Word in s. 33ZA heading substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 35(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F143 Words in s. 33ZA repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 35(3), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F144 33A Executive arrangements: different form of executive

. . . . . .

Textual Amendments

F144 S. 33A repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 36, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F145 33B Executive arrangements: other variation of arrangements

. . . . . .

Textual Amendments

F145 S. 33B repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 37, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F146 33C Alternative arrangements: move to executive arrangements

. . . . . .

Textual Amendments

F146 S. 33C repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 38, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

33D Alternative arrangements: variation of arrangements

A local authority in England which is operating alternative arrangements may vary the arrangements so that they differ from the existing arrangements in any respect.**]**

[F147]33E Proposals by local authority

. . . . . .

Textual Amendments

F147 S. 33E repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 40, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F148]33F Resolution of local authority

. . . . . .

Textual Amendments

F148 S. 33F repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 41, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F149]33G Implementation: new executive or move to executive arrangements

. . . . . .

Textual Amendments

F149 S. 33G repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 42, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F150]33H Implementation: other change in governance arrangements

. . . . . .

Textual Amendments

F150 S. 33H repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 43, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F151]33I General

. . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F151 S. 33I repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 44, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F152 …

Textual Amendments

F152 S. 33J and crossheading repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 45, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F152 33J New form of executive or move to executive: general requirements

. . . . . .

F153 33K Changes subject to approval in a referendum: additional requirements

. . . . . .

Textual Amendments

F153 S. 33K repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 46, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F154 33L Change not subject to approval in a referendum: additional requirements

. . . . . .

Textual Amendments

F154 S. 33L repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 47, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F155 33M Cases in which change subject to approval in referendum

. . . . . .

Textual Amendments

F155 S. 33M repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 48, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F156 33N Variation of mayoral executive

. . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F156 S. 33N repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 49, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F157 …

Textual Amendments

F157 S. 33O and crossheading repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 50, **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

[F157]33O Interpretation

. . . . . .

Referendums

34 Referendum following petition.

(1) The **[**[F158]Welsh Ministers**]** may by regulations make provision for or in connection with requiring a local authority which receive a petition which complies with the provisions of the regulations to hold a referendum, in such circumstances as may be prescribed in the regulations, on whether the authority should **[**[F159]operate a relevant form of executive**]**.

[[F160](1A) In this section "relevant form of executive" **[**[F161]means**]** executive arrangements involving a form of executive for which a referendum is required.

(2) The provision which may be made by regulations under subsection (1) includes provision—

(a) as to the form and content of petitions (including provision for petitions in electronic form),

(b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,

(c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,

(d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),

(e) as to the action which may, may not or must be taken by a local authority in connection with any petition,

(f) as to the manner in which a petition is to be presented to a local authority,

(g) as to the verification of any petition,

(h) as to the date on which, or the time by which, a referendum must be held,

(i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

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(j) as to the action which may, may not or must be taken by a local authority after a referendum, and

(k) for or in connection with enabling the **[**[F162]Welsh Ministers**]**, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, **[**[F163]29 or 33**][**[F163]or 29**]**[F164]....

(4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and (unless such regulations otherwise provide) is to be 5 per cent. of the number of local government electors at each of those times.

(5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).**]**

Textual Amendments

F158 Words in s. 34(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 51(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F159 Words in s. 34(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 65(2)**, 245(2)

F160 S. 34(1A) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 65(3)**, 245(2)

F161 Word in s. 34(1A) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 51(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F162 Words in s. 34(2)(k) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 51(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F163 Words in s. 34(3) substituted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 36(1)(e)**, 178(2) (with s. 36(5)-(8))

F164 Words in s. 34(3) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 51(4), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

Commencement Information

I34 S. 34 wholly in force at 1.11.2000; s. 34 not in force at Royal Assent s. 108; s. 34 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 34 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

35 Referendum following direction.

(1) The **[**[F165]Welsh Ministers**]** may by regulations make provision for or in connection with enabling **[**[F166]them**]**, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction.

(2) The provision which may be made by regulations under this section includes provision—

(a) as to the date on which, or the time by which, a referendum must be held,

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the action which may, may not or must be taken by a local authority after a referendum, and

(d) for or in connection with enabling the **[**[F167]Welsh Ministers**]**, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, **[**[F168]29 or 33**][**[F168]or 29**]**[F169]....

(4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Textual Amendments

F165 Words in s. 35(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 52(2)(a)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F166 Word in s. 35(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 52(2)(b)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F167 Words in s. 35(2)(d) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 52(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F168 Words in s. 35(3) substituted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 36(1)(f)**, 178(2) (with s. 36(5)-(8))

F169 Words in s. 35(3) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 52(4), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

Commencement Information

I35 S. 35 wholly in force at 1.11.2000; s. 35 not in force at Royal Assent see s. 108; s. 35 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 35 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

36 Referendum following order.

(1) The **[**[F170]Welsh Ministers**]** may by order make provision requiring every local authority, or every local authority falling within any description of authority specified in the order, to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the order.

(2) The provision which may be made by an order under this section includes provision—

(a) as to the date on which, or the time by which, a referendum must be held,

(b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

(c) as to the action which may, may not or must be taken by a local authority after a referendum,

(d) for or in connection with enabling the **[**[F171]Welsh Ministers**]**, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, **[**[F172]29 or 33**]**[F172]or 29**]**[F173]....

(4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Textual Amendments

F170 Words in s. 36(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 53(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F171 Words in s. 36(2)(d) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 53(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F172 Words in s. 36(3) substituted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 36(1)(g)**, 178(2) (with s. 36(5)-(8))

F173 Words in s. 36(3) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 53(3), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

Commencement Information

I36 S. 36 wholly in force at 1.11.2000; s. 36 not in force at Royal Assent see s. 108; s. 36 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 36 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Local authority constitution

37 Local authority constitution.

(1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—

(a) such information as the Secretary of State may direct,

(b) a copy of the authority's standing orders for the time being,

(c) a copy of the authority's code of conduct for the time being under section 51, and

(d) such other information (if any) as the authority consider appropriate.

(2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

(3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

[[F174](4) In relation to an authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), the reference in subsection (1)(c) to the authority's code of conduct for the time being under section 51 is to the mandatory provisions which for the time being apply to the members and co-opted members of the authority.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F174 S. 37(4) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 184(1)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(i)

Commencement Information

I37 S. 37 wholly in force at 28.7.2001; s. 37 not in force at Royal Assent see s. 108; s. 37 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 37 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(b); s. 37(1)(a) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 37 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Guidance

38 Guidance.

(1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.

(2) Guidance under this section may make different provision for different cases or descriptions of local authority.

Commencement Information

I38 S. 38 wholly in force at 1.11.2000; s. 38 not in force at Royal Assent see s. 108; s. 38 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 38 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Elected mayors etc.

39 Elected mayors etc.

(1) In this Part "elected mayor", in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.

(2) An elected mayor of a local authority in England is to be entitled to the style of "mayor".

(3) An elected mayor of a local authority in Wales is to be entitled to the style of "mayor" or "maer".

(4) In this Part "elected executive member" means an individual elected as a member of a local authority executive by the local government electors for the authority's area in accordance with the provisions made by or under this Part, but does not include an elected mayor.

[[F175](5A) A reference in any enactment (whenever passed or made) to—

(a) a member of a local authority, or

(b) a councillor of a local authority,

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

does not include a reference to an elected mayor of the authority.

(5B) But subsection (5A) is subject to—

(a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and

(b) any other contrary intention that appears in any enactment (whenever passed or made).

(5C) Sections 2(2A) and 21(1A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (5B)(b).**]**

[[F176](6) Elections for the return of an elected mayor of a local authority in England are to take place on the ordinary day of election in each of the relevant election years.

(7) The term of office of an elected mayor of a local authority is to be four years.

(8) This section is subject to regulations under section 41.**]**

Textual Amendments

F175 S. 39(5A)-(5C) substituted for s. 39(5) (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 66(2)**, 245(2)

F176 S. 39(6)-(8) substituted for s. 39(6) (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 66(3)**, 245(2)

Commencement Information

I39 S. 39 wholly in force at 28.7.2001; s. 39 not in force at Royal Assent see s. 108; s. 39 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 39(1)(2)(4)-(6) in force at 26.10.2000 in relation to England except in so far as already in force by S.I. 2000/2849, **arts. 1(3)**, 2(d); s. 39(1)(3)-(5) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 39 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

40 Election as elected mayor and councillor.

(1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy shall arise in the office of councillor.

(2) If the person who is returned at an election ("the mayoral election") as the elected mayor of a local authority—

(a) is a councillor of the authority, and

(b) was returned as such a councillor at an election held at an earlier time than the mayoral election,

a vacancy shall arise in the office of councillor.

(3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.

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(4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if he is a candidate in both such elections and he is returned both as the elected mayor and as a councillor.

41 Time of elections etc.

The Secretary of State may by regulations make provision—

(a) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place,

(b) as to the intervals between elections for the return of elected mayors or elected executive members,

(c) as to the term of office of elected mayors or elected executive members, and

(d) as to the filling of vacancies in the office of elected mayor or elected executive member.

Commencement Information

I40 S. 41 wholly in force at 1.11.2000; s. 41 not in force at Royal Assent see s. 108; s. 41 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 41 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

42 Voting at elections of elected mayors.

(1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—

(a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and

(b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates.

(2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.

(3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

Modifications etc. (not altering text)

C93 S. 42(2) applied by SI 2002/185 Sch. 3 rule 48(1) (as substituted (13.3.2004) by The Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2004 (S.I. 2004/225), regs. 1, 2(7), **Sch.**)

43 Entitlement to vote.

(1) The persons entitled to vote as electors at an election for the return of an elected mayor or elected executive member are those who on the day of the poll—

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and

(b) are registered in the register of local government electors at an address within the authority's area.

(2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

44 Power to make provision about elections.

(1) The Secretary of State may by regulations make provision as to—

(a) the conduct of elections for the return of elected mayors or elected executive members, and

(b) the questioning of elections for the return of elected mayors or elected executive members and the consequences of irregularities.

(2) The provision which may be made under subsection (1)(a) includes, in particular, provision—

(a) about the registration of electors,

(b) for disregarding alterations in a register of electors,

(c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses),

(d) for the combination of polls at elections for the return of elected mayors and other elections (including elections for the return of elected executive members), and

(e) for the combination of polls at elections for the return of elected executive members and other elections (including elections for the return of elected mayors).

(3) Regulations under this section may—

(a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,

(b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members, and

(c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

F177**[**(3A) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission.

(3B) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) shall be exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(4) No return of an elected mayor or elected executive member at an election is to be questioned except by an election petition under the provisions of Part III of the [M19]Representation of the [M20]People Act 1983 as applied by or incorporated in regulations under this section.

Textual Amendments

F177 S. 44(3A)(3B) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(2)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (with Sch. 2 Pt. II para. 2)

Modifications etc. (not altering text)

C94 S. 44 functions made exercisable concurrently (18.8.2010) by The Lord President of the Council Order 2010 (S.I. 2010/1837), arts. 1(2), **3**

C95 S. 44(4) modified (coming into force in accordance with reg. 1(2) of the amending Regulations) by Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024), regs. 1(2), **5** (as amended (6.4.2014) by The Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014 (S.I. 2014/370), regs. 1(2), **4** (with reg. 1(2)))

Commencement Information

I41 S. 44 wholly in force at 28.7.2001; s. 44 not in force at Royal Assent see s. 108; s. 44 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 44 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 44 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M19 1983 c. 2.

M20 1983 c. 2.

[[F178]Leader and cabinet executives (England)

Textual Amendments

F178 Ss. 44A-44H and cross-heading inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 67**, 245(2)

44A Election of leader: whole-council elections

(1) This section applies to a local authority if it—

(a) is subject to whole-council elections, and

(b) is, on the day of a post-election annual meeting, operating a leader and cabinet executive (England).

(2) The executive leader is to be elected at the post-election annual meeting.

(3) But if the council fails to elect the executive leader at the post-election annual meeting, an executive leader is to be elected at a subsequent meeting of the council.

(4) For the purposes of this section and section 44D—

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(a) a local authority is subject to whole-council elections if, under the scheme for the ordinary elections of its councillors, all of the councillors are elected in each year in which the elections are held;

(b) "post-election annual meeting" means the first annual meeting of a local authority to be held after ordinary elections take place.

44B Election of leader: partial-council elections

(1) This section applies to a local authority if it—

(a) is subject to partial-council elections, and

(b) is, on the day of a relevant annual meeting, operating a leader and cabinet executive (England).

(2) The executive leader is to be elected at the relevant annual meeting.

(3) But if the council fails to elect the executive leader at the relevant annual meeting, the executive leader is to be elected at a subsequent meeting of the council.

(4) For the purposes of this section and section 44E—

(a) a local authority is subject to partial-council elections if, under the scheme for the ordinary elections of its councillors, one-half or one-third (or, in either case, as nearly as may be) of the councillors are elected in each year in which the elections are held;

(b) "relevant annual meeting" means—

(i) the first annual meeting to be held after the local authority starts to operate the leader and cabinet executive (England), or

(ii) any subsequent annual meeting held on a day when an executive leader's term of office is to end by virtue of section 44E(3).

44C Removal of leader

(1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) may include provision for the council to remove the executive leader by resolution.

(2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—

(a) at the meeting at which the leader is removed from office, or

(b) at a subsequent meeting.

44D Term of office of leader: whole-council elections

(1) This section applies to the executive leader of a local authority which—

(a) is operating a leader and cabinet executive (England), and

(b) is subject to whole-council elections.

(2) The executive leader's term of office starts on the day of his election as leader.

(3) The executive leader's term of office ends on the day of the post-election annual meeting which follows his election as leader.

(4) But if the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

44E Term of office of leader: partial-council elections

(1) This section applies to the executive leader of a local authority which—
  (a) is operating a leader and cabinet executive (England), and
  (b) is subject to partial-council elections.

(2) The executive leader's term of office starts on the day of his election.

(3) The executive leader's term of office ends on the day when the council holds its first annual meeting after the leader's normal day of retirement as a councillor.

(4) But that is subject to subsections (5) and (6).

(5) If the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.

(6) If the local authority becomes subject to whole-council elections, the executive leader's term of office ends on the day of the annual meeting which follows the first whole-council elections.

(7) For the purposes of this section an executive leader's normal day of retirement as a councillor is the day when the leader would next be required to retire as a councillor of the council if section 44F were disregarded.

44F Leader to continue to hold office as councillor

(1) The executive leader of a leader and cabinet executive (England) remains a member of the council during his term of office as leader.

(2) Accordingly, any enactment which provides for his earlier retirement as a councillor does not apply.

(3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

44G No other means of electing or removing leader

(1) This section applies to a local authority which operate a leader and cabinet executive (England).

(2) An executive leader may not be elected except in accordance with section 44A, 44B or 44C or regulations under section 44H.

(3) An executive leader may not be removed from office except in accordance with section 44C or regulations under section 44H.

44H Regulations

(1) The Secretary of State may by regulations make provision—
  (a) as to the dates on which and years in which executive leaders of leader and cabinet executives (England) are to be elected by local authorities,
  (b) as to the intervals between elections of executive leaders of leader and cabinet executives (England),
  (c) as to the term of office of an executive leader of a leader and cabinet executive (England), and

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(d) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).

(2) Sections 44A to 44E are subject to regulations under this section.**]**

Provisions with respect to referendums

[F179 45 Provisions with respect to referendums.

(1) A local **[F180**authority**]** may not hold more than one referendum in any period of five years.

(2) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals in accordance with any provision made by the regulations or order.

(3) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to reject the proposals to which the referendum relates, the local authority concerned may not implement those proposals but must instead comply with any provision made by the regulations or order.

(4) The persons entitled to vote in a referendum held by a local authority are those who on the day of the referendum—
   (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and
   (b) are registered in the register of local government electors at an address within the authority's area.

(5) The **[F181**Welsh Ministers**]** may by regulations make provision as to the conduct of referendums.

(6) The **[F182**Welsh Ministers**]** may by regulations make provision for the combination of polls at referendums with polls at any elections.

(7) Regulations under subsection (5) or (6) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.

(8) The provision which may be made under subsection (5) includes, in particular, provision—
   (a) as to the question to be asked in a referendum,
   (b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),
   (c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),
   (d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,
   (e) as to when, where and how voting in a referendum is to take place,
   (f) as to how the votes cast in a referendum are to be counted, and
   (g) for disregarding alterations in a register of electors.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

[F183][(8A) Before making any regulations under this section, the [[F184]Welsh Ministers] shall consult the Electoral Commission, but this subsection does not apply to—

(a) provisions which specify the wording of the question to be asked in a referendum, or

(b) provisions for matters mentioned in subsection (8)(c).

(8B) No regulations which specify the wording of the question to be asked in a referendum may be made under subsection (5) unless—

(a) before laying a draft of the regulations before [[F185]the National Assembly for Wales], the [[F186]Welsh Ministers] consulted the Electoral Commission as to the intelligibility of that question, and

(b) when so laying the draft, the [[F187]Welsh Ministers] also laid before [[F188]the National Assembly for Wales] a report stating any views as to the intelligibility of that question which were expressed by the Electoral Commission in response to that consultation.

(8C) Where any such regulations specify not only the question to be asked in a referendum but also any statement which is to precede that question on the ballot paper at the referendum, any reference in subsection (8B) to the intelligibility of that question is to be read as a reference to the intelligibility of that question and that statement taken together.

