



Local Government and Housing Act 1989

1989 CHAPTER 42

PART I

LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

Modifications etc. (not altering text)

- C1** Pt. 1 (ss. 1-21) applied (temp. from 4.5.1995 to 31.3.1996) by [S.I. 1995/1042, art. 4\(1\)](#)
Pt. 1 (ss. 1-21): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50, s. 44\(1\), Sch. 4 para. \(j\)\(i\)](#); [S.I. 1997/1930, art. 2\(1\)\(2\)\(m\)](#) (subject to [art. 2\(3\)](#))
Pt. 1 (ss. 1-21): extended (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22, ss. 23, 108\(4\), Sch. 1 para. 3\(13\)](#); [S.I. 2000/2849, art. 2\(e\)](#)
- C2** Pt. 1 (ss. 1-21): extended (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\), regs. 1\(2\), 3\(6\)](#)
- C3** Pt. 1 functions made exercisable by joint standards committees (E.) (15.6.2009) by [The Standards Committee \(Further Provisions\) \(England\) Regulations 2009 \(S.I. 2009/1255\), regs. 1\(1\), 14](#)
- C4** Pt. 1 applied (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\), arts. 1\(2\), 23\(4\)](#)

Political restriction of officers and staff

1 Disqualification and political restriction of certain officers and staff.

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.
- (2) In the ^{M1}House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—

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“Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”

- (3) In section 80 of the ^{M2}Local Government Act 1972 (disqualification for election and holding office as member of local authority)—
- (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
 - (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the ^{M3}Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
- (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
 - (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”
- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.
- ^{F1}(9) In this section a reference to a person holding a politically restricted post under a local authority includes a reference to every member of the staff of an elected local policing body^{F2}... [^{F3}, [^{F4}and every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004][^{F4}every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and every member of staff of the London Fire Commissioner]]].

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[^{F5}(10) The reference in subsection (9) to every member of the staff of an elected local policing body does not include a deputy police and crime commissioner.

(11) For the purposes of subsection (1) only, the reference in subsection (9) to every member of the staff of an elected local policing body does not include the Deputy Mayor for Policing and Crime appointed under section 19(1)(a) of the Police Reform and Social Responsibility Act 2011.]

Textual Amendments

- F1** S. 1(9) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 200**; S.I. 2011/3019, art. 3, Sch. 1
- F2** Words in s. 1(9) omitted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), ss. **123(2)**, 183(1)(5)(e); S.I. 2018/227, reg. 4(d)
- F3** Words in s. 1(9) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 61**; S.I. 2017/399, reg. 2, Sch. para. 38
- F4** Words in s. 1(9) substituted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 86**
- F5** S. 1(10)(11) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss. **123(3)**, 183(1)(5)(e); S.I. 2018/227, reg. 4(d)

Modifications etc. (not altering text)

- C5** S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 1 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 1 extended (8.5.2000) by 1999 c. 29, ss. **68**, 70 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C6** Ss. 1-3 modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **12(4)**
- C7** Ss. 1-3 modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **12(4)**
- C8** S. 1 excluded (16.1.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 15 para. 20(2)**; S.I. 2011/3019, art. 3, Sch. 1; S.I. 2012/2892, art. 2(h)
- C9** S. 1 excluded (22.11.2012) by The Local Policing Bodies (Consequential Amendments and Transitional Provision) Order 2012 (S.I. 2012/2733), arts. 1, **4**
- C10** S. 1 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **6(a)**
- C11** S. 1 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **14(a)**
- C12** S. 1 applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(1)(a)**
- C13** S. 1 applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **5(a)**
- C14** S. 1 applied (with modifications) (E.) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(2)**
- C15** S. 1 applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **15(a)**

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- C16** S. 1 applied (E.) (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(1)(a)** (with art. 28)
- C17** S. 1 applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(1)(a)**
- C18** S. 1 applied (E.) (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **16(1)(a)**

Marginal Citations

- M1** 1975 c. 24.
M2 1972 c. 70.
M3 1973 c. 65.

2 Politically restricted posts.

(1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—

- (a) the person designated under section 4 below as the head of the authority's paid service;
- (b) the statutory chief officers;
- (c) a non-statutory chief officer;
- (d) a deputy chief officer;
- (e) the monitoring officer designated under section 5 below;
- (f) any person holding a post to which he was appointed in pursuance of section 9 below; [^{F6}and]
- (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 [^{F7}or 3A] below or with section 100G(2) of the ^{M4}Local Government Act 1972 or section 50G(2) of the ^{M5}Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated) [^{F8}; and
- (h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011].