(8D) No regulations which make provision for the matters mentioned in subsection (8)(c) may be made under subsection (5) unless—

(a) before laying a draft of the regulations before [[F189]the National Assembly for Wales], the [[F190]Welsh Ministers] sought, and had regard to, the views of the Electoral Commission as to the provision to be made by the regulations as to those matters, and

(b) where the draft regulations laid before [[F191]the National Assembly for Wales] made provision as to those matters otherwise than in accordance with the views of the Electoral Commission, the [[F192]Welsh Ministers], when so laying the draft, also laid before [[F193]the Assembly] a statement of [[F194]their] reasons for departing from the views of the Commission.]

(9) In subsections (1), (4) to (6) and (8) [[F195]to (8C)]"referendum" means a referendum held under section 27 [F196]... or by virtue of regulations or an order made under any provision of this Part [[F197]or under section 40 of the Local Government (Wales) Measure 2011].]

Textual Amendments

F179 S. 45(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 69(2)**, 245(2) (with s. 69(4))

F180 Word in s. 45(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(2)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F181 Words in s. 45(5) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F182 Words in s. 45(6) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F183 S. 45(8A)-(8D) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(3)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

F184 Words in s. 45(8A) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(3)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F185 Words in s. 45(8B)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(4)(a)(i)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F186 Words in s. 45(8B)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(4)(a)(ii)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F187 Words in s. 45(8B)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(4)(b)(i)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F188 Words in s. 45(8B)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(4)(b)(ii)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F189 Words in s. 45(8D)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(a)(i)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F190 Words in s. 45(8D)(a) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(a)(ii)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F191 Words in s. 45(8D)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(b)(i)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F192 Words in s. 45(8D)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(b)(ii)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F193 Words in s. 45(8D)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(b)(iii)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F194 Word in s. 45(8D)(b) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 66(5)(b)(iv)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F195 Words in s. 45(9) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(4)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)

F196 Words in s. 45(9) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 66(6), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

F197 Words in s. 45(9) inserted (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 54(4)**, 178(2)

Modifications etc. (not altering text)

C96 S. 45 functions made exercisable concurrently (18.8.2010) by The Lord President of the Council Order 2010 (S.I. 2010/1837), arts. 1(2), **3**

C97 S. 45 applied (with modifications) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(2), **Sch. 1 para. 4(3)**

Commencement Information

I42 S. 45 wholly in force at 28.7.2001; s. 45 not in force at Royal Assent see s. 108; s. 45 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(b); s. 45(5)-(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 45 in force at 19.2.2001 in relation to England only except in so far as not already in force by S.I. 2001/415, **arts. 1(3)**, 2(a); s. 45 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Amendments to the 1972 Act

46 Amendments to the 1972 Act.

Schedule 3, which contains amendments to the [M21]Local Government Act 1972, has effect.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Commencement Information

I43 S. 46 wholly in force at 28.7.2001; s. 46 not in force at Royal Assent see s. 108; s. 46 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(e); s. 46 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M21 1972 c. 70.

Power to make further provision

47 Power to make incidental, consequential provision etc.

(1) The **[**[F198]Welsh Ministers**]** may by order make such incidental, consequential, transitional or supplemental provision as **[**[F199]they consider**]** necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Part.

(2) The provision which may be made under subsection (1) includes provision modifying any enactment (whenever passed or made).

(3) The power under subsection (2) to modify an enactment is a power—

(a) to apply that enactment with or without modifications,

(b) to extend, disapply or amend that enactment, or

(c) to repeal or revoke that enactment with or without savings.

[[F200](4) The provision which may be made under subsection (1) includes provision relating to changes in local authority governance arrangements [F201]....

(5) That includes—

(a) provision relating to the old governance arrangements, the new governance arrangements, or both kinds of governance arrangements,

(b) provision as to the dates on which and years in which relevant elections may or must be held,

(c) provision as to the intervals between relevant elections, and

(d) provision as to the term of office of any member of any form of executive.

(6) In subsection (5) "relevant election" means—

(a) an election for the return of an elected mayor;

[F202](b) . . . . . .

(7) Nothing in subsection (2), (3), (4) or (5) affects the generality of the power in subsection (1).**]**

Textual Amendments

F198 Words in s. 47(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 67(2)(a)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F199 Words in s. 47(1) substituted (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 67(2)(b)**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

F200 S. 47(4)-(7) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 68(2)**, 245(2)

F201 Words in s. 47(4) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 67(3), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c) (with arts. 6, 7, 9-11)

F202 S. 47(6)(b) repealed (15.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 3 para. 67(4), **Sch. 25 Pt. 4**; S.I. 2012/57, art. 4(1)(c)(ee)(i) (with arts. 6, 7, 9-11)

Commencement Information

I44 S. 47 wholly in force at 1.11.2000; s. 47 not in force at Royal Assent see s. 108; s. 47 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 47 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Interpretation

48 Interpretation of Part II.

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

"alternative arrangements" has the meaning given by section 32(1),

[[F203]"council manager" has the meaning given by section 11(4)(b),**]**

"elected executive member" has the meaning given by section 39(4),

"elected mayor" has the meaning given by section 39(1),

"electoral area" has the meaning given by section 203(1) of the [M22]Representation of the People Act 1983,

"enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the [M23]Interpretation Act 1978),

"executive", in relation to a local authority, is to be construed in accordance with section 11,

"executive arrangements" has the meaning given by section 10,

"executive leader" has the meaning given by **[**[F204]section 11(2A)(a) or (3)(a)**]**,

"fall-back proposals" and "outline fall-back proposals" are to be construed in accordance with section 27(1) and (2),

"first preference vote" has the meaning given by section 42(1)(a),

"local authority" means—

(a) in relation to England, a county council, a district council or a London borough council, and

(b) in relation to Wales, a county council or a county borough council,

"local government elector" has the meaning given by section 270(1) of the [M24]Local Government Act 1972,

[[F205]"ordinary day of election", in relation to a local authority, means the day of ordinary elections of councillors of the authority,**]**

"overview and scrutiny committee" has the meaning given by section 21(1),

"the political balance requirements" means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the [M25]Local Government and Housing Act 1989,

"second preference vote" has the meaning given by section 42(1)(b).

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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[[F206](1A) In this Part "relevant election years", in relation to a local authority, means the years specified in the second column of the following table in relation to that type of authority.

Type of local authority	*Relevant election years*
Metropolitan district	2010 and every fourth year afterwards
County	2009 and every fourth year afterwards
London borough	2010 and every fourth year afterwards
Non-metropolitan district	2011 and every fourth year afterwards**]**

(2) Any reference in this Part to the chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
- (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the [M26]Local Government Act 1972) is referred to in Part I of that Schedule as the mayor of the borough.

(3) Any reference in this Part to the vice-chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
- (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the [M27]Local Government Act 1972) is referred to in Part I of that Schedule as the deputy mayor.

(4) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.

(5) Section 101 of the [M28]Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.

(6) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.

(7) Any directions given by the Secretary of State under any provision of this Part—
- (a) may be varied or revoked by subsequent directions given by him under that provision, and
- (b) may make different provision for different cases, local authorities or descriptions of local authority.

Textual Amendments

F203 Words in s. 48(1) repealed (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(5), 178(2), **Sch. 4 Pt. B**

F204 Words in s. 48(1) substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 70(2)**, 245(2)

F205 Words in s. 48(1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 70(3)**, 245(2)

F206 S. 48(1A) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 70(4)**, 245(2)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Commencement Information

I45 S. 48 wholly in force at 1.11.2000; s. 48 not in force at Royal Assent see s. 108(4)-(6); s. 48 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 2(a); s. 48 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

Marginal Citations

M22 1983 c. 2.
M23 1978 c. 30.
M24 1972 c. 70.
M25 1989 c. 42.
M26 1972 c. 70.
M27 1972 c. 70.
M28 1972 c. 70.

[F207 48A Functions of the Lord President of the Council

See the Lord President of the Council Order 2010 by virtue of which functions of the Secretary of State under sections 44 and 45 are exercisable concurrently with the Lord President of the Council.]

Textual Amendments

F207 S. 48A inserted (18.8.2010) by The Lord President of the Council Order 2010 (S.I. 2010/1837), art. 1(2), **Sch. para. 8**

PART III

CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

Modifications etc. (not altering text)

C98 Pt. III applied (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **14(1)**
C99 Pt. III applied (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **14(1)**
C100 Pt. III applied (24.3.2005) by New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, **Sch. 4 para. 9(3)**
C101 Pt. III savings for effects of 2005 c. 10, s. 38 (1.4.2006) by The Public Services Ombudsman (Wales) Act 2005 (Transitional Provisions and Consequential Amendments) Order 2006 (S.I. 2006/362), arts. 1(1), **4**
C102 Pt. III applied (with modifications) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **7(5)**
C103 Pt. III applied (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **16(8)**
C104 Pt. III functions made exercisable (E.) by joint standards committees (15.6.2009) by The Standards Committee (Further Provisions) (England) Regulations 2009 (S.I. 2009/1255), regs. 1(1), **14**
C105 Pt. III applied (24.3.2010) by The South Downs National Park Authority (Establishment) Order 2010 (S.I. 2010/497), art. 1, **Sch. 4 para. 9(3)**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

C106 Pt. III continued (with modifications) (14.12.2011) by The Police Reform and Social Responsibility Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2011 (S.I. 2011/3019), **art. 5**

CHAPTER I

CONDUCT OF MEMBERS

Modifications etc. (not altering text)

C107 Pt. III Ch. I applied (12.11.2009 for specified purposes, 1.10.2010 in so far as not already in force) by Marine and Coastal Access Act 2009 (c. 23), **ss. 151(7)(c)**, 324(1)(c)(d) (with ss. 172(3), 185); S.I. 2010/2195, art. 3(2)(b)

Standards of conduct

49 Principles governing conduct of members of relevant authorities.

(1) The Secretary of State may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales.

(2) The National Assembly for Wales may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in Wales (other than police authorities).

[[F208](2A) An order under subsection (1) must provide as respects each specified principle—

(a) that it applies to a person only when acting in an official capacity; or

(b) that it applies to a person only when not acting in an official capacity;

but the order may provide as mentioned in paragraph (b) only as respects a principle within subsection (2B).

(2B) A principle is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence.

(2C) An order under subsection (1) may define, for the purposes of the order—

"official capacity"; and

"criminal offence".

(2D) An order under subsection (2)—

(a) may specify principles which are to apply to a person at all times;

(b) may specify principles which are to apply to a person otherwise than at all times.**]**

(3) Before making an order under this section, the Secretary of State must consult—

(a) such representatives of relevant authorities in England as he considers appropriate,

(b) the Audit Commission,

(c) the Commission for Local Administration in England, and

(d) such other persons (if any) as he considers appropriate.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(4) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—

(a) such representatives of police authorities in Wales as he considers appropriate,

[[F209](aa) the Auditor General for Wales,**]**

(b) **[**[F210]the Public Services Ombudsman for Wales**]**, and

(c) the National Assembly for Wales.

(5) Before making an order under this section, the National Assembly for Wales must consult—

(a) such representatives of relevant authorities in Wales as it considers appropriate,

(b) the **[**[F211]Auditor General for Wales**]**,

(c) **[**[F212]the Public Services Ombudsman for Wales**]**, and

(d) such other persons (if any) as it considers appropriate.

(6) In this Part "relevant authority" means—

(a) a county council,

(b) a county borough council,

(c) a district council,

(d) a London borough council,

(e) a parish council,

(f) a community council,

(g) the Greater London Authority,

[F213](h) . . . . . .

(i) the London Fire and Emergency Planning Authority,

(j) the Common Council of the City of London in its capacity as a local authority or police authority,

(k) the Council of the Isles of Scilly,

[[F214](l) a fire and rescue authority 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,**]**

[F215](m) . . . . . .

(n) a joint authority established by Part IV of the [M29]Local Government Act 1985,

[[F216](na) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,

(nb) a combined authority established under section 103 of that Act,**]**

(o) the Broads Authority, or

(p) a National Park authority established under section 63 of the [M30]Environment Act 1995.

(7) In this Part "co-opted member", in relation to a relevant authority, means a person who is not a member of the authority but who—

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F208 S. 49(2A)-(2D) inserted (31.1.2008 for specified purposes) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 183(1)**, 245(5) (with s. 183(5)-(11), 201); S.I. 2008/172, art. 5(1)(a)

F209 S. 49(4)(aa) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 53(1)**(2)**; S.I. 2005/558, art. 2, Sch. 1

F210 Words in s. 49(4)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 2(a)**; S.I. 2005/2800, arts. 4(1)(a)(2), 5(1)(3) (with art. 4(3))

F211 Words in s. 49(5)(b) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 53(1)**(3)**; S.I. 2005/558, art. 2, Sch. 1

F212 Words in s. 49(5)(c) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 2(b)**; S.I. 2005/2800, arts. 4(1)(a)(2), 5(1)(3) (with art. 4(3))

F213 S. 49(6)(h) omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 257(5)**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 62)

F214 S. 49(6)(I) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 94**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

F215 S. 49(6)(m) omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 257(5)**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 62)

F216 S. 49(6)(na)(nb) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 93**; S.I. 2009/3318, art. 2(c)

Modifications etc. (not altering text)

C108 S. 49 applied (1.4.2009) by The Charter Trustees Regulations 2009 (S.I. 2009/467), regs. 1(1), **14(3)** (with reg. 1(2))

Commencement Information

I46 S. 49 wholly in force at 28.7.2001; s. 49 not in force at Royal Assent see s. 108; s. 49(2)(5)(6)(a)(b)(f)(l)(m)(p)(7) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 49 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 49 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M29 1985 c. 51.

M30 1995 c. 25.

50 Model code of conduct.

(1) The Secretary of State may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in Wales (referred to in this Part as a model code of conduct).

(2) The National Assembly for Wales may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales other than police authorities (also referred to in this Part as a model code of conduct).

(3) The power under subsection (1) or (2) to issue a model code of conduct includes power to revise any such model code which has been issued.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(4) A model code of conduct—

(a) must be consistent with the principles for the time being specified in an order under section 49(1) or 49(2) (as the case may be),

(b) may include provisions which are mandatory, and

(c) may include provisions which are optional.

[[F217](4A) A model code of conduct issued under subsection (1) must provide, as respects each provision of the code which relates to the conduct expected of the persons mentioned in that subsection—

(a) that the provision applies to a person only when acting in an official capacity; or

(b) that it applies to a person only when not acting in an official capacity;

but the code may provide as mentioned in paragraph (b) only as respects a provision within subsection (4B).

(4B) A provision is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence.

(4C) A model code of conduct issued under subsection (1) may define for the purposes of the code—

"official capacity"; and

"criminal offence".

(4D) Provision included under subsection (4A) or (4C) in a model code of conduct—

(a) must be consistent with the provision for the time being included in an order under section 49(1) by virtue of section 49(2A) or (2C);

(b) is to be mandatory except to the extent that it relates to an optional provision;

(c) to the extent that it relates to an optional provision, is to be mandatory where that optional provision is incorporated in a code of conduct under section 51.

(4E) A model code of conduct issued under subsection (2) may include—

(a) provisions which are to apply to a person at all times;

(b) provisions which are to apply to a person otherwise than at all times.**]**

(5) Before making an order under this section, the Secretary of State or the National Assembly for Wales must carry out such consultation as is required, by virtue of section 49, before an order is made under that section.

(6) For the purpose of facilitating the making of an order under this section, the Secretary of State may invite such body as he considers appropriate to draw up, and send to him, a proposed model code of conduct or proposed revisions to such a model code.

(7) An invitation under subsection (6)—

(a) must be made in writing,

(b) may be made to more than one body,

(c) may be limited to particular descriptions of authority,

(d) must specify the period within which the proposals are to be drawn up and sent to the Secretary of State,

(e) may require different proposals to be drawn up for different authorities or descriptions of authority, and

(f) may require any body to which the invitation is made to consult such persons as may be specified in the invitation.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F217 S. 50(4A)-(4E) inserted (31.1.2008 for specified purposes) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 183(2)**, 245(5) (with s. 183(5)-(11), 201); S.I. 2008/172, art. 5(1)(b)

Commencement Information

I47 S. 50 wholly in force at 28.7.2001; s. 50 not in force at Royal Assent see s. 108; s. 50(2)-(7) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 50 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 50 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

51 Duty of relevant authorities to adopt codes of conduct.

(1) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which the first order under section 50 which applies to them is made, to pass a resolution adopting a code as regards the conduct which is expected of members and co-opted members of the authority (referred to in this Part as a code of conduct).

(2) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which any subsequent order under section 50 which applies to them is made, to pass a resolution—

(a) adopting a code of conduct in place of their existing code of conduct under this section, or

(b) revising their existing code of conduct under this section.

(3) A relevant authority may by resolution—

(a) adopt a code of conduct in place of their existing code of conduct under this section, or

(b) revise their existing code of conduct under this section.

(4) A code of conduct or revised code of conduct—

(a) must incorporate any mandatory provisions of the model code of conduct which for the time being applies to that authority,

(b) may incorporate any optional provisions of that model code, and

(c) may include other provisions which are consistent with that model code.

[F218(4A) Where under subsection (4)(c) a provision relating to the conduct expected of persons is included in the code of a relevant authority in England or police authority in Wales, the code must provide—

(a) that the provision applies to a person only when acting in an official capacity (within the meaning given by the code); or

(b) that it applies to a person only when not acting in an official capacity (within that meaning);

but the code may provide as mentioned in paragraph (b) only as respects a provision within subsection (4B).