(2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—

- ^{F9}(a)
- ^{F9}(b)
- (c) posts ^{F10}[^{F11}... the] duties of which appear to the authority to fall within subsection (3) below,

as are not posts for the time being exempted under section 3 [^{F12}or 3A] below, posts for the time being listed under section 100G(2) of the ^{M6}Local Government Act 1972 or section 50G(2) of the ^{M7}Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.

(3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—

- (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the

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- authority are represented^{F13} or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority];
- (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority ^{F14}in Scotland and Wales] in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- ^{F15}(5A) It shall be the duty of every local authority in England in performing their duties under this section to have regard to such general advice as may be given by virtue of section 3B below by the Secretary of State.]
- (6) In this section “the statutory chief officers” means—
- ^{F16}(za) the director of children’s services appointed under section 18 of the Children Act 2004 and the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970 (in the case of a local authority in England);]
- ^{F17}(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;]
- (a) the chief education officer ^{F18}or director of education] appointed under ^{F19}section 532 of the Education Act 1996]^{F18}or section 78 of the ^{M8}Education (Scotland) Act 1980]^{F20}(in the case of a local authority in Wales)];
- (b) ^{F21}the chief officer of a fire brigade maintained under the ^{M9}Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;]
- (c) the director of social services ^{F22}(in the case of a local authority in Wales)] or ^{F23}chief social work officer] appointed under ^{F24}section 144 of the Social Services and Well-being (Wales) Act 2014] or section 3 of the ^{M10}Social Work (Scotland) Act 1968; and
- (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the ^{M11}Local Government Act 1985, section 112 of the ^{M12}Local Government Finance Act 1988 ^{F25}, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the ^{M13}Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs.
- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
- (a) a person for whom the head of the authority’s paid service is directly responsible;
- (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and

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- (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a ^[F26]local authority] or, in Scotland, is under the management of or is assisted by an education authority; or
 - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,
- or of requiring any such post to be included in any list prepared and maintained under this section.
- (11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

Textual Amendments

- F6** Word in s. 2(1)(f) repealed (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 21(2), 178(3), [Sch. 4 Pt. A](#); S.I. 2012/1187, art. 2(1)(b)(2)(m)
- F7** Words in s. 2(1)(g) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 203\(1\)\(a\)](#), 245(5); S.I. 2008/172, art. 4(m)
- F8** S. 2(1)(h) and word inserted (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 21\(3\)](#), 178(3); S.I. 2012/1187, art. 2(1)(b)
- F9** S. 2(2)(a)(b) and word repealed (S.) (28.2.2007) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), ss. 9(a), 17(2); S.S.I. 2007/25, art. 2(1); s. 2(2)(a)(b) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(a), 148(1)(d), [Sch. 7 Pt. 1](#)
- F10** Words in s. 2(2)(c) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(b), 148(1)(d), [Sch. 7 Pt. 1](#)
- F11** Words in s. 2(2)(c) repealed (S.) (28.2.2007) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), [ss. 9\(b\)](#), 17(2); S.S.I. 2007/25, art. 2(1)
- F12** Words in s. 2(2) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 203\(1\)\(a\)](#), 245(5); S.I. 2008/172, art. 4(m)
- F13** Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), [21](#)
- F14** Words in s. 2(5) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 203\(1\)\(b\)](#), 245(5); S.I. 2008/172, art. 4(m)
- F15** S. 2(5A) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 203\(1\)\(c\)](#), 245(5); S.I. 2008/172, art. 4(m)
- F16** S. 2(6)(za) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by [Children Act 2004 \(c. 31\)](#), s. 67(2), [Sch. 2 para. 3\(a\)](#); S.I. 2007/1792, art. 2

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- F17** S. 2(6)(zb) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 57**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F19** Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)
- F20** Words in s. 2(6)(a) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by Children Act 2004 (c. 31), s. 67(2), **Sch. 2 para. 3(b)**; S.I. 2007/1792, art. 2
- F21** S. 2(6)(b) repealed (E.W.) (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. 2**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F22** Words in s. 2(6)(c) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by Children Act 2004 (c. 31), s. 67(2), **Sch. 2 para. 3(c)**; S.I. 2007/1792, art. 2
- F23** Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F24** Words in s. 2(6)(c) substituted (W.) (1.12.2017) by The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2017 (S.I. 2017/1025), regs. 1(2), **3(2)**
- F25** Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, s. **127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4
- F26** Words in s. 2(10)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(2)**