(4B) A provision of a code is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence within the meaning of the code.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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(4C) The provisions which may be included under subsection (4)(c) by a relevant authority in Wales other than a police authority include—

(a) provisions which are to apply to a person at all times;

(b) provisions which are to apply to a person otherwise than at all times.**]**

(5) Where a relevant authority fail to comply with the duty under subsection (1) or (2) before the end of the period mentioned in that subsection—

(a) they must comply with that duty as soon as reasonably practicable after the end of that period, and

(b) any mandatory provisions of the model code of conduct which for the time being applies to the authority are to apply in relation to the members and co-opted members of the authority for so long as the authority fail to comply with that duty.

(6) As soon as reasonably practicable after adopting or revising a code of conduct under this section, a relevant authority must—

(a) ensure that copies of the code or revised code are available at an office of the authority for inspection by members of the public at all reasonable hours,

(b) publish in one or more newspapers circulating in their area a notice which—

(i) states that they have adopted or revised a code of conduct,

(ii) states that copies of the code or revised code are available at an office of the authority for inspection by members of the public at such times as may be specified in the notice, and

(iii) specifies the address of that office, and

(c) send a copy of the code or revised code—

[F219](i) . . . . . .

(ii) in the case of a relevant authority in Wales, to the **[**[F220]Public Services Ombudsman for Wales **]**.

(7) Where a relevant authority themselves publish a newspaper, the duty to publish a notice under subsection (6)(b) is to be construed as a duty to publish that notice in their newspaper and at least one other newspaper circulating in their area.

(8) A relevant authority may publicise their adoption or revision of a code of conduct under this section in any other manner that they consider appropriate.

(9) A relevant authority's function with respect to the passing of a resolution under this section may be discharged only by the authority (and accordingly, in the case of a relevant authority to which section 101 of the [M31]Local Government Act 1972 applies, is not to be a function to which that section applies).

Textual Amendments

F218 S. 51(4A)-(4C) inserted (31.1.2008 for specified purposes) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 183(3)**, 245(5) (with s. 183(5)-(11), 201); S.I. 2008/172, art. 5(1)(c)

F219 S. 51(6)(c)(i) repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 10(3)(a), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(b) (with arts. 6, 8)

F220 Words in s. 51(6)(c)(ii) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 3**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Modifications etc. (not altering text)

C109 S. 51 modified (24.3.2005) by New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, **Sch. 4 para. 10**

C110 S. 51 applied (with modifications) (24.3.2010) by The South Downs National Park Authority (Establishment) Order 2010 (S.I. 2010/497), art. 1, **Sch. 4 para. 10**

Commencement Information

I48 S. 51 wholly in force at 28.7.2001; s. 51 not in force at Royal Assent see s. 108; s. 51 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 51 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M31 1972 c. 70.

52 Duty to comply with code of conduct.

(1) A person who is a member or co-opted member of a relevant authority at a time when the authority adopt a code of conduct under section 51 for the first time—

(a) must, before the end of the period of two months beginning with the date on which the code of conduct is adopted, give to the authority a written undertaking that **[**[F221]in performing his functions**]** he will observe the authority's code of conduct for the time being under section 51, and

(b) if he fails to do so, is to cease to be a member or co-opted member at the end of that period.

(2) The form of declaration of acceptance of office which may be prescribed by an order under section 83 of the [M32]Local Government Act 1972 may include an undertaking by the declarant that **[**[F221]in performing his functions**]** he will observe the authority's code of conduct for the time being under section 51.

(3) A person who becomes a member of a relevant authority to which section 83 of that Act does not apply at any time after the authority have adopted a code of conduct under section 51 for the first time may not act in that office unless he has given the authority a written undertaking that **[**[F221]in performing his functions**]** he will observe the authority's code of conduct for the time being under section 51.

(4) A person who becomes a co-opted member of a relevant authority at any time after the authority have adopted a code of conduct under section 51 for the first time may not act as such unless he has given the authority a written undertaking that **[**[F221]in performing his functions**]** he will observe the authority's code of conduct for the time being under section 51.

[[F222](5) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b)—

(a) the references in subsections (2) to (4) to the authority's code of conduct for the time being under section 51 include the mandatory provisions which for the time being apply to the members and co-opted members of the authority, and

(b) the references in subsections (3) and (4) to any time after the authority have adopted a code of conduct under section 51 for the first time are to be read as references to any time after the coming into force of section 184 of the Local Government and Public Involvement in Health Act 2007.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F221 Words in s. 52(1)-(4) repealed (31.1.2008 for W.) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 183(4), 245(5), **Sch. 18 Pt. 15** (with s. 183(5)-(11), 201); S.I. 2008/172, arts. 2(1)(u)(iii), 5(2)

F222 S. 52(5) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 184(2)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(i)

Commencement Information

I49 S. 52 wholly in force at 28.7.2001; s. 52 not in force at Royal Assent see s. 108; s. 52 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 52 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M32 1972 c. 70.

Standards committees

53 Standards committees.

(1) Subject to subsection (2), every relevant authority must establish a committee (referred to in this Part as a standards committee) which is to have the functions conferred on it by or under this Part.

(2) Subsection (1) does not apply to a parish council or community council.

(3) **[**[F223]The number of members of a standards committee of a relevant authority in England or a police authority in Wales and their term of office are to be fixed by the authority (subject to any provision made by virtue of subsection (6)(a)).**]**

(4) **[**[F223]A standards committee of a relevant authority in England or a police authority in Wales must include—

(a) at least two members of the authority, and

(b) at least one person who is not a member, or an officer, of that or any other relevant authority,

[[F224]and must be chaired by a person falling within paragraph (b) **]**. **]**

[[F224](5) **[**[F223]A standards committee of a relevant authority in England which are operating executive arrangements—

(a) may not include the elected mayor or executive leader, and

(b) may not be chaired by a member of the executive.**]**

(6) **[**[F223]The Secretary of State may by regulations make provision—

(a) as to the size and composition of standards committees of relevant authorities in England and police authorities in Wales,

(b) as to the appointment to such committees of persons falling within subsection (4)(b),

(c) with respect to the access of the public to meetings of such committees,

(d) with respect to the publicity to be given to meetings of such committees,

(e) with respect to the production of agendas for, or records of, meetings of such committees,

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(f) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of such committees,

(g) as to the proceedings and validity of proceedings of such committees.**]**

(7) **[**[F223]The Standards Board for England—

(a) may issue guidance with respect to the size and composition of standards committees of relevant authorities in England and police authorities in Wales, and

(b) must send a copy of any such guidance to the Secretary of State.**]**

(8) **[**[F223]A member of a standards committee of a relevant authority in England or a police authority in Wales who is not a member of the authority is entitled to vote at meetings of the committee.**]**

(9) **[**[F223]A relevant authority in England and a police authority in Wales must send a statement which sets out the terms of reference, or any revised terms of reference, of their standards committee to the Standards Board for England.**]**

(10) **[**[F223]A standards committee of a relevant authority in England or a police authority in Wales is not to be regarded as a body to which section 15 of the [M33]Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.**]**

(11) The National Assembly for Wales may by regulations make provision—

(a) as to the size and composition of standards committees of relevant authorities in Wales other than police authorities (including provision with respect to the appointment to any such committee of persons who are not members of the relevant authority concerned),

(b) as to the term of office of members of any such committees,

(c) as to the persons who may, may not or must chair any such committees,

(d) as to the entitlement to vote of members of any such committee who are not members of the relevant authority concerned,

(e) for or in connection with treating any such committees as bodies to which section 15 of the [M34]Local Government and Housing Act 1989 does not apply,

(f) with respect to the access of the public to meetings of such committees,

(g) with respect to the publicity to be given to meetings of such committees,

(h) with respect to the production of agendas for, or records of, meetings of such committees,

(i) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of any such committees,

(j) as to the proceedings and validity of proceedings of any such committees,

(k) for or in connection with requiring relevant authorities in Wales (other than police authorities) to send to **[**[F225]the Public Services Ombudsman for Wales**]** statements which set out the terms of reference of their standards committees.

(12) The provision which may be made by virtue of subsection (6)(c) to (f) or (11)(f) to (i) includes provision which applies or reproduces (with or without modifications) any provisions of Part VA of the Local Government Act 1972.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F223 S. 53(3)-(10) repealed (31.1.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 12(3), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(c) (with arts. 6, 8)

F224 Words in s. 53(4) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 187**, 245(5) (with s. 201); S.I. 2008/172, art. 4(i)

F225 Words in s. 53(11)(k) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 4**; S.I. 2005/2800, arts. 4(1)(a)(2), 5(1) (with art. 4(3))

Commencement Information

I50 S. 53 wholly in force at 28.7.2001; s. 53 not in force at Royal Assent see s. 108; s. 53(11)(12) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 53 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 53 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M33 1989 c. 42.

M34 1989 c. 42.

54 Functions of standards committees.

(1) The general functions of a standards committee of a relevant authority are—

(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and

(b) assisting members and co-opted members of the authority to observe the authority's code of conduct.

(2) Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—

(a) advising the authority on the adoption or revision of a code of conduct,

(b) monitoring the operation of the authority's code of conduct, and

(c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.

(3) A relevant authority may arrange for their standards committee to exercise such other functions as the authority consider appropriate.

[[F226](3A) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), references in subsection (1)(b) and (2)(b) and (c) to the authority's code of conduct are to those mandatory provisions.**]**

(4) The Secretary of State may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in England and police authorities in Wales.

(5) The National Assembly for Wales may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).

[F227](6) . . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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(7) The National Assembly for Wales may issue guidance with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).

Textual Amendments

F226 S. 54(3A) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 184(3)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(i)

F227 S. 54(6) repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 13(4), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(d) (with arts. 6, 8)

Commencement Information

I51 S. 54 wholly in force at 28.7.2001; s. 54 not in force at Royal Assent see s. 108; s. 54(5)(7) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 54 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 54 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

[F228 54A Sub-committees of standards committees

(1) A standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the committee.

(2) Subsection (1) does not apply to functions under section F229...56.

(3) A sub-committee under subsection (1) shall be appointed from among the members of the standards committee by which it is appointed **[**F230, but this is subject to section 55(7)(b)**]**.

(4) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in England or of a police authority in Wales—
   (a) regulations under section 53(6)(a) and (c) to (g) may make provision in relation to such sub-committees, and
   (b) sections 53(7), (8) and (10) and 54(4) and (6) apply in relation to such sub-committees as they apply in relation to standards committees.

(5) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in Wales other than a police authority—
   (a) regulations under section 53(11) may make provision in relation to such sub-committees, and
   (b) section 54(5) and (7) apply in relation to such sub-committees as they apply in relation to standards committees.

(6) Subject to **[**F231section 55(5) and to **]** any provision made by regulations under section 53(6)(a) or (11)(a) (as applied by this section)—
   (a) the number of members of a sub-committee under subsection (1), and
   (b) the term of office of those members,

   are to be fixed by the standards committee by which the sub-committee is appointed.**]**

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F228 S. 54A inserted (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(1)**, 128(2)(d)

F229 Words in s. 54A(2) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(1)(a), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F230 Words in s. 54A(3) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(1)(b)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F231 Words in s. 54A(6) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(1)(c)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

55 Standards committees [F232]... for parish councils.

(1) A standards committee of a district council is to have the same functions in relation to—

(a) the parish councils for which the district council are the responsible authority, and

(b) the members of those parish councils,

as the standards committee has under section 54(1) and (2) in relation to the district council and the members of the district council.

(2) A standards committee of a unitary county council is to have the same functions in relation to—

(a) the parish councils for which the county council are the responsible authority, and

(b) the members of those parish councils,

as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.

[F233](3) . . . . . .

(4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge **[**[F234]a function**]** conferred by this section, a district council or unitary county council must consult the parish councils for which they are the responsible authority.

(5) **[**[F235] Where a function conferred by this section is to be exercised by a sub-committee of the standards committee of a district council or unitary county council, the number of members of the sub-committee, **]** and the term of office of those members, are to be fixed by the standards committee after consultation with the parish councils for which the district council or unitary county council are the responsible authority.

[[F236](5A) Subsection (5) is subject to any provision made by regulations under section 53(6)(a) (as applied by section 54A).**]**

(6) Where the standards committee of a district council or unitary county council discharges **[**[F237]any function**]** conferred by this section, the standards committee—

(a) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority, and

(b) must ensure that at least one person falling within paragraph (a) is present at any meeting of the committee when matters relating to those parish councils, or the members of those parish councils, are being considered.

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Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

[[F238](7) Where a sub-committee of the standards committee of a district council or unitary county council discharges any function conferred by this section, the sub-committee—

(a) must include at least one member of the standards committee who falls within section 53(4)(b);

(b) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority; and

(c) must ensure that at least one person falling within paragraph (b) is present at any meeting of the sub-committee when matters relating to those parish councils, or the members of those parish councils, are being considered.**]**

(8) [F239]... regulations under section 53(6)(b) may make provision as to the appointment of persons falling within subsection (6)(a) or (7)(a) or (b) of this section.

[F240](9) . . . . . .

[F241](10) . . . . . .

(11) Any function which by virtue of the following provisions of this Part is exercisable by [F242]... the standards committee of a relevant authority which is a parish council is to be exercisable by [F242]...—

(a) the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council, or

(b) where that standards committee has appointed a sub-committee **[**[F243]with responsibility for that function,**]** that sub-committee;

[F244]...

[[F245](11A) Any function which by virtue of the following provisions of this Part is exercisable in relation to the standards committee of a relevant authority which is a parish council is to be exercisable in relation to the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council.

(11B) Any reference in the following provisions of this Part to the standards committee of a relevant authority which is a parish council is to be construed in accordance with subsections (11) and (11A).**]**

(12) A district council or unitary county council are the responsible authority—

(a) in relation to a parish council which is not a common parish council, if the parish is situated within the area of the district council or county council,

(b) in relation to a parish council which is a common parish council—

(i) if the parishes in the group are wholly situated within that area, or

(ii) where that is not the case, if the greatest number of local government electors for the parishes in the group is situated in that area.

(13) In this section "unitary county council" means the council of a county in England in which there are no district councils.

Textual Amendments

F232 Words in s. 55 repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(a), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

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F233 S. 55(3) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(b), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F234 Words in s. 55(4) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(c)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F235 Words in s. 55(5) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(d)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F236 S. 55(5A) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(e)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F237 Words in s. 55(6) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(f)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F238 S. 55(7) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(g)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F239 Words in s. 55(8) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(h), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F240 S. 55(9) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(i), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F241 S. 55(10) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(i), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F242 Words in s. 55(11) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(j)(i), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F243 Words in s. 55(11)(b) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(j)(ii)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

F244 Words in s. 55(11) repealed (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 188(2)(j)(iii), 245(5), **Sch. 18 Pt. 15** (with s. 201); S.I. 2008/172, art. 2(1)(j)(u)(ii) (with art. 2(2))

F245 S. 55(11A)(11B) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 188(2)(k)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(j) (with art. 2(2))

Commencement Information

I52 S. 55 wholly in force at 28.7.2001; s. 55 not in force at Royal Assent see s. 108; s. 55 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 55 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

56 Standards committees or sub-committees for community councils.

(1) A standards committee of a county council in Wales is to have the same functions in relation to—

(a) the community councils which are situated in the area of the county council, and

(b) the members of those community councils,

as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.

(2) A standards committee of a county borough council is to have the same functions in relation to—

(a) the community councils which are situated in the area of the county borough council, and

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(b) the members of those community councils,

as the standards committee has under section 54(1) and (2) in relation to the county borough council and the members of the county borough council.

(3) A standards committee of a county council or county borough council may appoint a sub-committee for the purpose of discharging all of the functions conferred on the standards committee by this section.

(4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge the functions conferred by this section, a county council or county borough council must consult the community councils which are situated in their area.

(5) Regulations under section 53(11) may make provision in relation to sub-committees appointed under this section.

(6) Subsections (5) and (7) of section 54 apply in relation to sub-committees of standards committees appointed under this section as they apply in relation to standards committees.

(7) Any function which by virtue of the following provisions of this Part is exercisable by or in relation to the standards committee of a relevant authority which is a community council is to be exercisable by or in relation to—

(a) the standards committee of the county council or county borough council in whose area the community council is situated, or

(b) where that standards committee has appointed a sub-committee under this section, that sub-committee;

and any reference in the following provision of this Part to the standards committee of a relevant authority which is a community council is to be construed accordingly.

[F246 56A Joint committees of relevant authorities in England

(1) The Secretary of State may make regulations under which two or more relevant authorities in England may—

(a) establish a joint committee of those authorities; and

(b) arrange for relevant functions to be exercisable by that committee.

(2) In this section a "relevant function" means a function conferred by or under this Part or any other enactment on the standards committee of any (or each) of the relevant authorities.

(3) The regulations may in particular—

(a) specify functions in relation to which arrangements may, or may not, be made;

(b) make provision, in relation to joint committees or sub-committees of joint committees, which corresponds to or applies (with or without modifications) —

(i) any provision of, or that could be made under, regulations under section 53(6) or 54(4),

(ii) any provision of section 53(3) to (5), (7) to (9), 54(6) or 54A(1), (3) or (6), or

(iii) any provision of section 55(4) to (7).

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(4) Regulations under this section may modify any provision of this Part, or any other enactment relating to a standards committee or to any function of a standards committee, in relation to cases where a function of a standards committee is exercisable by a joint committee.

(5) In this section "enactment" includes any enactment or subordinate legislation, whenever passed or made.

(6) Any reference in this section to a relevant authority in England does not include a parish council.**]**

Textual Amendments

F246 S. 56A inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 189**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(k)

CHAPTER II

INVESTIGATIONS ETC: ENGLAND

Standards Board for England

57 Standards Board for England.

[[F247](1) There is to be a body corporate known as the Standards Board for England.

(2) The Standards Board for England is to consist of not less than three members appointed by the Secretary of State.

(3) The Standards Board for England is to have the functions conferred on it by this Part and such other functions as may be conferred on it by order made by the Secretary of State under this subsection.