Modifications etc. (not altering text)

- C6** Ss. 1-3 modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **12(4)**
- C7** Ss. 1-3 modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **12(4)**
- C19** S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C20** S. 2 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **6(b)**
- C21** S. 2 applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **15(b)**
- C22** S. 2 applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **5(b)**
- C23** S. 2 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **14(b)**
- C24** S. 2 applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(1)(b)**
- C25** S. 2 applied (E.) (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(1)(b)** (with art. 28)
- C26** S. 2 applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(1)(b)**
- C27** S. 2 applied (E.) (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **16(1)(b)**

Marginal Citations

- M4** 1972 c. 70.
M5 1973 c. 65.
M6 1972 c. 70.
M7 1973 c. 65.
M8 1980 c. 44.
M9 1947 c. 41.

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M10	1968 c. 49.
M11	1985 c. 51.
M12	1988 c. 41.
M13	1973 c. 65.

3 Grant and supervision of exemptions from political restriction^{F27}: Scotland and Wales]

- (1) ^{F28}It shall be the duty of the Scottish Ministers to appoint in relation to Scotland, and the duty of the Welsh Ministers to appoint in relation to Wales, a person]—
 - (a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
 - (b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.
- (2) A person appointed under subsection (1) above—
 - (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
 - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—
 - (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; ^{F29} ...
 - ^{F30} ^{F31}(b)
^{F32} ...]
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3) above, that person shall direct—
 - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
 - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
 - (a) is a post the duties of which fall within section 2(3) above; and
 - (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the ^{M14}Local Government Act 1972 or section 50G(2) of the ^{M15}Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—

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- (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;
 - (b) to comply with any direction under this section with respect to the list maintained by the authority; and
 - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may—
- ^{F33}(a)
 - (b) provide for the appointment of such numbers of staff to assist any person appointed under [^{F34}subsection (1)], and to act on that person's behalf, as the Secretary of State may with the consent of the Treasury determine;
 - (c) pay to or in respect of a person appointed under that subsection and members of such a person's staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
 - (d) provide for a person appointed under that subsection and such a person's staff to hold office on such other terms as the Secretary of State may so determine.

Textual Amendments

- F27** Words in s. 3 heading inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 202\(1\)\(a\), 245\(5\); S.I. 2008/172, art. 9\(1\)](#)
- F28** Words in s. 3(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 202\(1\)\(b\), 245\(5\); S.I. 2008/172, art. 9\(1\)](#)
- F29** Word in s. 3(3)(a) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 30\(3\)\(a\), 148\(1\)\(d\), Sch. 7 Pt. 1](#)
- F30** S. 3(3)(b) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 30\(3\)\(b\), 148\(1\)\(d\), Sch. 7 Pt. 1](#)
- F31** Words in s. 3(3) omitted (S.) (29.5.2009) by virtue of [The Local Government and Housing Act 1989 Amendment \(Scotland\) Order 2009 \(S.S.I. 2009/205\), arts. 1, 2\(2\)](#)
- F32** Words in s. 3(3) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 30\(3\)\(c\), 148\(1\)\(d\), Sch. 7 Pt. 1](#)
- F33** S. 3(8)(a) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 202\(1\)\(c\), 245\(5\), Sch. 18 Pt. 15; S.I. 2008/172, arts. 4\(n\)\(ii\), 9\(1\)](#)
- F34** Words in s. 3(8)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 202\(1\)\(d\), 245\(5\); S.I. 2008/172, art. 9\(1\)](#)

Modifications etc. (not altering text)

- C6** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 1, 12\(4\)](#)
- C7** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 12\(4\)](#)
- C28** S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by [S.I. 1995/789, art. 2, Sch. entry 11](#)

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S. 3 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
 S. 3 extended (8.5.2000) by 1999 c. 29, **ss. 68, 70** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

- M14** 1972 c. 70.
- M15** 1973 c. 65.

[^{F35}3A Grant and supervision of exemptions from political restriction: England

- (1) The [^{F36}head of paid service] of a local authority in England ^{F37}...—
 - (a) must consider any application for exemption from political restriction which is made to the [^{F38}head of paid service], in respect of any post under the ^{F39}... authority, by the holder for the time being of that post; and
 - (b) may, on the application of any person or otherwise, give directions to the ^{F40}... authority requiring it to include a post in the list maintained by the authority under section 2(2).
- (2) An application may not be made under subsection (1)(a) unless—
 - (a) the ^{F41}... authority have specified or are proposing to specify the post in the list maintained by them under section 2(2);^{F42}...
 - ^{F43}(b)
 - ^{F44}...
- (3) If, on an application under subsection (1)(a) in respect of any post, the [^{F45}head of paid service] is satisfied that the duties of the post do not fall within section 2(3), the [^{F46}head of paid service] must direct—
 - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
 - (b) that accordingly the post is not to be specified in the list maintained by the ^{F47}... authority under section 2(2) or (as the case may be) is to be removed from that list.
- (4) A [^{F48}local authority's head of paid service] may not give a direction under subsection (1)(b) in respect of any post unless the [^{F49}head of paid service] is satisfied that—
 - (a) the duties of the post fall within section 2(3); and
 - (b) the post is neither—
 - (i) in any list maintained by the ^{F50}... authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor
 - (ii) of a description specified in any regulations under section 2(2) above.
- ^{F51}(5)
- (6) Every local authority in England ^{F52}... must—
 - (a) give its [^{F53}head of paid service] all such information as the [^{F54}head of paid service] may reasonably require for the purpose of carrying out ^{F55}... functions under this section;

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- (b) comply with any direction under this section with respect to the list maintained by the authority; and
 - (c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.
- (7) In carrying out ^{F56}... functions under this section a [^{F57}local authority's head of paid service] must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.
- ^{F58}(7A) [In carrying out functions under this section a local authority's head of paid service must consult the monitoring officer of that authority (unless they are the same person).
- (7B) The Secretary of State may by regulations make provision about the application of this section to a local authority that is not required to designate one of its officers as the head of its paid service.
- (7C) Regulations under subsection (7B) may apply any provisions of this section (with or without modifications) to an authority to which they apply.]
- ^{F59}(8)
- ^{F59}(9)
- ^{F59}(10)]

Textual Amendments

- F35** Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(2)**, 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)
- F36** Words in [s. 3A\(1\)](#) substituted (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. 4(2)(a)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F37** Words in [s. 3A\(1\)](#) repealed (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. 4(2)(b)**, **Sch. 25 Pt. 5**; 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)
- F38** Words in [s. 3A\(1\)\(a\)](#) substituted (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. 4(2)(c)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F39** Word in [s. 3A\(1\)\(a\)](#) repealed (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. 4(2)(d)**, **Sch. 25 Pt. 5**; 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)
- F40** Word in [s. 3A\(1\)\(b\)](#) repealed (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. 4(2)(d)**, **Sch. 25 Pt. 5**; 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)
- F41** Word in [s. 3A\(2\)\(a\)](#) repealed (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. 4(3)**, **Sch. 25 Pt. 5**; 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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- F42** Word in s. 3A(2)(a) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(a), 148(1)(d), **Sch. 7 Pt. 1**
- F43** S. 3A(2)(b) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F44** Words in s. 3A(2) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(c), 148(1)(d), **Sch. 7 Pt. 1**
- F45** Words in s. 3A(3) substituted (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. 4(4)(a)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F46** Words in s. 3A(3) substituted (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. 4(4)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F47** Word in s. 3A(3)(b) repealed (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. 4(4)(c)**, **Sch. 25 Pt. 5**; 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)
- F48** Words in s. 3A(4) substituted (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. 4(5)(a)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F49** Words in s. 3A(4) substituted (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. 4(5)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F50** Word in s. 3A(4)(b)(i) repealed (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. 4(5)(c)**, **Sch. 25 Pt. 5**; 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)
- F51** S. 3A(5) repealed (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. 4(6)**, **Sch. 25 Pt. 5**; 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)
- F52** Words in s. 3A(6) repealed (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. 4(7)(a)**, **Sch. 25 Pt. 5**; 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)
- F53** Words in s. 3A(6)(a) substituted (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. 4(7)(b)(i)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F54** Words in s. 3A(6)(a) substituted (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. 4(7)(b)(ii)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F55** Word in s. 3A(6)(a) repealed (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. 4(7)(b)(iii)**, **Sch. 25 Pt. 5**; 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)
- F56** Word in s. 3A(7) repealed (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. 4(8)(a)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art.