(4) In exercising its functions the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members and co-opted members of relevant authorities in England.

(5) The Standards Board for England—

(a) must appoint employees known as ethical standards officers who are to have the functions conferred on them by this Part,

[[F248](aa) may issue guidance to ethical standards officers with respect to the exercise by those officers of their functions,**]**

(b) may issue guidance to relevant authorities in England and police authorities in Wales on matters relating to the conduct of members and co-opted members of such authorities,

(c) may issue guidance to relevant authorities in England and police authorities in Wales in relation to the qualifications or experience which monitoring officers should possess, and

(d) may arrange for any such guidance to be made public.

(6) Schedule 4 makes further provision in relation to the Standards Board for England.**]**

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Textual Amendments

F247 S. 57 repealed (31.1.2012 for specified purposes, 1.4.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 17, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(e) (with arts. 6, 8); S.I. 2012/628, art. 6(h) (with arts. 9, 11, 14, 15, 17)

F248 S. 57(5)(aa) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 190(1)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(l) (with art. 2(2))

Commencement Information

I53 S. 57 wholly in force at 28.7.2001; s. 57 not in force at Royal Assent see s. 108; s. 57 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 57 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

[F249 *Written allegations*

Textual Amendments

F249 Ss. 57A-57D and 58 substituted for s. 58 (31.1.2008 for specified purposes, 8.5.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 185**, 245(5) (with s. 201); S.I. 2008/172, art. 6; S.I. 2008/1265, art. 2(a) (with art. 3)

57A Written allegations: right to make, and initial assessment

[F250(1) A person may make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former member or co-opted member) of that authority has failed, or may have failed, to comply with the authority's code of conduct.

(2) Where a standards committee receives an allegation under subsection (1) it must—

(a) refer the allegation to the monitoring officer of the relevant authority concerned (see section 66),

(b) refer the allegation to the Standards Board for England (see section 58), or

(c) decide that no action should be taken in respect of the allegation.

(3) Where an allegation under subsection (1) is in respect of a person who—

(a) is no longer a member or co-opted member of the relevant authority concerned, but

(b) is a member or co-opted member of another relevant authority in England,

the standards committee may, if it thinks it more appropriate than referring the allegation to the monitoring officer of the relevant authority concerned, refer the allegation to the monitoring officer of that other relevant authority.

(4) If the standards committee decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing, to the person who made the allegation, of the decision and the reasons for the decision.

(5) Subsections (2) to (4) are subject to any direction under section 57D.

(6) The Standards Board for England—

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(a) without prejudice to section 54(6), may issue guidance with respect to the exercise of functions under this section and sections 57B and 57C by standards committees of relevant authorities in England;

(b) may give a direction to the standards committee of a relevant authority in England with respect to the exercise of the committee's functions under this section.**]**

Textual Amendments

F250 S. 57A repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 18, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(f) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

Modifications etc. (not altering text)

C111 Ss. 57A(2)-(4) modified (E.) (15.6.2009) by The Standards Committee (Further Provisions) (England) Regulations 2009 (S.I. 2009/1255), regs. 1(1), **10(1)-(3)**

C112 S. 57A(4) modified (E.) (15.6.2009) by The Standards Committee (Further Provisions) (England) Regulations 2009 (S.I. 2009/1255), regs. 1(1), **9(1)**(2)

57B Right to request review of decision not to act

[[F251](1) This section applies where a decision is made under section 57A(2) that no action should be taken in respect of an allegation.

(2) The person who made the allegation may make a request to the standards committee of the relevant authority concerned for that decision to be reviewed.

(3) A request under subsection (2)—

(a) must be in writing, and

(b) may not be made after 30 days beginning with the date of the notice under section 57A(4).

(4) Where a request under subsection (2) is received by a standards committee—

(a) section 57A(2) to (4) again apply to the standards committee, and

(b) it must make a reference under section 57A(2)(a) or (b) or (3), or a decision under section 57A(2)(c), within 3 months beginning with the date it received the request.

(5) If by virtue of subsection (4) a decision is made under section 57A(2) that no action should be taken in respect of an allegation, this section does not apply in relation to that decision.

(6) Subsection (4) is subject to any direction under section 57D.**]**

Textual Amendments

F251 S. 57B repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 19, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(g) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

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57C Information to be given to subject of allegation

[[F252](1) Subsections (2) to (4) apply where a person makes an allegation under section 57A to a standards committee.

(2) The standards committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation ("P"); but this is subject to regulations under subsection (7).

(3) If the standards committee makes a decision under section 57A(2) that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing to P of the decision and the reasons for the decision.

(4) If the standards committee receives a request under section 57B in relation to the allegation, it must take reasonable steps to give notice in writing to P of the request.

(5) The reference in subsection (3) to a decision under section 57A(2) includes a decision under section 57A(2) as applied by section 57B(4) or 58(3).

(6) Subsections (2) to (4) are subject to any direction under section 57D.

(7) The Secretary of State may by regulations—

(a) provide that in circumstances prescribed by the regulations the duty in subsection (2) does not arise at the time the standards committee receives the allegation, and

(b) make provision, in relation to cases where that duty has been prevented by the regulations from arising at that time, as to when it does arise.**]]**

Textual Amendments

F252 S. 57C repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 20, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(h) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

Modifications etc. (not altering text)

C113 Ss. 57C(2)-(4) modified (E.) (15.6.2009) by The Standards Committee (Further Provisions) (England) Regulations 2009 (S.I. 2009/1255), regs. 1(1), **10(1)**(2)(4)

C114 S. 57C(2)(3) modified (E.) (15.6.2009) by The Standards Committee (Further Provisions) (England) Regulations 2009 (S.I. 2009/1255), regs. 1(1), **9(1)**(2)

[F253]57D Power to suspend standards committee's functions

. . . . . .

Textual Amendments

F253 S. 57D repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 21, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F254]58 Allegations referred to Standards Board

. . . . . .

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Textual Amendments

F254 S. 58 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 22, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

Functions of ethical standards officers

[F255]59 Functions of ethical standards officers.

. . . . . .

Textual Amendments

F255 S. 59 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 23, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

*Investigations **[**[F256]by ethical standards officers**]***

Textual Amendments

F256 Words in s. 60 cross-heading inserted (1.4.2008 for specified purposes) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 191(2)**, 245(5) (with s. 201); S.I. 2008/172, art. 7(2)

[F257]60 Conduct of investigations.

. . . . . .

Textual Amendments

F257 S. 60 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 24, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F258]61 Procedure in respect of investigations.

. . . . . .

Textual Amendments

F258 S. 61 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 25, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F259]62 Investigations: further provisions.

. . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F259 S. 62 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 26, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F260]63 Restrictions on disclosure of information.

. . . . . .

Textual Amendments

F260 S. 63 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 27, **Sch. 25 Pt. 5** (with Sch. 4 para. 60); S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

*Reports etc. **[**[F261]by ethical standards officers **]***

Textual Amendments

F261 Words in s. 64 cross-heading inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 192(1)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(m)

[F262]64 Reports etc.

. . . . . .

Textual Amendments

F262 S. 64 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 28, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F263]65 Interim reports.

. . . . . .

Textual Amendments

F263 S. 65 repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 29, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

[F264]65A Disclosure by monitoring officers of ethical standards officers' reports

. . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

Textual Amendments

F264 S. 65A repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 30, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(i) (with arts. 6, 8)

References to monitoring officers

66 Matters referred to monitoring officers.

(1) The Secretary of State may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section **[**[F265]57A, 60(2) or (3) or 64(2) or (4) **]** are to be dealt with.

(2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—

(a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,

(b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,

(c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),

(d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),

(e) the publicity to be given to any such reports, recommendations or action.

[[F266](f) enabling a monitoring officer of a relevant authority, in such circumstances as may be prescribed by the regulations, to refer back any matters that were referred to him under section 57A.**]**

(3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—

(a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,

(b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.

[[F267](3A) Provision made by virtue of subsection (2)(a) and (3) may make provision corresponding to or applying, with or without modifications, any provisions of sections 62 and 63 (including sections 62(10) and 63(4)) or section 67(1), (1A) and (3) to (5).

(3B) The provision which may be made by virtue of subsection (2)(b) includes provision for or in connection with—

(a) interim reports;

(b) the disclosure of reports.**]**

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(4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—

(a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,

(b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,

(c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.

[[F268](4A) The provision which may be made by virtue of subsection (2)(f) includes provision applying any provisions of section 57A or 57C, with or without modifications, where matters have been referred back by the monitoring officer.**]**

(5) Nothing in **[**[F269]subsections (2) to (4A) or section 66A**]** affects the generality of the power under subsection (1).

(6) **[**[F270]A person who refers any matters to the monitoring officer of a relevant authority under section 57A, 60(2) or (3) or 64(2) or (4),**]** may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

Textual Amendments

F265 Words in s. 66(1) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(2)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F266 S. 66(2)(f) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(3)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F267 S. 66(3A)(3B) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(4)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F268 S. 66(4A) inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(5)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F269 Words in s. 66(5) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(6)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F270 Words in s. 66(6) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(7)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

Commencement Information

I54 S. 66 wholly in force at 28.7.2001; s. 66 not in force at Royal Assent see s. 108; s. 66 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 66 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

[[F271]**66A References to [**[F272]**First-tier Tribunal] for action in respect of misconduct**

(1) The provision which may be made by regulations under section 66 by virtue of subsection (2)(d) of that section also includes provision for or in connection with—

(a) enabling a standards committee, where it considers that the action it could take against a person is insufficient, to refer the case to the **[**[F273]First-tier Tribunal for a decision**]** on the action that should be taken against the person,

[F274](b) . . . . . .

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(c) enabling **[**[F275]the First-tier Tribunal**]** to decide what action, of a kind authorised by the regulations, should be taken against the person and enabling **[**[F276]the tribunal**]** to take that action,

[F277](d) . . . . . .

[F277](e) . . . . . .

(2) The kinds of action that may be authorised by virtue of subsection (1)(c) include any kinds of action that may be authorised in relation to **[**[F278]the First-tier Tribunal**]** by regulations under section 78A(4) to (6).**]**

Textual Amendments

F271 S. 66A inserted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 195**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(p)

F272 Words in s. 66A heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(a)** (with Sch. 5)

F273 Words in s. 66A(1)(a) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(b)(i)** (with Sch. 5)

F274 S. 66A(1)(b) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(b)(ii)** (with Sch. 5)

F275 Words in s. 66A(1)(c) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(b)(iii)(aa)**, (with Sch. 5)

F276 Words in s. 66A(1)(c) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(b)(iii)(bb)**, (with Sch. 5)

F277 S. 66A(1)(d)(e) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(b)(iv)** (with Sch. 5)

F278 Words in s. 66A(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 55(c)** (with Sch. 5)

[[F279]*Information to be provided to Standards Board by relevant authority**]***

Textual Amendments

F279 Ss. 66B, 66C and cross-heading inserted (8.5.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 186**, 245(5) (with s. 201); S.I. 2008/1265, art. 2(b) (with art. 3)

[F280]66B Periodic returns

. . . . . .

Textual Amendments

F280 S. 66B repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 33, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(j) (with arts. 6, 8)

[F281]66C Information requests

. . . . . .

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Textual Amendments

F281 S. 66C repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 34, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(j) (with arts. 6, 8)

[F282 Consultation with ombudsmen]

Textual Amendments

F282 S. 67 cross-heading inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(1)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

67 Consultation with [F283 ombudsmen].

[F284 (1) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part III of the M35 Local Government Act 1974, he may consult the appropriate Local Commissioner about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part III of that Act.

[F285 (1A) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, he may consult the Public Services Ombudsman for Wales about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part 2 of that Act.]

(2) If, at any stage in the course of conducting an investigation under Part III of [F286 the Local Government Act 1974], a Local Commissioner forms the opinion that [F287 the matters which are the subject of the investigation relate] partly to a matter which could be the subject of an investigation under section 59 of this Act [F288 or regulations under section 66 of this Act], he may consult the Standards Board for England [F289 or the standards committee of the relevant authority concerned] about the investigation and [F290, where a complaint was made about the matter, he may], if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under section [F291 57A].

[F292 (2A) If, at any stage in the course of conducting an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, the Public Services Ombudsman for Wales forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under section 59 of this Act [F293 or regulations under section 66 of this Act], he may consult the Standards Board for England [F294 or the standards committee of the relevant authority concerned] about the investigation and, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under section [F295 57A].]

(3) Consultation under [F296 any of subsections (1) to (2A)] may relate to any matter concerned with the investigation, including—

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(a) the conduct of the investigation, and
(b) the form, content and publication of any report relating to the investigation.

(4) Nothing in section 32(2) of the [M36]Local Government Act 1974**[**[F297] , section 26 of the Public Services Ombudsman (Wales) Act 2005**]** or section 63(1) of this Act shall apply in relation to the disclosure of information in the course of consultation held in accordance with this section.

(5) In this section "Local Commissioner" has the same meaning as in Part III of the [M37]Local Government Act 1974.**]**

Textual Amendments

F283 Word in s. 67 heading substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 7**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F284 S. 67 repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 35, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(k) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

F285 S. 67(1A) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 8(a)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F286 Words in s. 67(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 8(b)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F287 Words in s. 67(2) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 17(3)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

F288 Words in s. 67(2) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(a)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F289 Words in s. 67(2) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(b)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F290 Words in s. 67(2) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 17(3)(b)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))

F291 Word in s. 67(2) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(c)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F292 S. 67(2A) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 8(c)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F293 Words in s. 67(2A) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(a)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F294 Words in s. 67(2A) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(b)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F295 Word in s. 67(2A) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 196(2)(c)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(j)

F296 Words in s. 67(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 8(d)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F297 Words in s. 67(4) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 8(e)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

Commencement Information

I55 S. 67 wholly in force at 28.7.2001; s. 67 not in force at Royal Assent see s. 108; s. 67 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 67 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M35 1974 c. 7.

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M36 1974 c. 7.
M37 1974 c. 7.

CHAPTER III

INVESTIGATIONS ETC: WALES

[F298 Public Services Ombudsman for Wales]

Textual Amendments

F298 Pt. III Ch. III cross-heading preceding s. 68 substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 9**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)

68 [F299 Public Services Ombudsman for Wales .]

(1) **[**F300 The Public Services Ombudsman for Wales**]** is to have the functions conferred on him by this Part and such other functions as may be conferred on him by order made by the National Assembly for Wales under this subsection.

(2) **[**F301 The Public Services Ombudsman for Wales**]**—

(a) may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members and co-opted members of such authorities,

(b) may issue guidance to relevant authorities in Wales (other than police authorities) in relation to the qualifications or experience which monitoring officers should possess, and

(c) may arrange for any such guidance to be made public.

[F302 (3) The National Assembly for Wales may by regulations make provision which, for the purpose of any provisions of the Public Services Ombudsman (Wales) Act 2005 specified in the regulations, treats—

(a) functions of the Public Services Ombudsman for Wales under that Act as including his functions under this Part, or

(b) expenses of the Public Services Ombudsman for Wales under that Act as including his expenses under this Part.**]**

(4) The provision which may be made by virtue of subsection (3) includes provision which modifies, or applies or reproduces (with or without modifications), any provisions of F303 ...that Act.

F304 (5) . . . . . .

Textual Amendments

F299 S. 68 heading: word substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 10**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F300 Words in s. 68(1) substituted (12.10.2005 for specified purposes) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 11(a)**; S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

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F301 Words in s. 68(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 11(b)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F302 S. 68(3) substituted (12.10.2005 for specified purposes) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 11(c)**; S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

F303 Words in s. 68(4) repealed (12.10.2005 for specified purposes) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 4 para. 11(d), Sch. **7**; S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

F304 S. 68(5) repealed (12.10.2005 for specified purposes) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 4 para. 11(e), Sch. **7**; S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

Commencement Information

I56 S. 68 wholly in force at 28.7.2001; s. 68 not in force at Royal Assent see s. 108; s. 68(3)-(5) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 68 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Investigations

69 [F305Investigations by the Public Services Ombudsman for Wales.]

(1) **[**F306The Public Services Ombudsman for Wales**]** may investigate—

(a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct, and

(b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).

(2) If **[**F307the Public Services Ombudsman for Wales**]** considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.

(3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.

(4) Those findings are—

(a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,

(b) that no action needs to be taken in respect of the matters which are the subject of the investigation,

(c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or

(d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1).

(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales,

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the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly **[**[F308]if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he**]** must decide to which of those monitoring officers to refer the matters concerned).

Textual Amendments

F305 Pt. III Ch. III(crossheading)(investigations) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 12**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F306 Words in s. 69(1) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 13(a)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F307 Words in s. 69(2) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 13(b)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F308 Words in s. 69(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 13(c)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

70 Investigations: further provisions.

(1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).

(2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—

(a) any provisions of sections 60 to 63, or

[[F309](b) any provisions of sections 13 to 15, 25 to 27 and 32 of the Public Services Ombudsman (Wales) Act 2005.**]**

(3) **[**[F310]The Public Services Ombudsman for Wales**]** may cease an investigation under section 69 at any stage before its completion.

(4) Where **[**[F311]the Public Services Ombudsman for Wales **]** ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.

(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, **[**[F311]the Public Services Ombudsman for Wales **]** may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

Textual Amendments

F309 S. 70(2)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 14(a)**; S.I. 2005/2800, arts. 4(1)(c)(2),5(1) (with art. 4(3))

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Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

F310 Words in s. 70(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 14(b)**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)

F311 Words in s. 70(4)(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 14(c)**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

Modifications etc. (not altering text)

C115 S. 70(2) modified (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 201(3)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(l)

Commencement Information

I57 S. 70 wholly in force at 28.7.2001; s. 70 not in force at Royal Assent see s. 108; s. 70(1)(2) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 70 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Reports etc.