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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)

F57 Words in s. 3A(7) substituted (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. 4(8)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)

F58 S. 3A(7A)-(7C) inserted (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. 4(9)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)

F59 S. 3A(8)-(10) repealed (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. 4(10), **Sch. 25 Pt. 5**; 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)

C29 S. 3A applied (with modifications) (26.7.2012) by The Local Authorities (Exemption from Political Restrictions) (Designation) Regulations 2012 (S.I. 2012/1644), regs. 1(1), **2**

C30 S. 3A applied (with modifications) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **6(b)**

C31 S. 3A applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **15(b)**

C32 S. 3A applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **5(b)**

C33 S. 3A applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(1)(b)**

C34 S. 3A applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **14(b)**

C35 S. 3A applied (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(1)(b)** (with art. 28)

C36 S. 3A applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(1)(b)**

C37 S. 3A applied (E.) (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **16(1)(b)**

[^{F35}3B General advice as to politically restricted posts: England

- (1) The Secretary of State may in relation to England give such general advice with respect to the determination of questions arising by virtue of section 2(3) as he considers appropriate.
- (2) Before giving general advice under this section the Secretary of State must consult such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.]

Textual Amendments

F35 Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 202(2)**, 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)

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Duties of particular officers

4 Designation and reports of head of paid service.

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers as the head of their paid service; and
 - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.
- [^{F60}(1A) In the case of an elected local policing body, the body's chief executive is to be taken to have been designated as the head of the body's paid service (and, accordingly, subsection (1)(a) does not apply; but references to persons designated under this section include references to the body's chief executive).]
- (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.
- (3) Those matters are—
- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
 - (b) the number and grades of staff required by the authority for the discharge of their functions;
 - (c) the organisation of the authority's staff; and
 - (d) the appointment and proper management of the authority's staff.
- (4) It shall be the duty of the head of a relevant authority's paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be [^{F61}sent—
- (a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area; and
 - [^{F62}(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
 - (i) which corresponds to the authority's area, or
 - (ii) within which the area of the authority falls;]
 - [^{F63}(ab) in the case of the London Fire Commissioner, to the Commissioner;]
 - (b) in any other case, to] each member of the authority.
- (5) It shall be the duty of a relevant authority [^{F64}(other than an elected local policing body)] to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the ^{M16}Local Government Act 1972 or in section 56 of [^{F65}, or Schedule 10 or 20 to,] the ^{M17}Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.
- [^{F66}(5A) It shall be the duty of an elected local policing body to consider any report under this section by the head of the body's paid service, and to do so no later than three months after the body is sent a copy of the report.]

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^{F67}(5B) It shall be the duty of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 to consider any report under this section by the head of the authority's paid service and to do so no later than three months after the authority is sent a copy of the report.]

^{F68}(5C) It shall be the duty of the London Fire Commissioner to consider any report under this section by the head of the Commissioner's paid service and to do so no later than three months after the Commissioner is sent a copy of the report.]

(6) In this section “relevant authority”—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) ^{F69} and (ja) to (jc)] of section 21(1) below ^{F70}, an elected local policing body ^{F71}, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner]]; and

(b) in relation to Scotland, ^{F72}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

(7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

- F60** S. 4(1A) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(2)**; S.I. 2011/3019, art. 3, Sch. 1
- F61** Words in s. 4(4) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(3)**; S.I. 2011/3019, art. 3, Sch. 1
- F62** S. 4(4)(aa) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(2)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F63** S. 4(4)(ab) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(2)**; S.I. 2018/227, reg. 4(c)
- F64** Words in s. 4(5) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(4)**; S.I. 2011/3019, art. 3, Sch. 1
- F65** Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F66** S. 4(5A) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 201(5)**; S.I. 2011/3019, art. 3, Sch. 1
- F67** S. 4(5B) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(3)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F68** S. 4(5C) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(3)**; S.I. 2018/227, reg. 4(c)
- F69** Words in s. 4(6)(a) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 12(2)**
- F70** Words in s. 4(6)(a) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 62(4)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F71** Words in s. 4(6)(a) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 87(4)**; S.I. 2018/227, reg. 4(c)
- F72** Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(3)(b)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

Status: Point in time view as at 18/03/2022.

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Modifications etc. (not altering text)

- C38** S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(a)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
 S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 72(1)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C39** S. 4 applied (E.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1777), arts. 1, **17(7)**
- C40** S. 4 applied (E.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1778), arts. 1, **17(7)(a)**
- C41** S. 4 applied (with modifications) (E.) (8.5.2017) by **The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017** (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(3)**
- C42** S. 4 applied (26.6.2020) by S.I. 2017/469, **Sch. 1 para. 2(2)** (as inserted by **The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020** (S.I. 2020/641), arts. 1, **9**)
- C43** S. 4(2)-(6) applied (with modifications) (E.) (28.3.2008) by **The Bedfordshire (Structural Changes) Order 2008** (S.I. 2008/907), arts. 1, **17(6)**
- C44** S. 4(2)-(5)(6) applied (with modifications) (E.) (25.5.2018) by **The West Suffolk (Local Government Changes) Order 2018** (S.I. 2018/639), arts. 1, **9(7)**
- C45** S. 4(2)-(5)(6) applied (with modifications) (E.) (25.5.2018) by **The East Suffolk (Local Government Changes) Order 2018** (S.I. 2018/640), arts. 1, **9(7)**
- C46** S. 4(2)-(5)(6) applied (with modifications) (E.) (26.5.2018) by **The Somerset West and Taunton (Local Government Changes) Order 2018** (S.I. 2018/649), arts. 1, **9(7)**
- C47** S. 4(2)-(5)(6) applied with modifications (E.) (26.5.2018) by **The Bournemouth, Dorset and Poole (Structural Changes) Order 2018** (S.I. 2018/648), arts. 1, **13(7)**
- C48** S. 4(2)-(5)(6) applied with modifications (E.) (26.5.2018) by **The Bournemouth, Dorset and Poole (Structural Changes) Order 2018** (S.I. 2018/648), arts. 1, **28(7)**
- C49** S. 4(2)-(5)(6) applied (E.) (23.5.2019) by **The Buckinghamshire (Structural Changes) Order 2019** (S.I. 2019/957), arts. 1, **7(5)**
- C50** S. 4(2)-(5)(6) applied (with modifications) (E.W.) (14.2.2020) by **The Northamptonshire (Structural Changes) Order 2020** (S.I. 2020/156), arts. 1, **9(7)**
- C51** S. 4(2)-(5)(6) applied (with modifications) (E.) (18.3.2022) by **The Cumbria (Structural Changes) Order 2022** (S.I. 2022/331), arts. 1(1), **9(7)**

Marginal Citations

- M16** 1972 c. 70.
M17 1973 c. 65.

5 Designation and reports of monitoring officer.

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [^{F73}and, where relevant, section 5A below]; and
 - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [^{F74}and, where relevant, the duties under section 5A below] to be performed;
- and [^{F75}subject to subsection (1A) below] the officer so designated may be the head of the authority’s paid service ^{F76}... but shall not be their chief finance officer.

[^{F77}(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority’s paid service.

Status: Point in time view as at 18/03/2022.

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(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Greater London Authority, and
- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]

[^{F78}(1BB) The officer designated under subsection (1)(a) above by a relevant authority which is a corporate joint committee may not be the authority's chief executive.]

[^{F79}(1C) In the case of an elected local policing body, the body's chief executive is to be taken to have been designated as the monitoring officer (and, accordingly, subsection (1)(a) does not apply; but references to persons designated under this section include references to the body's chief executive).]

(2) [^{F80}Subject to subsection (2B),] it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, [^{F81}or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

- (a) a contravention by the authority, by any committee, [^{F81}or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law [^{F82}or of any code of practice made or approved by or under any enactment]; or

[^{F83}(aa) any such maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners), or]

- (b) any such maladministration or injustice as is mentioned in ^{F84}... Part II of the ^{M18}Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland) [^{F85}; or
- (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005 [^{F86}or the Public Services Ombudsman (Wales) Act 2019],]

to prepare a report to the authority with respect to that proposal, decision or omission.

[^{F87}(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the ^{M19}Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]

[^{F88}(2AA) No duty shall arise by virtue of subsection (2)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 [^{F89}or the Public Services Ombudsman (Wales) Act 2019] in relation to the proposal, decision or omission concerned.]

[^{F90}(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.]