71 Reports etc.

(1) Where **[**[F312] the Public Services Ombudsman for Wales**]** determines in relation to any case that a finding under section 69(4)(a) or (b) is appropriate—

(a) he may produce a report on the outcome of his investigation,

(b) he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,

(c) he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and

(d) where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.

(2) Where **[**[F312] the Public Services Ombudsman for Wales**]** determines in relation to any case that a finding under section 69(4)(c) is appropriate he must—

(a) produce a report on the outcome of his investigation,

(b) subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and

(c) send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.

(3) Where **[**[F312] the Public Services Ombudsman for Wales**]** determines in relation to any case that a finding under section 69(4)(d) is appropriate he must—

(a) produce a report on the outcome of his investigation,

(b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1), and

(c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for Wales.

(4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—

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Changes to legislation: *Local Government Act 2000 is up to date with all changes known to be in force on or before 16 July 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)*

(a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and

(b) **[**[F313]if the Public Services Ombudsman for Wales reaches a finding under section 69(4)(c) he**]** must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.

(5) A report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

(6) **[**[F314]The Public Services Ombudsman for Wales**]** must—

(a) inform any person who is the subject of an investigation under section 69, and

(b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,

of the outcome of the investigation.

Textual Amendments

F312 Words in s. 71(1)-(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 15(a)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F313 Words in s. 71(4)(b) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 15(b)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F314 Words in s. 71(6) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 15(c)**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

72 Interim reports.

(1) Where he considers it necessary in the public interest, **[**[F315]the Public Services Ombudsman for Wales**]** may, before the completion of an investigation under section 69, produce an interim report on that investigation.

(2) An interim report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

(3) Where the prima facie evidence is such that it appears to **[**[F315]the Public Services Ombudsman for Wales**]**—

(a) that the person who is the subject of the interim report has failed to comply with the code of conduct of the relevant authority concerned,

(b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and

(c) that it is in the public interest to suspend or partially suspend that person immediately,

the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant

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authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

(4) Where **[**[F315]the Public Services Ombudsman for Wales**]** produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2).

(5) A copy of any report under this section must be given—
- (a) to any person who is the subject of the report,
- (b) to the monitoring officer of the relevant authority concerned, and
- (c) to the president of the Adjudication Panel for Wales.

(6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
- (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
- (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

Textual Amendments

F315 Words in s. 72(1)(3)(4) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 16**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

References to monitoring officers

73 Matters referred to monitoring officers.

(1) The National Assembly for Wales may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section **[**[F316]70(4) or (5) or 71(2) or (4)**]** are to be dealt with.

(2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
- (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
- (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
- (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
- (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-

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opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),

(e) the publicity to be given to any such reports, recommendations or action.

(3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—

(a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,

(b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.

(4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—

(a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,

(b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,

(c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.

(5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

(6) In its application to police authorities in Wales, subsection (1) has effect as if for the reference to the National Assembly for Wales there were substituted a reference to the Secretary of State.

(7) Where **[**[F317]the Public Services Ombudsman for Wales**]** refers any matters to the monitoring officer of a relevant authority under section **[**[F318] 70(4) or (5) or 71(2) or (4) **]** he may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

Textual Amendments

F316 Words in s. 73(1) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(8)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

F317 Words in s. 73(7) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 17**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F318 Words in s. 73(7) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(8)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

Commencement Information

I58 S. 73 wholly in force at 28.7.2001; s. 73 not in force at Royal Assent see s. 108; s. 73 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 73 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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74 Law of defamation.

For the purposes of the law of defamation, any statement (whether written or oral) made by **[**[F319]the Public Services Ombudsman for Wales**]** in connection with the exercise of his functions under this Part shall be absolutely privileged.

Textual Amendments

F319 Words in s. 74 substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 18**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

CHAPTER IV

ADJUDICATIONS

[[F320]*The Adjudication Panel for Wales]*

Textual Amendments

F320 S. 75 cross-heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 56** (with Sch. 5)

75 [[F321]Adjudication Panel for Wales].

[F322](1) . . . . . .

(2) There is to be a panel of persons, known as the Adjudication Panel for Wales or Panel Dyfarnu Cymru, eligible for membership of tribunals drawn from the Panel.

[F323](3) . . . . . .

[F323](4) . . . . . .

(5) The members of the Adjudication Panel for Wales are to be appointed by the National Assembly for Wales on such terms and conditions as it may determine.

(6) The National Assembly for Wales—

(a) must appoint one of the members of the Adjudication Panel for Wales as president of the Panel, and

(b) may appoint one of those members as deputy president of the Panel.

[F324](7) . . . . . .

(8) Such members of the Adjudication Panel for Wales as the National Assembly for Wales thinks fit must possess such qualifications as may be determined by the National Assembly for Wales.

[F325](9) . . . . . .

(10) The president and deputy president (if any) of the Adjudication Panel for Wales are to be responsible—

(a) for training the members of the Panel,

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(b) for issuing guidance on how tribunals drawn from the Panel are to reach decisions.

[F326](11) . . . . . .

Textual Amendments

F321 S. 75 heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(a)** (with Sch. 5)

F322 S. 75(1) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(b)** (with Sch. 5)

F323 S. 75(3)(4) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(b)** (with Sch. 5)

F324 S. 75(7) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(b)** (with Sch. 5)

F325 S. 75(9) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(b)** (with Sch. 5)

F326 S. 75(11) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 57(b)** (with Sch. 5)

Commencement Information

I59 S. 75 wholly in force at 28.7.2001; s. 75 not in force at Royal Assent see s. 108; s. 75(2)(5)(6)(8) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 75 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 75 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Case tribunals and interim case tribunals

76 Case tribunals and interim case tribunals.

(1) Adjudications in respect of matters referred to the president of the **[**[F327]Adjudication Panel for Wales**]** under section [F328]... 71(3) are to be conducted by tribunals (referred to in this Part as case tribunals) consisting of not less than three members of the Panel.

(2) Adjudications in respect of matters referred to the president of the **[**[F329]Adjudication Panel for Wales**]** under section [F330]... 72(4) are to be conducted by tribunals (referred to in this Part as interim case tribunals) consisting of not less than three members of the Panel.

(3) The president of the **[**[F331]Adjudication Panel for Wales**]** (or in his absence the deputy president) is to appoint the members of any case tribunal or interim case tribunal.

(4) A case tribunal drawn from the **[**[F332]Adjudication Panel for Wales**]** may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under section [F333]... 71(3).

(5) An interim case tribunal drawn from the **[**[F334]Adjudication Panel for Wales**]** may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under section [F335]...72(4).

(6) The president or the deputy president of the **[**[F336]Adjudication Panel for Wales**]** may be a member of a case tribunal or interim case tribunal drawn from the Panel.

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(7) A member of the **[**[F337]Adjudication Panel for Wales**]** may not at any time be a member of a case tribunal or interim case tribunal drawn from the Panel which is to adjudicate on a matter relating to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the member of the Panel has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.

(8) A member of the **[**[F338]Adjudication Panel for Wales**]** who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an adjudication conducted by a case tribunal or interim case tribunal—

(a) must disclose the nature of his interest to the president or deputy president of that Panel, and

(b) may not be a member of a case tribunal or interim case tribunal which conducts an adjudication in relation to that matter.

(9) Where there is no deputy president of the **[**[F339]Adjudication Panel for Wales**]**, the reference in subsections (3) and (8) to the deputy president is to be treated as a reference to such member of the Panel as [F340]...the National Assembly for Wales may specify.

[F341](9A) . . . . . .

(10) A person who is a member of an interim case tribunal which, as a result of an investigation under section [F342]... 69, conducts an adjudication in relation to any person may not be a member of a case tribunal which, on the conclusion of that investigation, subsequently conducts an adjudication in relation to that person.

[F343](11) . . . . . .

[F344](12) . . . . . .

(13) The National Assembly for Wales may issue guidance with respect to the composition of case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.

(14) The National Assembly for Wales may incur expenditure for the purpose of providing administrative support to the Adjudication Panel for Wales.

[F345](15) . . . . . .

Textual Amendments

F327 Words in s. 76(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(a)(i)** (with Sch. 5)

F328 Words in s. 76(1) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(a)(ii)** (with Sch. 5)

F329 Words in s. 76(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(b)(i)** (with Sch. 5)

F330 Words in s. 76(2) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(b)(ii)** (with Sch. 5)

F331 Words in s. 76(3) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(c)** (with Sch. 5)

F332 Words in s. 76(4) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(d)(i)** (with Sch. 5)

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F333 Words in s. 76(4) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(d)(ii)** (with Sch. 5)

F334 Words in s. 76(5) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(e)(i)** (with Sch. 5)

F335 Words in s. 76(5) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(e)(ii)** (with Sch. 5)

F336 Words in s. 76(6) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(f)** (with Sch. 5)

F337 Words in s. 76(7) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(f)** (with Sch. 5)

F338 Words in s. 76(8) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(f)** (with Sch. 5)

F339 Words in s. 76(9) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(g)(i)** (with Sch. 5)

F340 Words in s. 76(9) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(g)(ii)** (with Sch. 5)

F341 S. 76(9A) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(h)** (with Sch. 5)

F342 Words in s. 76(10) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(i)** (with Sch. 5)

F343 S. 76(11) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(j)** (with Sch. 5)

F344 S. 76(12) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(j)** (with Sch. 5)

F345 S. 76(15) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 58(j)** (with Sch. 5)

Commencement Information

I60 S. 76 wholly in force at 28.7.2001; s. 76 not in force at Royal Assent see s. 108; s. 76(13) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 76 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 76 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Adjudications

77 Adjudications.

(1) A person who is the subject of an adjudication conducted by a case tribunal or interim case tribunal may appear before the tribunal in person or be represented by—

(a) counsel or a solicitor, or

(b) any other person whom he desires to represent him.

F346(2) . . . . . .

F346(3) . . . . . .

(4) The National Assembly for Wales may by regulations make such provision as appears to it to be necessary or expedient with respect to adjudications by case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.

(5) The president of the Adjudication Panel for Wales may, after consultation with the National Assembly for Wales, give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.

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(6) Regulations under this section may, in particular, include provision—

(a) for requiring persons to attend adjudications to give evidence and produce documents and for authorising the administration of oaths to witnesses,

(b) for requiring persons to furnish further particulars,

(c) for prescribing the procedure to be followed in adjudications, including provision as to the persons entitled to appear and to be heard on behalf of persons giving evidence,

(d) for the award of costs or expenses (including provision with respect to interest and provision with respect to the enforcement of any such award),

(e) for taxing or otherwise settling any such costs or expenses (and for enabling such costs to be taxed in a county court),

(f) for the registration and proof of decisions and awards of tribunals.

(7) A person who without reasonable excuse fails to comply with any requirement imposed by virtue of subsection (6)(a) or (b) **[**[F347], or with any corresponding requirement imposed by Tribunal Procedure Rules in relation to proceedings under this Act before the First-tier Tribunal,**]** is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

Textual Amendments

F346 S. 77(2)(3) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 59(a)** (with Sch. 5)

F347 Words in s. 77(7) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 59(b)** (with Sch. 5)

Commencement Information

I61 S. 77 wholly in force at 28.7.2001; s. 77 not in force at Royal Assent see s. 108; s. 77(4)(6) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 77 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 77 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

78 Decisions of **[**[F348]the First-tier Tribunal or**]** interim case tribunals.

(1) **[**[F349]In adjudicating on any of the matters which are the subject of an interim report, the First-tier Tribunal or an interim case tribunal**]** must reach one of the following decisions—

(a) that the person to whom the recommendation mentioned in section 65(3) or 72(3) relates should not be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned,

(b) that that person should be suspended or partially suspended from being a member or co-opted member of the **[**[F350]relevant authority concerned **]** for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

[[F351](2) If the decision of **[**[F352]the tribunal concerned**]** is as mentioned in subsection (1)(a), the tribunal must give notice of its decision to the standards committee of the relevant authority concerned.

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(3) If the decision of **[**[F353]the tribunal concerned**]** is as mentioned in subsection (1)(b), the tribunal must give notice to the standards committee of the relevant authority concerned stating that the person concerned is suspended or partially suspended for the period, and in the way, that the tribunal has decided.

(3A) The effect of a notice given under subsection (3) is to suspend or partially suspend the person concerned as mentioned in subsection (3).**]**

[F354](4) . . . . . .

(5) A decision of an interim case tribunal under this section shall not prevent **[**[F355] the Public Services Ombudsman for Wales**]** from continuing with the investigation under section 69 which gave rise to the interim report concerned and producing a report under section 71, or a further interim report under section 72, in respect of any matters which are the subject of the investigation.

(6) The suspension or partial suspension of any person under this section shall not extend beyond the day on which a notice **[**[F356]is given by virtue of section 78A or 79**]** to the standards committee of the relevant authority concerned with respect to that person.

(7) A copy of any notice under this section must be given—
- (a) to any person who is the subject of the notice, and
- (b) to the monitoring officer of the relevant authority concerned.

[[F357](8) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority—
- (a) the references in subsection (1) to the relevant authority concerned are to be treated as references to that other authority,
- (b) the references in subsections (2) and (7)(b) to the relevant authority concerned are to be treated as including a reference to that other relevant authority,
- (c) the duty under subsection (3) to give notice to the standards committee of the relevant authority concerned is to be treated as a duty—
  - (i) to give that notice to the standards committee of that other relevant authority, and
  - (ii) to give a copy of that notice to the standards committee of the relevant authority concerned.

(8A) Subsection (8) does not apply unless—
- (a) where the relevant authority concerned is in England, the other relevant authority is also in England,
- (b) where the relevant authority concerned is in Wales, the other relevant authority is also in Wales.**]**

(9) **[**[F358]The First-tier Tribunal or (as the case may be)**]** an interim case tribunal must take reasonable steps to inform any person who made any allegation which gave rise to the investigation under section 59 or 69 of its decision under this section.

[[F359](9A) Where a person is suspended or partially suspended under this section by a decision of the First-tier Tribunal, the person may appeal to the Upper Tribunal—
- (a) against the suspension or partial suspension; or
- (b) against the length of the suspension or partial suspension,

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(unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007).

(9B) An appeal may not be brought under subsection (9A) on a point of law (as to which see instead section 11 of the Tribunals, Courts and Enforcement Act 2007).

(9C) An appeal may be brought under subsection (9A) only if, on an application made by the person concerned, the First-tier Tribunal or Upper Tribunal has given its permission for the appeal to be brought.

(9D) In any case where the Upper Tribunal is determining an appeal under subsection (9A), section 12(2) to (4) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) apply.**]**

(10) **[**[F360]Where a person is suspended or partially suspended under this section by a decision of an interim case tribunal, the person**]** may appeal to the High Court—

(a) against the suspension or partial suspension, or

(b) against the length of the suspension or partial suspension.

[[F361](11) An appeal may not be brought under subsection (10) except with the leave of the High Court.**]**

Textual Amendments

F348 Words in s. 78 heading inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(a)** (with Sch. 5)

F349 Words in s. 78(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(b)** (with Sch. 5)

F350 Words in s. 78(1)(b) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 197(2)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(d)

F351 S. 78(2)-(3A) substituted for s. 78(2)(3) (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 197(3)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(d)

F352 Words in s. 78(2) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(c)** (with Sch. 5)

F353 Words in s. 78(3) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(c)** (with Sch. 5)

F354 S. 78(4) repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 43(6), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(l) (with arts. 6, 8)

F355 Words in s. 78(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 19**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

F356 Words in s. 78(6) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 197(4)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(d)

F357 S. 78(8)(8A) substituted for s. 78(8) (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 197(5)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(d)

F358 Words in s. 78(9) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(e)** (with Sch. 5)

F359 S. 78(9A)-(9D) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(f)** (with Sch. 5)

F360 Words in s. 78(10) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 60(g)** (with Sch. 5)

F361 S. 78(11) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 197(6)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(d)

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Modifications etc. (not altering text)

C116 S. 78(9A)-(9D) modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 5 para. 5(c)** (with Sch. 5)

Commencement Information

I62 S. 78 wholly in force at 28.7.2001; s. 78 not in force at Royal Assent see s. 108; s. 78 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 78 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

[F362 78A Decisions of [F363 First-tier Tribunal]

F364 (1) . . . . . .

(2) [F365 Where the First-tier Tribunal adjudicates on any matter under this Act, it] must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.

(3) Where [F366 the tribunal] decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.

(4) Where [F367 the tribunal] decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it may—

(a) take in respect of him any action authorised by regulations made by the Secretary of State for the purposes of this subsection, or

(b) decide to take no action against him.

(5) Regulations made under subsection (4) may in particular—

(a) enable the tribunal to censure the person,

(b) enable it to suspend, or partially suspend, the person from being a member or co-opted member of the relevant authority concerned for a limited period,

(c) enable it to disqualify the person, for a period not exceeding five years, for being or becoming (whether by election or otherwise) a member of that or any other relevant authority.

(6) The reference in subsection (5)(b) to the relevant authority concerned is to be read, in relation to a person who is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, as a reference to that other relevant authority.

(7) Regulations made by the Secretary of State may require [F368 the First-tier Tribunal] to give a notice to the standards committee of the relevant authority concerned where it decides that a person has failed to comply with the code of conduct of that authority and—

(a) decides to suspend or partially suspend the person,

(b) decides to disqualify the person,

(c) decides to take action against the person other than suspension, partial suspension or disqualification, or

(d) decides to take no action against him.

(8) Regulations under subsection (7) may—

(a) prescribe the content of any notice,

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(b) provide for the effect that any notice is to have,

(c) provide for provisions of the regulations to have effect with prescribed modifications where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority in England.

Textual Amendments

F362 Ss. 78A, 78B inserted (31.1.2008 for specified purposes, 12.12.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 198**, 245(5) (with s. 201); S.I. 2008/172, art. 8; S.I. 2008/3110, art. 2(e)

F363 Words in s. 78A heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(a)** (with Sch. 5)

F364 S. 78A(1) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(b)** (with Sch. 5)

F365 Words in s. 78A(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(c)** (with Sch. 5)

F366 Words in s. 78A(3) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(d)** (with Sch. 5)

F367 Words in s. 78A(4) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(d)** (with Sch. 5)

F368 Words in s. 78A(7) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 61(e)** (with Sch. 5)

78B [F369Section 78A:] supplementary

[F370(1) A copy of any notice given under section 78A(3) or under regulations made under section 78A(7)—

(a) must be given to the Standards Board for England,

(b) must be given to any person who is the subject of the decision to which the notice relates, and

(c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.

(2) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, the following references to the relevant authority concerned are to be treated as including references to that other relevant authority—

(a) the second reference in section 78A(3);

(b) the reference in subsection (1)(c) above.

(3) Where [F371the First-tier Tribunal adjudicates on any matter under this Act], it must take reasonable steps to give notice of its decision to any person who made any allegation which gave rise to the adjudication.

(4) Where [F372the First-tier Tribunal] decides under section 78A that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to [F373the Upper Tribunal] against that decision, or any other decision made by the tribunal by virtue of section 78A which relates to him [F374(unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007)].

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[[F375](5) An appeal may not be brought under subsection (4) on a point of law (as to which see instead section 11 of the Tribunals, Courts and Enforcement Act 2007).

(6) An appeal may be brought under subsection (4) only if, on an application made by the person concerned, the First-tier Tribunal or Upper Tribunal has given its permission for the appeal to be brought.

(7) In any case where the Upper Tribunal is determining an appeal under subsection (4), section 12(2) to (4) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) apply.**]]]**

Textual Amendments

F362 Ss. 78A, 78B inserted (31.1.2008 for specified purposes, 12.12.2008 in so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 198**, 245(5) (with s. 201); S.I. 2008/172, art. 8; S.I. 2008/3110, art. 2(e)

F369 Words in s. 78B heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(a)** (with Sch. 5)

F370 S. 78B repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 45, **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(m) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)

F371 Words in s. 78B(3) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(b)** (with Sch. 5)

F372 Words in s. 78B(4) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(c)(i)** (with Sch. 5)

F373 Words in s. 78B(4) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(c)(ii)** (with Sch. 5)

F374 Words in s. 78B(4) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(c)(iii)** (with Sch. 5)

F375 S. 78B(5)-(7) substituted for s. 78B(5) (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 62(d)** (with Sch. 5)

Modifications etc. (not altering text)

C117 S. 78B(4)-(7) modified (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 5 para. 5(c)** (with Sch. 5)

79 [[F376]Decisions of case tribunals: Wales .]

[[F377](A1) In this section "Welsh case tribunal" means a case tribunal drawn from the Adjudication Panel for Wales.**]**

(1) A **[**[F378]Welsh case tribunal **]** which adjudicates on any matter must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.

(2) Where a **[**[F378]Welsh case tribunal **]** decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.

(3) Where a **[**[F378]Welsh case tribunal **]** decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it must decide whether the nature

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of the failure is such that the person should be suspended or disqualified in accordance with subsection (4).

(4) A person may be—

(a) suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or

(b) disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority.

(5) Where a **[**[F378]Welsh case tribunal**]** makes such a decision as is mentioned in subsection (4)(a), it must decide the period for which the person should be suspended or partially suspended (which must not exceed one year or, if shorter, the remainder of the person's term of office).

(6) Where a **[**[F378]Welsh case tribunal**]** makes such a decision as is mentioned in subsection (4)(b), it must decide the period for which the person should be disqualified (which must not exceed five years).

(7) Where a **[**[F378]Welsh case tribunal**]** decides that a person has failed to comply with the code of conduct of the relevant authority concerned but should not be suspended or disqualified as mentioned in subsection (4), it must give notice to the standards committee of the relevant authority concerned—

(a) stating that the person has failed to comply with that code of conduct, and

(b) specifying the details of that failure.

(8) Where a **[**[F378]Welsh case tribunal **]** decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be suspended or partially suspended as mentioned in subsection (4)(a), it must give notice to the standards committee of the relevant authority concerned—

(a) stating that the person has failed to comply with that code of conduct,

(b) specifying the details of that failure, and

(c) stating that the person **[**[F379]is suspended or partially suspended **]** for the period, and in the way, which the tribunal has decided.

[[F380](9) The effect of a notice given to the standards committee of a relevant authority under subsection (8) is to suspend or partially suspend the person concerned as mentioned in subsection (8)(c).**]**

(10) Where a **[**[F378]Welsh case tribunal **]** decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be disqualified as mentioned in subsection (4)(b), it must give notice to the standards committee of the relevant authority concerned—

(a) stating that the person has failed to comply with that code of conduct,

(b) specifying the details of that failure, and

(c) stating that the person is disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority for the period which the tribunal has decided.

(11) The effect of a notice given to the standards committee of a relevant authority under subsection (10) is to disqualify the person concerned as mentioned in subsection (10)(c).

(12) A copy of any notice under this section—

[[F381](a) must be given to the Public Services Ombudsman for Wales,**]**

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(b) must be given to any person who is the subject of the decision to which the notice relates, and

(c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.

(13) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in **[**[F382]Wales **]**—

(a) a copy of any notice under subsection (2), (7) or (10) must also be given to the standards committee of that other relevant authority,

[[F383](b) the reference in subsection (4)(a) to the relevant authority concerned is to be treated as a reference to that other relevant authority,**]**

(c) the duty to give notice to the standards committee of the relevant authority concerned under subsection (8) is to be treated as a duty—

(i) to give that notice to the standards committee of that other relevant authority, and

(ii) to give a copy of that notice to the standards committee of the relevant authority concerned,

(d) the reference in subsection (12)(c) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

(14) A **[**[F378]Welsh case tribunal **]** must take reasonable steps to inform any person who made any allegation which gave rise to the adjudication of the decision of the **[**[F378]Welsh case tribunal**]** under this section.

(15) Where a **[**[F378]Welsh case tribunal**]** decides under this section that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to the High Court against that decision, or any other decision under this section which relates to him.

[[F384](16) An appeal may not be brought under subsection (15) except with the leave of the High Court.**]**

Textual Amendments

F376 S. 79 sidenote substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(2)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F377 S. 79(A1) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(3)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F378 Words in s. 79(1)-(15) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(4)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F379 Words in s. 79(8)(c) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(5)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F380 S. 79(9) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(6)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F381 S. 79(12)(a) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(7)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F382 Words in s. 79(13) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(8)(a)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F383 S. 79(13)(b) substituted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(8)(b)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

F384 S. 79(16) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 199(9)**, 245(5) (with s. 201); S.I. 2008/3110, art. 2(f)

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Commencement Information

I63 S. 79 wholly in force at 28.7.2001; s. 79 not in force at Royal Assent see s. 108; s. 79 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 79 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

80 Recommendations by [F385First-tier Tribunal or] case tribunals.

(1) **[**F386Where the First-tier Tribunal or a case tribunal has adjudicated on any matter under this Act, it**]** may make recommendations to a relevant authority about any matters relating to—

(a) the exercise of the authority's functions,

(b) the authority's code of conduct, or

(c) the authority's standards committee.

(2) **[**F387The tribunal concerned**]** must send a copy of any recommendations it makes under subsection (1) to the relevant person.

(3) A relevant authority to whom recommendations are made under subsection (1) must consider the recommendations and, within a period of three months beginning with the day on which the recommendations are received, prepare a report for the **[**F388relevant person**][**F388Public Services Ombudsman for Wales**]** giving details of what action the authority have taken or are proposing to take as a result of the recommendations.

(4) A relevant authority's function of considering a report under subsection (3) may be discharged only by the authority or by the standards committee of that authority (and accordingly, in the case of a relevant authority to which section 101 of the M38Local Government Act 1972 applies, is not to be a function to which that section applies).

(5) If the **[**F389relevant person**][**F389Public Services Ombudsman for Wales**]** is not satisfied with the action the relevant authority have taken or propose to take in relation to the recommendations, the **[**F389relevant person**][**F389Public Services Ombudsman for Wales**]** may require the authority to publish a statement giving details of the recommendations made by the tribunal and of the authority's reasons for not fully implementing the recommendations.

(6) **[**F390In this section "the relevant person" means—

(a) the Standards Board for England where the relevant authority concerned is in England,

(b) **[**F391the Public Services Ombudsman for Wales**]** where the relevant authority concerned is in Wales.**]**

Textual Amendments

F385 Words in s. 80 heading inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 63(a)** (with Sch. 5)

F386 Words in s. 80(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 63(b)** (with Sch. 5)

F387 Words in s. 80(2) inserted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 63(c)** (with Sch. 5)

F388 Words in s. 80(3) substituted (31.1.2012 for specified purposes, 1.7.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 47(5)**; S.I. 2012/57, art. 5(1)(a)(c)(2)(n) (with arts. 6, 8); S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

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F389 Words in s. 80(5) substituted (31.1.2012 for specified purposes, 1.7.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 4 para. 47(6)**; S.I. 2012/57, art. 5(1)(a)(c)(2)(n) (with arts. 6, 8); S.I. 2012/1463, art. 5(a) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

F390 S. 80(6) repealed (31.1.2012 for specified purposes, 1.7.2012 for specified purposes) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 47(7), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(n) (with arts. 6, 8); S.I. 2012/1463, art. 5(a)(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

F391 Words in s. 80(6)(b) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 21**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

Commencement Information

I64 S. 80 wholly in force at 28.7.2001; s. 80 not in force at Royal Assent see s. 108; s. 80 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 80 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M38 1972 c. 70.

CHAPTER V

SUPPLEMENTARY

Disclosure and registration of members' interests etc.

81 Disclosure and registration of members' interests etc.

(1) The monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority.

(2) The mandatory provisions of the model code applicable to each relevant authority ("the mandatory provisions") must require the members and co-opted members of each authority to register in that authority's register maintained under subsection (1) such financial and other interests as are specified in the mandatory provisions.

(3) The mandatory provisions must also—

(a) require any member or co-opted member of a relevant authority who has an interest specified in the mandatory provisions under subsection (2) to disclose that interest before taking part in any business of the authority relating to that interest,

(b) make provision for preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed under paragraph (a) relates.

(4) Any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee in accordance with regulations made under subsection (5).

(5) The Secretary of State may prescribe in regulations the circumstances in which standards committees may grant dispensations under subsection (4).

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(6) A relevant authority must ensure that copies of the register for the time being maintained by their monitoring officer under this section are available at an office of the authority for inspection by members of the public at all reasonable hours.

(7) As soon as practicable after the establishment by their monitoring officer of a register under this section, a relevant authority must—

(a) publish in one or more newspapers circulating in their area a notice which—

(i) states that copies of the register are available at an office of the authority for inspection by members of the public at all reasonable hours, and

(ii) specifies the address of that office, and

[F392](b) . . . . . .

[[F393](c) if it is a relevant authority in Wales, inform the Public Services Ombudsman for Wales that copies of the register are so available.**]**

(8) In its application to standards committees of relevant authorities in Wales (other than police authorities), subsection (5) has effect as if for the reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

Textual Amendments

F392 S. 81(7)(b) repealed (31.1.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 4 para. 48(3)(a), **Sch. 25 Pt. 5**; S.I. 2012/57, art. 5(1)(a)(c)(2)(o) (with arts. 6, 8)

F393 S. 81(7)(c) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 22(b)**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)

Commencement Information

I65 S. 81 wholly in force at 28.7.2001; s. 81 not in force at Royal Assent see s. 108; s. 81(5)(8) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 81 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 81 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Code of conduct for local government employees

82 Code of conduct for local government employees.

(1) The Secretary of State may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in England and police authorities in Wales.

(2) The National Assembly for Wales may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in Wales (other than police authorities).

(3) The power under subsection (1) or (2) to issue a code includes power—

(a) to issue a separate code for council managers (within the meaning of Part II of this Act), and

(b) to revise any code which has been issued.

(4) Before making an order under this section, the Secretary of State must consult—

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(a) such representatives of relevant authorities in England, and of employees of such authorities, as he considers appropriate,
(b) the Audit Commission, and
(c) the Commission for Local Administration in England.

(5) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—
(a) such representatives of police authorities in Wales, and of employees of such authorities, as he considers appropriate,
[[F394](aa) the Auditor General for Wales,**]**
(b) **[**[F395]the Public Services Ombudsman for Wales **]**, and
(c) the National Assembly for Wales.

(6) Before making an order under this section, the National Assembly for Wales must consult—
(a) such representatives of relevant authorities in Wales, and of employees of such authorities, as it considers appropriate,
(b) the **[**[F396]Auditor General for Wales**]**, and
(c) **[**[F397]the Public Services Ombudsman for Wales **]**.

(7) The terms of appointment or conditions of employment of every qualifying employee of a relevant authority (whether appointed or employed before or after the commencement of this section) are to be deemed to incorporate any code for the time being under this section which is applicable.

(8) In this section "qualifying employee", in relation to a relevant authority, means an employee of the authority other than an employee falling within any description of employee specified in regulations under this subsection.

(9) The power to make regulations under subsection (8) is to be exercised—
(a) in relation to England, by the Secretary of State, and
(b) in relation to Wales, by the National Assembly for Wales.

Textual Amendments

F394 S. 82(5)(aa) inserted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 55(1)**(2)**; S.I. 2005/558, art. 2, Sch. 1

F395 Words in s. 82(5)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 23**; S.I. 2005/2800, arts. 4(1)(d)(2), 5(1) (with art. 4(3))

F396 Words in s. 82(6)(b) substituted (1.4.2005) by Public Audit (Wales) Act 2004 (c. 23), s. 73, Sch. 2 para. 55(1)**(3)**; S.I. 2005/558, art. 2, Sch. 1

F397 Words in s. 82(6)(c) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 23**; S.I. 2005/2800, arts. 4(1)(d)(2), 5(1) (with art. 4(3))

Commencement Information

I66 S. 82 wholly in force at 28.7.2001; s. 82 not in force at Royal Assent see s. 108; s. 82(2)(3)(6)(8)(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 82 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 82 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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[F398 Delegation by monitoring officers

Textual Amendments

F398 S. 82A and cross-heading inserted (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(2)**, 128(2)(d)

82A Monitoring officers: delegation of functions under Part 3

(1) This section applies to functions of a monitoring officer of a relevant authority in relation to matters referred to him under section **[F399** 57A, 60(2) or (3), 64(2) or (4), 70(4) or (5) or 71(2) or (4) **]** .

(2) Where the monitoring officer considers that in a particular case he himself ought not to perform particular functions to which this section applies, those particular functions shall in that case be performed personally by a person nominated for the purpose by the monitoring officer.

(3) Where a deputy nominated by the monitoring officer under section 5(7) of the Local Government and Housing Act 1989 (nomination of member of monitoring officer's staff to act as deputy when monitoring officer absent or ill) considers that in a particular case he himself ought not to perform particular functions—

(a) to which this section applies, and

(b) which, by reason of the absence or illness of the monitoring officer, would but for this subsection fall to be performed by the deputy,

those particular functions shall, while the monitoring officer continues to be unable to act by reason of absence or illness, be performed in that case personally by a person nominated for the purpose by the deputy.

(4) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is an officer of the relevant authority, the authority shall provide the officer with such staff, accommodation and other resources as are, in the officer's opinion, sufficient to allow those functions to be performed.

(5) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is not an officer of the relevant authority, the authority shall—

(a) pay the person a reasonable fee for performing the functions,

(b) reimburse expenses properly incurred by the person in performing the functions, but only to the extent that the amount of the expenses is reasonable, and

(c) provide the person with such staff, accommodation and other resources as are reasonably necessary for the person's performance of the functions.**]**

Textual Amendments

F399 Words in s. 82A(1) substituted (31.1.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 194(9)**, 245(5) (with s. 201); S.I. 2008/172, art. 2(1)(o)

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Interpretation

83 Interpretation of Part III.

(1) In this Part—

"the Audit Commission" means the Audit Commission for Local Authorities and the National Health Service in England [F400]...,

"case tribunal" has the meaning given by section 76(1),

"code of conduct" means a code of conduct under section 51,

"co-opted member" has the meaning given by section 49(7),

"elected mayor" and "elected executive member" have the meaning given by section 39(1) and (4),

"ethical standards officer" means a person appointed under section 57(5)(a),

"executive" is to be construed in accordance with section 11,

"executive arrangements" has the meaning given by section 10,

"executive leader" has the meaning given by **[**[F401]section 11(2A)(a) or (3)(a)**]**,

"interim case tribunal" has the meaning given by section 76(2),

[F402]...

"model code of conduct" is to be construed in accordance with section 50(1) and (2),

"police authority" means a police authority established under section 3 of the [M39]Police Act 1996,

[F403]...

"relevant authority" has the meaning given by section 49(6).

(2) Any reference in this Part to a committee of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to a committee of an executive of the authority.

(3) Any reference in this Part to a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to an elected mayor or elected executive member of the authority.

(4) Any reference in this Part to a member of a relevant authority, in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.

(5) Any reference in this Part to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

(6) Any reference in this Part to a failure to comply with a relevant authority's code of conduct includes a reference to a failure to comply with the mandatory provisions which apply to the members or co-opted members of the authority by virtue of section 51(5)(b).