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- (3) It shall be the duty of a relevant authority’s monitoring officer—
- (a) in preparing a report under this section to consult so far as practicable with the [^{F91}person who is for the time being designated as the head of the authority’s paid service under section 4 above] and with their chief finance officer [^{F92}or, in the case of a relevant authority which is a corporate joint committee, with the person who is for the time being appointed as the authority’s chief executive and with their chief finance officer]; and
 - [^{F93}(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
 - (i) which corresponds to the authority's area, or
 - (ii) within which the area of the authority falls;]
 - [^{F94}(ab) in the case of the London Fire Commissioner, to the Commissioner;]
 - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be [^{F95}sent—
 - (a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area; and
 - (b) in any other case, to] each member of the authority [^{F96}and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority].
- [^{F97}(3A) The references in subsection (2) above, in relation to a relevant authority in England, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to—
- (a) any inshore fisheries and conservation authority (“IFC authority”) the members of which include persons who are members of the relevant authority, and
 - (b) any sub-committee appointed by such an authority;
- but in relation to any such IFC authority or sub-committee the reference in subsection (3)(b) above to each member of the authority shall have effect as a reference to each member of the IFC authority or, as the case may be, of the IFC authority which appointed the sub-committee.]
- [^{F98}(4)
- (5) It shall be the duty of a relevant authority [^{F99}and of any IFC authority falling within paragraph (a) of subsection (3A) above][^{F100}and of any such committee as is mentioned in subsection (4) above]—
- (a) to consider any report under this section by a monitoring officer or his [^{F101}deputy—
 - (i) in the case of an elected local policing body, no later than three months after the body is sent a copy of the report; and
 - [^{F102}(ia) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, no later than three months after the authority is sent a copy of the report;]
 - [^{F103}(ib) in the case of the London Fire Commissioner, no later than three months after the Commissioner is sent a copy of the report;]
 - (ii) in any other case, at] a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority [^{F104}or committee]; and

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- (b) without prejudice to any duty imposed by virtue of section 115 of the ^{M20}Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;
- and nothing in section 101 of the ^{M21}Local Government Act 1972 or in section 56 of ^{F105}... the ^{M22}Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.
- [^{F106}(5A) In the case of a relevant authority which is a corporate joint committee, regulation 13 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (arrangements for the discharge of functions) does not apply to the duty imposed by virtue of subsection (5)(a).]
- (6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (7) The duties of a relevant authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.
- [^{F107}(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).]
- (8) In this section [^{F108}and in section 5A]—
- “business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the ^{M23}Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;
- “chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the ^{M24}Local Government Act 1985, section 112 of the Local Government Finance Act 1988 [^{F109}, section 127(2) of the Greater London Authority Act 1999][^{F110}, Schedule 1 to the Police Reform and Social Responsibility Act 2011][^{F111}, section 4D(4) of the Fire and Rescue Services Act 2004] or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs; [^{F112}and]
- [^{F113}“inshore fisheries and conservation authority” means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;]
- “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [^{F114}(k)] of section 21(1) below [^{F115}, a corporate joint committee,][^{F116}an elected local policing body [^{F117}, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner]]; and
- (b) in relation to Scotland, means a local authority.

Status: Point in time view as at 18/03/2022.

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[^{F118}(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.]

[^{F119}(8B) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to duties conferred on a monitoring officer by paragraph 38B of Schedule 12 to the Local Government Act 1972 (duties of monitoring officer for principal council in Wales in relation to polls consequent on community meetings).]

(9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

- F73** Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**
- F74** Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**
- F75** Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**
- F76** Words in s. 5(1) omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(2)**; S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 55)
- F77** S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**
- F78** S. 5(1BB) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **7(2)**
- F79** S. 5(1C) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(3)**; S.I. 2011/3019, art. 3, Sch. 1
- F80** Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**
- F81** Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 35(b)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F82** Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**
- F83** S. 5(2)(aa) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 12 para. 14(2)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F84** Words in s. 5(2)(b) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 12 para. 14(2)(b), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F85** S. 5(2)(c) and word inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 24(2)**; S.I. 2005/2800, art. 5(1)(3)
- F86** Words in s. 5(2)(c) inserted (E.W.) (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 11(a)**; S.I. 2019/1096, **reg. 2**
- F87** S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**
- F88** S. 5(2AA) inserted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 6 para. 24(3)**; S.I. 2005/2800, art. 5(1)(3)
- F89** Words in s. 5(2AA) inserted (E.W.) (23.7.2019) by Public Services Ombudsman (Wales) Act 2019 (anaw 3), s. 77(1), **Sch. 5 para. 11(b)**; S.I. 2019/1096, **reg. 2**
- F90** S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**
- F91** Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 35(c)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