(7) Any reference in this Part to a person being partially suspended from being a member or co-opted member of a relevant authority includes a reference to a person being prevented from exercising particular functions or having particular responsibilities as such a member or co-opted member.

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(8) The reference in subsection (7) to particular functions or particular responsibilities as a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to particular functions or particular responsibilities as a member of an executive of the authority.

(9) A person who is suspended under this Part from being a member of a relevant authority shall also be suspended from being a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, but this subsection does not apply to a person who is partially suspended under this Part.

(10) A person who is suspended under this Part from being a member of a relevant authority to which Part II of this Act applies shall also be suspended, if he is a member of an executive of the authority, from being such a member; but this subsection does not apply to a person who is partially suspended under this Part.

(11) A person who is disqualified under this Part for being or becoming a member of a relevant authority shall also be disqualified—

(a) for being or becoming a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, and

(b) if the authority is one to which Part II of this Act applies, for being or becoming a member of an executive of the authority.

(12) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a parish council is to be exercisable by or in relation to the monitoring officer of the district council or unitary county council which are the responsible authority in relation to the parish council; and any reference in this Part to the monitoring officer of a relevant authority which is a parish council is to be construed accordingly.

(13) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a community council is to be exercisable by or in relation to the monitoring officer of the county council or county borough council in whose area the community council is situated; and any reference in this Part to the monitoring officer of a relevant authority which is a community council is to be construed accordingly.

(14) Any functions which are conferred by virtue of this Part on a relevant authority to which Part II of this Act applies are not to be the responsibility of an executive of the authority under executive arrangements.

(15) Any functions which are conferred on the Greater London Authority by virtue of this Part are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(16) Subsections (12) and (13) of section 55 are to apply for the purposes of subsection (12) as they apply for the purposes of that section.

Textual Amendments

F400 Words in s. 83(1) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 9 para. 1(2)(p), **Sch. 18 Pt. 9**; S.I. 2008/172, art. 4(a)(n)(i)

F401 Words in s. 83 substituted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 3 para. 26**

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F402 Words in s. 83(1) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, Sch. 4 para. 24(a), **7**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)

F403 Words in s. 83 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 64** (with Sch. 5)

Commencement Information

I67 S. 83 wholly in force at 28.7.2001; s. 83 not in force at Royal Assent see s. 108; s. 83(1)-(3)(5)-(14) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 83 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 83 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M39 1996 c. 16.

PART IV

ELECTIONS

84 Meaning of "local authority" and "principal council" in Part IV.

(1) In relation to England—

"local authority" means a principal council or a parish council,

"principal council" means a county council, a district council or a London borough council.

(2) In relation to Wales—

"local authority" means a principal council or a community council,

"principal council" means a county council or a county borough council.

(3) This section applies for the purposes of this Part.

85 Options for elections.

(1) For the purposes of this Part the three options for the scheme for the ordinary elections of councillors of a principal council are those set out in this section.

(2) The first option is for a scheme under which—

(a) the term of office of councillors is four years,

(b) the elections are held in a given year and every fourth year after it,

(c) all the councillors are elected in each year in which the elections are held, and

(d) the councillors retire together.

(3) The second option is for a scheme under which—

(a) the term of office of councillors is four years,

(b) the elections are held in a given year and every second year after it,

(c) one half (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and

(d) one half (or as nearly as may be) of the councillors retire in each year in which the elections are held.

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(4) The third option is for a scheme under which—
- (a) the term of office of councillors is four years,
- (b) the elections are held in a given year and every year after it other than every third year after it,
- (c) one third (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and
- (d) one third (or as nearly as may be) of the councillors retire in each year in which the elections are held.

86 Power to specify a scheme for elections.

[[F404](A1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council in England is the scheme under the first option set out in section 85.**]**

(1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council **[**[F405]in Wales**]** is the scheme under such of the options set out in section 85 as is specified in the order.

(2) A council is specified if it is—
- (a) a principal council (or one of the principal councils) specified by name in the order, or
- (b) a principal council falling within any description of principal council specified in the order.

(3) An order may make provision in relation to a council if the scheme specified in the order is different from the scheme which prevails (whether by virtue of an earlier order under this section or otherwise) for the ordinary elections of its councillors.

(4) An order may include provision specifying the years in which the ordinary elections are to be held.

(5) In a case where the specified scheme is that under the second or third option, an order may include provision for identifying which councillors are to retire in a particular year, and such provision may include—
- (a) provision for identifying the electoral divisions or wards affected,
- (b) provision for identifying the councillors affected within particular electoral divisions or wards.

(6) Provision under subsection (5) may include—
- (a) provision allowing the Secretary of State to direct councils to propose methods (complying with any guidance he may issue) for identifying electoral divisions, wards or councillors,
- (b) provision allowing him to give directions as to the methods to be adopted (whether those proposed or otherwise).

(7) An order may include provision designed to secure the transition from a prevailing scheme to the one specified in the order, and such provision may include—
- (a) provision to secure the retirement of existing councillors at times different from those applying under a prevailing scheme,
- (b) in a case where the specified scheme is that under the second or third option, provision for the initial election of all the councillors, for the retirement

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of some of them before the end of the normal term of four years, and for identifying which of them are so to retire.

Textual Amendments

F404 S. 86(A1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 54(3)(a)**, 245(2)

F405 Words in s. 86(1) inserted (30.12.2007) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 54(3)(b)**, 245(2)

87 Power to change years in which elections held.

(1) The Secretary of State may by order make provision which changes the years in which the ordinary elections of councillors of any specified local authority are to be held but which does not change the scheme which prevails (whether by virtue of an order under section 86 or otherwise) for the ordinary elections of those councillors.

(2) A local authority is specified if it is—

(a) a local authority (or one of the local authorities) specified by name in the order, or

(b) a local authority falling within any class or description of local authority specified in the order.

(3) An order may include provision to secure the retirement of existing councillors at times different from those at which they would otherwise retire.

88 Separate power to make incidental provisions etc.

(1) If the Secretary of State makes an order under section 86 or 87 he may make a separate order containing such incidental, consequential, transitional or supplemental provision as could have been included in the order made under that section.

(2) This applies whether or not the order under section 86 or 87 itself includes incidental, consequential, transitional or supplemental provision.

89 Consequential electoral changes.

(1) The [M40]Local Government Act 1992 is amended as mentioned in subsections (2) and (3).

[F406](2) . . . . . .

[F406](3) . . . . . .

(4) In section 6(2)(a) of the [M41]Local Government Act 1972 (electoral division of non-metropolitan county to return one councillor) after "Act" insert " and subject to sections 14(8) and 17(7) of the Local Government Act 1992 ".

Textual Amendments

F406 S. 89(2)(3) repealed (1.4.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 146(3), 148(3), **Sch. 7 Pt. 3**; S.I. 2009/3318, art. 4(hh)

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Marginal Citations

M40 1992 c. 19.

M41 1972 c. 70.

PART V

MISCELLANEOUS

Surcharge etc.

90 Surcharge etc.

(1) The [M42]Audit Commission Act 1998 is amended as follows.

(2) In section 17 (declaration that item of account is unlawful)—

(a) subsection (1)(b),

(b) in subsection (2), the words "subject to subsection (3)" and paragraphs (a) and (b), and

(c) subsections (3), (5)(b), (7) and (8),

are omitted.

(3) Section 18 (recovery of amount not accounted for etc.) is omitted.

Commencement Information

I68 S. 90 partly in force; s. 90 not in force at Royal Assent, see s. 108(3)(7); s. 90 in force (E.) at 27.7.2002 by S.I. 2002/1718, **art. 2(a)**; s. 90 in force (W.) in relation to police authorities by S.I. 2002/1718, **art. 2(a)**

Marginal Citations

M42 1998 c. 18.

91 Advisory notices.

(1) After section 19 of the [M43]Audit Commission Act 1998 there is inserted—

"**19A Other bodies: advisory notices.**

(1) The auditor for the time being of the accounts of a body subject to audit other than a health service body may issue a notice under this section ("an advisory notice") if he has reason to believe that the body or an officer of the body—

(a) is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful,

(b) is about to take or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency, or

(c) is about to enter an item of account, the entry of which is unlawful.

(2) For the purposes of this section and section 19B the actions of—

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(a) a committee or sub-committee of a body, or

(b) any other person (other than an officer) authorised to act on behalf of the body,

are to be treated as the actions of the body itself.

(3) An advisory notice is a notice which—

(a) is addressed to the body or officer concerned,

(b) specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the notice relates,

(c) specifies that the notice will take effect on the day a copy of the notice is served on the person to whom it is addressed, and

(d) requires the body or officer before—

(i) making or implementing the decision,

(ii) taking or continuing to take the course of action, or

(iii) entering the item of account,

(as the case may be) to give the person who is for the time being the auditor of the accounts of the body not less than the specified number of days' notice in writing of the intention of the body or officer to do that thing,

and in paragraph (d) the reference to the specified number is to such number not exceeding 21 as is specified in the notice.

(4) Where two or more auditors are appointed in relation to the accounts of any body—

(a) the power to issue an advisory notice may be exercised by the auditors acting jointly or by such one of them as they may determine, and

(b) in relation to such a notice, references in subsections (5) and (6) to the auditor are references to the auditor or auditors by whom the notice is issued.

(5) A copy of an advisory notice—

(a) shall be served on the body to which, or to an officer of which, it is addressed,

(b) in the case of a notice addressed to an officer, shall also be served on him, and

(c) may be served on such other person or persons as the auditor considers appropriate.

(6) The auditor shall serve a statement of his reasons for the belief referred to in subsection (1) on the body concerned, and on any officer on whom a copy of the notice was served under subsection (5)(b), before the end of the period of 7 days beginning on the day on which a copy of the notice was served on the person to whom it is addressed.

(7) Where this section requires any document to be served on an officer of a body, it shall be served on him by addressing it to him and delivering it to him or leaving it at, or sending it by post to, the office at which he is employed.

(8) An advisory notice may at any time be withdrawn by the person who is for the time being the auditor in relation to the accounts of the body to which,

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or to an officer of which, the notice was addressed, and the auditor shall give notice in writing of the withdrawal to any body or person on whom a copy of the advisory notice was served under subsection (5).

19B Effect of an advisory notice.

(1) While an advisory notice has effect, it is not lawful for the body concerned or any officer of that body—
   (a) where the notice relates to a decision, to make or implement the decision,
   (b) where the notice relates to a course of action, to take or continue to take the course of action, or
   (c) where the notice relates to an item of account, to enter the item of account,

unless and until the conditions set out in subsection (2) are satisfied.

(2) The conditions are—
   (a) that the body has considered, in the light of the advisory notice and the statement under section 19A(6), the consequences of doing the thing mentioned in the paragraph of subsection (1) which is relevant,
   (b) that the body or officer has given the person who is for the time being the auditor of the accounts of the body the period of notice in writing required by the advisory notice under section 19A(3)(d), and
   (c) that that period has expired.

(3) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed, and ceases to have effect—
   (a) where a statement of reasons is not served in accordance with subsection (6) of section 19A, at the end of the period specified in that subsection, or
   (b) when it is withdrawn under section 19A(8).

(4) Any expenses reasonably incurred by an auditor in or in connection with the issue of an advisory notice are recoverable by him from the body concerned.

(5) In this section "the body concerned", in relation to an advisory notice, means the body to which, or to any officer of which, the notice is addressed.

19C.—(1) Where—
   (a) before an advisory notice is served, a body enters into a contract to dispose of or acquire an interest in land, and
   (b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition,

the existence of the advisory notice does not prejudice any remedy in damages which may be available to any person by reason of the body's failure to complete the contract.

(2) No action lies against an auditor in respect of loss or damage alleged to have been caused by reason of the issue of an advisory notice which was issued in good faith."

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(2) Sections 20 to 23 of the [M44]Audit Commission Act 1998 (prohibition orders) cease to have effect.

Commencement Information

I69 S. 91 partly in force; s. 91 not in force at Royal Assent see s. 108; s. 91 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**

Marginal Citations

M43 1998 c. 18.

M44 1998 c. 18.

Maladministration etc.

92 Payments in cases of maladministration etc.

(1) Where a relevant authority consider—

(a) that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and

(b) that a person has been, or may have been, adversely affected by that action,

the authority may, if they think appropriate, make a payment to, or provide some other benefit for, that person.

(2) Any function which is conferred on the Greater London Authority under this section is to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(3) In this section—

"action" includes failure to act,

"relevant authority" has the same meaning as in Part III of this Act.

Modifications etc. (not altering text)

C118 S. 92: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

Commencement Information

I70 S. 92 wholly in force at 28.7.2001; s. 92 not in force at Royal Assent see s. 108; s. 92 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 92 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Welfare services

93 Grants for welfare services.

(1) The Secretary of State may, with the consent of the Treasury, pay grants to local authorities in England towards expenditure incurred by them

[[F407](a) in providing, or contributing to the provision of, such welfare services as may be determined by the Secretary of State, or

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(b) in connection with any such welfare services.**]**

(2) The National Assembly for Wales may pay grants to local authorities in Wales towards expenditure incurred by them

[[F408](a) in providing, or contributing to the provision of, such welfare services as may be determined by the Assembly, or

(b) in connection with any such welfare services.**]**

(3) The amount of any grants under this section and the manner of their payment are to be such as may be determined by the Secretary of State or the Assembly (as the case may be).

(4) Grants under this section may be paid—

(a) to all local authorities,

(b) to particular local authorities, or

(c) to particular descriptions of local authority (including descriptions framed by reference to authorities in particular areas).

(5) Grants under this section may be paid on such terms and conditions as the Secretary of State or, as the case may be, the Assembly may determine; and nothing in subsection (6) affects the generality of this subsection.

(6) Those terms and conditions may include provision as to the circumstances in which the whole or any part of a grant under this section must be repaid to the Secretary of State or the Assembly.

[[F409](6A) Before making any determination under subsection (3) or (5) the Secretary of State must obtain the consent of the Treasury.**]**

(7) A local authority must supply the Secretary of State or, as the case may be, the Assembly with such information as he or it may require for the purposes of this section.

(8) A local authority must have regard to any guidance for the time being issued by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.

(9) A local authority must comply with any directions for the time being given by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.

(10) Any determination, guidance or directions under this section may make different provision in relation to different local authorities or descriptions of local authority (including descriptions framed by reference to authorities in particular areas).

(11) Before making any determination, issuing any guidance or giving any directions under this section relating to all local authorities in England or Wales or any description of such authorities, the Secretary of State or (as the case may be) the National Assembly for Wales must consult—

(a) such local authorities or representatives of local authorities as appear to him or it to be appropriate,

(b) such recipients, or representatives of recipients, of welfare services as appear to him or it to be appropriate, and

(c) such providers, or representatives of providers, of welfare services as appear to him or it to be appropriate.

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(12) In this section—

"local authority" means—

(a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,

(b) in relation to Wales, a county council or a county borough council,

"welfare services" includes services which provide support, assistance, advice or counselling to individuals with particular needs.

Textual Amendments

F407 S. 93(1)(a)(b) substituted (7.11.2002) for words by 2002 c. 38, **ss. 136(2)**, 148(1) (with Sch. 4 paras. 6-8)

F408 S. 93(2)(a)(b) substituted (7.11.2002) for word by 2002 c. 38, **ss. 136(3)**, 148(1) (with Sch. 4 paras. 6-8)

F409 S. 93(6A) inserted (7.11.2002) by 2002 c. 38, **ss. 136(4)**, 148(1) (with Sch. 4 paras. 6-8)

Commencement Information

I71 S. 93 partly in force; s. 93 not in force at Royal Assent see s. 108; s. 93 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, **art. 2**; s. 93(2) in force (W.) at 30.6.2002 by S.I. 2002/1359, **art. 2(a)**; S. 93(3)-(12) in force (W.) at 30.6.2002 insofar as they relate to local authorities in Wales by S.I. 2002/1359, **art. 2(b)**

F410 94 Disclosure of information.

. . . . . .

Textual Amendments

F410 S. 94 repealed (5.8.2008 for specified purposes, 1.9.2008 in so far as not already in force) by Welfare Reform Act 2007 (c. 5), ss. 42(11), 70(2), **Sch. 8**; S.I. 2008/2101, art. 2(1)(2)(a)(c) (with art. 3(1)(2))

Modifications etc. (not altering text)

C119 S. 94 functions made exercisable concurrently (with effect in accordance with art. 25(1) of the amending S.I.) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 2, **25(2)(xxxiv)** (with art. 35)

C120 S. 94 functions made exercisable concurrently (with effect in accordance with art. 25(1) of the amending S.I.) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 2, 25(2)(xxxiv) (with art. 35)

Commencement Information

I72 S. 94 not in force at Royal Assent see s. 108; s. 94 in force (E.) at 1.8.2001 by S.I. 2001/2684, **art. 2**

F411 95 Unauthorised disclosure of information.

. . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Textual Amendments

F411 S. 95 repealed (5.8.2008 for specified purposes, 1.9.2008 in so far as not already in force) by Welfare Reform Act 2007 (c. 5), ss. 42(11), 70(2), **Sch. 8**; S.I. 2008/2101, art. 2(1)(2)(a)(c) (with art. 3(1)(2))

Commencement Information

I73 S. 95 partly in force; s. 95 not in force at Royal Assent see s. 108; s. 95 in force (E.) at 1.8.2001 by S.I. 2001/2684, **art. 2**

PROSPECTIVE

96 Housing benefit.

(1) Section 130 of the [M45]Social Security Contributions and Benefits Act 1992 (housing benefit) is amended as follows.

(2) At the end of subsection (2) there is inserted—

"but this subsection is subject to subsection (2A).

(2A) Except to the extent that regulations otherwise provide, payments in respect of services which provide support, assistance, advice or counselling to individuals with particular needs are not "payments in respect of a dwelling" for the purposes of subsection (1)."

(3) After subsection (4) there is inserted—

"(4A) Regulations under subsection (2A) above may make provision with respect to particular areas, particular authorities or particular descriptions of authority."

Marginal Citations

M45 1992 c. 4.

Access to information

97 Background papers.

(1) In section 100D of the [M46]Local Government Act 1972 (inspection of background papers) for subsection (1) there is substituted—

"(1) Subject, in the case of section 100C(1), to subsection (2) below, if and so long as copies of the whole or part of a report for a meeting of a principal council are required by section 100B(1) or 100C(1) above to be open to inspection by members of the public—

(a) those copies shall each include a copy of a list, compiled by the proper officer, of the background papers for the report or the part of the report, and

(b) at least one copy of each of the documents included in that list shall also be open to inspection at the offices of the council."

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(2) In subsection (2) the words "of the list, or" are omitted.

Commencement Information

I74 S. 97 wholly in force at 28.7.2001; s. 97 not in force at Royal Assent see s. 108; s. 97 in force at 1.10.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 3; s. 97 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M46 1972 c. 70.

98 Meetings and documents: notice etc.

(1) In section 100K of the [M47]Local Government Act 1972 (interpretation and application of Part VA), after subsection (2) there is inserted—

"(3) The Secretary of State may by order amend sections 100A(6)(a) and 100B(3) and (4)(a) above so as to substitute for each reference to three clear days such greater number of days as may be specified in the order.

(4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In Schedule 12 to that Act (meetings and proceedings of local authorities), after paragraph 4 there is inserted—

"4A (1) The Secretary of State may by order amend paragraph 4(2) above so as to substitute for the reference to three clear days such greater number of days as may be specified in the order.

(2) Any statutory instrument containing an order under sub-paragraph (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement Information

I75 S. 98 wholly in force at 28.7.2001; s. 98 not in force at Royal Assent see s. 108; s. 98 in force at 1.10.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 3; s. 98 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Marginal Citations

M47 1972 c. 70.

Allowances and pensions

99 Allowances and pensions for certain local authority members.

(1) The provision which may be made by regulations under section 7 of the [M48]Superannuation Act 1972 (superannuation of persons employed in local

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government service etc) includes provision for or in connection with the provision of pensions, allowances or gratuities to or in respect of such members of a local authority as may be prescribed by the regulations.

(2) In subsection (1) "local authority" has the same meaning as in Part II of this Act.

(3) Section 18 of the [M49]Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members) is amended as follows.

(4) At the beginning of subsection (1) there is inserted " Subject to subsection (1A), " and after that subsection there is inserted—

"(1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b)."

(5) After subsection (2) there is inserted—

"(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members."

(6) In subsection (3), for "and (2)" there is substituted " to (2A) ".

(7) After subsection (3) there is inserted—

"(3A) Regulations under this section may make provision for or in connection with—

(a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,

(b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.

(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.

(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.

(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances

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or gratuities, payable to members of county councils and county borough councils in Wales.

(3E) Regulations under subsection (3B) above may include provision—

(a) with respect to the number of persons who may or must be appointed to the panel of a council,

(b) with respect to the persons who may or must be appointed to the panel of a council,

(c) for or in connection with the appointment by councils of joint panels.

(3F) Regulations under subsection (3C) may include provision—

(a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,

(b) with respect to the persons who may or must be appointed to such a panel.

(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

(a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,

(b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,

(c) which permits different recommendations to be made in relation to different councils or descriptions of council."

(8) In subsection (4), for the word "and" at the end of paragraph (b) there is substituted—

"(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and".

(9) After subsection (5) there is inserted—

"(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State."

Commencement Information

I76 S. 99 wholly in force at 28.7.2001; s. 99 not in force at Royal Assent see s. 108(4); s. 99(1)-(3)(5)-(9) with the exception of so much of subsection (3) as relates to subsection (4) in force at 19.2.2001 in relation to England only by S.I. 2001/415, **art. 2(b)**; s. 99 in force at 28.7.2001 in so far as not already in force see s. 108(4)

Marginal Citations

M48 1972 c. 11.

M49 1989 c. 42.

100 Power to make provision about allowances.

(1) The Secretary of State may by regulations make provision with respect to—

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(a) allowances payable to members of a parish council,

(b) travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed,

(c) allowances payable to members of such relevant authorities as may be prescribed for attending conferences or meetings,

(d) the reimbursement of expenses incurred by members of such relevant authorities as may be prescribed.

(2) For the purposes of this section a member of a committee or sub-committee of a relevant authority is to be treated as a member of the authority.

(3) The provision which may be made under subsection (1)(b) includes provision with respect to allowances in respect of travel by bicycle or by any other non-motorised form of transport.

(4) The provision which may be made under this section includes provision which amends or repeals any provisions of sections 173 to 178 of the [M50]Local Government Act 1972.

(5) Before making any regulations under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

(6) In this section—

"prescribed" means prescribed by regulations made by the Secretary of State,

"relevant authority" means—

(a) a body specified in section 21(1) of the [M51]Local Government and Housing Act 1989,

(b) a body on which a body falling within paragraph (a) is represented,

(c) a parish council.

(7) In its application to Wales this section has effect as if—

(a) for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales,

(b) for any reference to a parish council there were substituted a reference to a community council.

Commencement Information

I77 S. 100 wholly in force at 19.2.2001; s. 100 not in force at Royal Assent see s. 108; s. 100 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 100 in force at 19.2.2001 in relation to England only by S.I. 2001/415, **art. 2(b)**

Marginal Citations

M50 1972 c. 70.

M51 1989 c. 42.

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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Indemnification of members and officers of relevant authorities

101 Indemnification of members and officers of relevant authorities.

(1) The Secretary of State may by order make provision for or in connection with conferring power on relevant authorities in England and police authorities in Wales to provide indemnities to some or all of their members and officers.

(2) The National Assembly for Wales may by order make provision for or in connection with conferring power on relevant authorities in Wales (other than police authorities) to provide indemnities to some or all of their members and officers.

(3) An order under this section may apply—
- (a) to all relevant authorities, or
- (b) to any particular description of relevant authority.

(4) Before making an order under this section, the Secretary of State or (as the case may be) the National Assembly for Wales must consult—
- (a) such representatives of relevant authorities,
- (b) such representatives of employees of relevant authorities, and
- (c) such other persons,

as he or it considers appropriate.

(5) In this section—

"member", in relation to a relevant authority, includes—
- (i) a member of any committee or sub-committee of the authority, or
- (ii) a person who is a member of, and represents the authority on, any joint committee or sub-committee,

"police authority" and "relevant authority" have the same meaning as in Part III of this Act.

Modifications etc. (not altering text)

C121 S. 101 modified (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **9(9)(b)**

C122 S. 101 modified (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **20(7)(b)**

Commencement Information

I78 S. 101 wholly in force at 28.7.2001; s. 101 not in force at Royal Assent see s. 108; s. 101(2)-(5) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 101 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Social services functions

102 Social services functions.

F412(1) . . . . . .

Status: *Point in time view as at 31/01/2012. This version of this Act contains provisions that are prospective.*
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(2) Section 6(5) of **[**[F413]the Local Authority Social Services Act 1970**]** (social services director not to discharge non-social services functions without approval of Secretary of State) ceases to have effect.

(3) After section 1 of that Act there is inserted the following section—

"**1A Meaning of "social services functions".**

For the purposes of this Act the social services functions of a local authority are—

(a) their functions under the enactments specified in the first column of Schedule 1 to this Act (being the functions which are described in general terms in the second column of that Schedule), and

(b) such other of their functions as the Secretary of State may designate by an order made under this section."

Textual Amendments

F412 S. 102(1) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 55(5)(a), 67(7)(e), **Sch. 5 Pt. 4**; S.I. 2005/394, art. 2(2)(f); S.I. 2006/885, art. 2(e)

F413 Words in s. 102(2) substituted (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **ss. 55(5)(b)**, 67(7)(e); S.I. 2005/394, art. 2(2)(f); S.I. 2006/885, art. 2(e)

Commencement Information

I79 S. 102 wholly in force at 28.7.2001; s. 102 not in force at Royal Assent see s. 108; s. 102 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3)**, 2(a); s. 102 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

Recoupment by local authorities of cost of providing day care

103 Recoupment by local authorities of cost of providing day care.

(1) In subsection (3) of section 29 of the [M52]Children Act 1989 (recoupment of cost of providing services etc.), after "subsection (1)" there is inserted " for a service provided under section 17 or section 18(1) or (5) ".

(2) After that subsection there is inserted—

"(3A) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when he is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992 or of an income-based jobseeker's allowance."

Commencement Information

I80 S. 103 wholly in force at 28.7.2001; s. 103 not in force at Royal Assent see s. 108; s. 103 in force at 25.8.2000 in relation to England by S.I. 2000/2420, **art. 2**; s. 103 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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Marginal Citations
M52 1989 c. 41.

Prohibition on promoting homosexuality: bullying

[F414]104 Prohibition on promoting homosexuality: bullying.

. . . . . .

Textual Amendments
F414 S. 104 repealed (18.11.2003) by Local Government Act 2003 (c. 26), s. 128(2)(f)(ix), **Sch. 8 Pt. 1**

PART VI

SUPPLEMENTAL

105 Orders and regulations.

(1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Any order or regulations under this Act—
- (a) may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient,
- (b) may make different provision for different cases, authorities or descriptions of authority.

(3) The provision which may be made under subsection (2) includes provision modifying any enactment (whenever passed or made).

(4) The power under subsection (3) to modify an enactment is a power—
- (a) to apply that enactment with or without modifications,
- (b) to extend, disapply or amend that enactment, or
- (c) to repeal or revoke that enactment with or without savings.

(5) Subject to subsections (6) and (7), a statutory instrument which contains an order or regulations under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) **[**[F415]Subject to subsection (6A),**]**a statutory instrument which contains an order under section 3(3), 5, 6, **[**[F416]9N,**]** 49 **[**[F417], 63(1)(j) **]** or 101, or regulations under **[**[F418] section 9BA, 9HE, 9MG or 44**]**, is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

[[F419](6A) Subsection (6) does not apply to a statutory instrument which contains an order under section 3(3), 5 or 6 if the order is made only for the purpose of amending an earlier such order—

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(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.**]**

(7) Subsection (5) does not apply to a statutory instrument which contains an order under section 108.

[[F420](7A) If a draft of a statutory instrument containing an order under section 9N would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.**]**

(8) In this section "enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the [M53]Interpretation Act 1978).

Textual Amendments

F415 Words in s. 105(6) inserted (18.11.2003 for E.; 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 14(2)**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.);S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F416 Word in s. 105(6) inserted (3.12.2011) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 70(2)(a)**; S.I. 2011/2896, art. 2(h)

F417 Words in s. 105(6) inserted (E.W.) (1.4.2008 for specified purposes) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 191(5)**, 245(5) (with s. 201); S.I. 2008/172, art. 7(2)

F418 Words in s. 105(6) substituted (3.12.2011) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 70(2)(b)**; S.I. 2011/2896, art. 2(h)

F419 S. 105(6A) inserted (18.11.2003 for E.; 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 14(3)**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

F420 S. 105(7A) inserted (3.12.2011) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 3 para. 70(3)**; S.I. 2011/2896, art. 2(h)

Marginal Citations

M53 1978 c. 30.

106 Wales.

(1) In their application to Wales—

(a) Part II (but not section 44 or paragraph 7 of Schedule 1),

(b) Part IV, and

(c) section 105(2),

have effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

(2) Section 105(5) to (7) does not apply to an order or regulations under this Act which is made by the National Assembly for Wales.

(3) Any reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an Act which is amended by this Act is to be treated as referring to that Act as amended by this Act.

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(4) Subsection (3) does not affect the power to make further Orders varying or omitting that reference.

107 Minor and consequential amendments and repeals.

(1) Schedule 5 (minor and consequential amendments) has effect.

(2) The repeals set out in Schedule 6 have effect.

Commencement Information

I81 S. 107 partly in force; s. 107 not in force at Royal Assent see s. 108(4); s. 107(2) in force at 1.10.2000 for certain purposes in relation to England only by S.I. 2000/2187, **arts. 1(3)**, 3; s. 107(2) in force at 18.10.2000 for certain purposes in relation to England only by S.I. 2000/2836, **arts. 1(3)**, 2(c); s. 107 in force at 26.10.2000 for certain purposes by S.I. 2000/2849, **arts. 1(3)**, 2(h); s. 107(2) in force at 9.4.2001 with application to Wales only by S.I. 2001/1471, **art. 2**; s. 107 in force at 28.7.2001 for certain purposes see s. 108(4)-(6)

108 Commencement.

(1) This section and sections 105, 106 and 109 come into force on the day on which this Act is passed.

(2) The following provisions of this Act—

(a) Part IV,

(b) section 104, and

(c) in Schedule 6, the repeal of paragraph 63 of Schedule 37 to the [M54]Education Act 1996,

come into force at the end of the period of two months beginning with the day on which this Act is passed.

(3) The following provisions of this Act—

(a) section 90, 91, and 93 to 96,

(b) in Schedule 5, paragraphs 8, 12, 13, 15, 25, 26 and 34,

(c) in Schedule 6, the repeal—

(i) in section 80(1)(e) of the [M55]Local Government Act 1972,

(ii) of sections 94 to 98 and 105 of that Act,

(iii) in section 265A(1)(b) of that Act,

(iv) of the provisions of the [M56]Local Government Act 1974, the [M57]Local Government Act 1985, the [M58]Transport Act 1985 and the [M59]Financial Services Act 1986 specified in Schedule 6,

(v) of sections 19, 31 and 32(1) of the [M60]Local Government and Housing Act 1989,

(vi) in Schedule 11 to that Act,

(vii) of the provisions of the [M61]Local Government Finance Act 1992, the [M62]Local Government (Wales) Act 1994, the [M63]Police and Magistrates' Courts Act 1994, the Environment Act 1995, the [M64]Police [M65] Act 1996, the Police Act 1997, the [M66]Audit [M67] Commission Act 1998 and the [M68]Greater London Authority Act 1999 specified in Schedule 6,

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come into force on such day as the Secretary of State may by order appoint.

(4) Subject to subsections (5) and (6), the remaining provisions of this Act come into force at the end of the period of 12 months beginning with the day on which this Act is passed.

(5) The Secretary of State may by order provide—

(a) for paragraphs 17 and 18 of Schedule 4 to come into force before the time appointed by subsection (4),

(b) for paragraph 28 of Schedule 5 to come into force before the time appointed by that subsection,

(c) for any of the provisions of Part III of this Act so far as they relate to police authorities in Wales to come into force before the time appointed by that subsection, or

(d) for any of the other provisions mentioned in that subsection to come into force in relation to England before the time appointed by that subsection.

(6) The National Assembly for Wales may by order provide—

(a) for paragraph 28 of Schedule 5 to come into force before the time appointed by subsection (4), or

(b) for any of the other provisions mentioned in that subsection to come into force in relation to Wales before the time appointed by that subsection.

(7) An order under subsection (3), (5) or (6) may appoint different days for different purposes.

Subordinate Legislation Made

P1 S. 108(3)(7) power partly exercised (W.): 1.8.2001 appointed for specified provisions by S.I. 2001/2684, **art. 2**
S. 108(3)(7) power partly exercised (W.): 30.6.2002 appointed for specified provisions by S.I. 2002/1359, **art. 2**
S. 108(3)(7) power partly exercised: 27.7.2002 appointed for specifed provisions by S.I. 2002/1718, **art. 2**

P2 S. 108(5)(7) power partly exercised: different dates appointed for specified provisions by S.I. 2000/2187, **arts. 2**, 3
S. 108(5)(7) power partly exercised: 18.10.2000 appointed for specified provisions by S.I. 2000/2836, **art. 2**
S. 108(5)(7) power partly exercised: 26.10.2000 appointed for specified provisions by S.I. 2000/2849, **art. 2**
S. 108(5)(7) power partly exercised: 19.12.2000 appointed for specified provisions and purposes by S.I. 2000/3335, **art. 2**
S. 108(5)(7) power partly exercised: 19.2.2001 appointed for specified provisions by S.I. 2001/415, **art. 2**

P3 S. 108(5)(d) power partly exercised: 25.8.2000 appointed for specified provisions by S.I. 2000/2420, **art. 2**

P4 S. 108(6) power partly exercised: 1.11.2000 appointed for specified provisions by S.I. 2000/2948, **art. 2**
S. 108(6) power partly exercised: 9.4.2001 appointed for specified provisions by S.I. 2001/1471, **art. 2**

Marginal Citations

M54 1996 c. 56.

M55 1972 c. 70.

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M56 1974 c. 7.
M57 1985 c. 51.
M58 1985 c. 67.
M59 1986 c. 60.
M60 1989 c. 42.
M61 1992 c. 14.
M62 1994 c. 19.
M63 1994 c. 29.
M64 1995 c. 25.
M65 1996 c. 16.
M66 1997 c. 50.
M67 1998 c. 18.
M68 1999 c. 29.

109 Short title and extent.

(1) This Act may be cited as the Local Government Act 2000.

(2) Subject to subsections (3) and (4), this Act extends to England and Wales only.

(3) Sections 94 to 96, 105 and 108 extend also to Scotland.

(4) This section, paragraphs 17 and 18 of Schedule 4 and paragraph 28 of Schedule 5 extend also to Scotland and Northern Ireland.

Status:
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Changes to legislation:
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