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- F92** Words in s. 5(3)(a) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **7(3)**
- F93** S. 5(3)(aa) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(2)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F94** S. 5(3)(ab) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(2)**; S.I. 2018/227, reg. 4(c)
- F95** Words in s. 5(3)(b) substituted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(4)**; S.I. 2011/3019, art. 3, Sch. 1
- F96** Words in s. 5(3)(b) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(a), 178(2), **Sch. 4 Pt. B**
- F97** S. 5(3A) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(2)**; S.I. 2010/2195, art. 3(2)(l)
- F98** S. 5(4) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F99** Words in s. 5(5) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(3)**; S.I. 2010/2195, art. 3(2)(l)
- F100** Words in s. 5(5) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F101** Words in s. 5(5)(a) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(5)**; S.I. 2011/3019, art. 3, Sch. 1
- F102** S. 5(5)(a)(ia) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(3)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F103** S. 5(5)(a)(ib) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(3)**; S.I. 2018/227, reg. 4(c)
- F104** Words in s. 5(5)(a) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F105** Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(4), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F106** S. 5(5A) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **7(4)**
- F107** S. 5(7A) inserted (E.W.) (18.11.2003) by Local Government Act 2003 (c. 26), ss. **113(3)**, 128(2)(d)
- F108** Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**
- F109** S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, s. **132(1)(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. **3, 4**
- F110** Words in s. 5(8) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 202(6)(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F111** Words in s. 5(8) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(4)(a)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F112** Word in s. 5(8) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F113** Words in s. 5(8) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 13(4)**; S.I. 2010/2195, art. 3(2)(l)
- F114** S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(7)**

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- F115** Words in s. 5(8) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **7(5)**
- F116** Words in s. 5(8) substituted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 63(4)(b)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F117** Words in s. 5(8) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 88(4)**; S.I. 2018/227, reg. 4(c)
- F118** S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(8)**
- F119** S. 5(8B) inserted (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 95(2), 178(3)**; S.I. 2012/1187, art. 2(1)(k)

Modifications etc. (not altering text)

- C52** S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C53** S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 73** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2** (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, **Sch. 1 Pt. I para. 5**; (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 24(5), **Sch. 6**; and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 49**; and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 38**; S.I. 2012/628, **art. 6(i)**)
- C54** S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), **Sch. 6 para. 7(3)**
- C55** S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 15** (with s. 32); S.S.I. 2000/312, **art. 2**
- C56** S. 5 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C57** S. 5 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(b)**
- C58** S. 5 applied (E.) (24.3.2005) by The New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, **Sch. 4 para. 9(3)**
- C59** S. 5 applied (E.) (24.3.2010) by The South Downs National Park Authority (Establishment) Order 2010 (S.I. 2010/497), art. 1, **Sch. 4 para. 9(3)**
- C60** S. 5 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **7**
- C61** S. 5 applied (E.) (8.5.2017) by The West of England Combined Authority Order 2017 (S.I. 2017/126), arts. 1(4), **16**
- C62** S. 5 applied (E.) (8.5.2017) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/612), arts. 1(3), **6**
- C63** S. 5 applied (with modifications) (E.) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(4)**
- C64** S. 5 applied (E.) (8.5.2017) by The West Midlands Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/510), arts. 1(2), **15**
- C65** S. 5 applied (E.) (8.5.2017) by The Liverpool City Region Combined Authority (Functions and Amendment) Order 2017 (S.I. 2017/430), arts. 1(3), **12(2)**
- C66** S. 5 applied (E.) (2.11.2018) by The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority (Establishment and Functions) Order 2018 (S.I. 2018/1133), arts. 1, **17(2)** (with art. 28)
- C67** S. 5 applied (26.6.2020) by S.I. 2017/469, **Sch. 1 para. 2(3)** (as inserted by The Greater Manchester Combined Authority (Fire and Rescue Functions) (Amendment) Order 2020 (S.I. 2020/641), arts. 1, **9**)
- C68** S. 5 applied (E.) (28.7.2020) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority (Functions and Amendment) Order 2020 (S.I. 2020/806), arts. 1, **13(2)**
- C69** S. 5 applied (E.) (30.1.2021) by The West Yorkshire Combined Authority (Election of Mayor and Functions) Order 2021 (S.I. 2021/112), arts. 1(2), **16(2)**

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- C70** S. 5(1) applied (10.5.2000) by [S.I. 2000/1095, art. 6\(5\)\(a\)](#)
- C71** S. 5(2)-(7) applied (with modifications) (E.) (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\), arts. 1, 8\(4\)](#)
- C72** S. 5(2)-(7) applied (with modifications) (E.) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\), arts. 1, 17\(4\)](#)
- C73** S. 5(2)-(7) applied (with modifications) (E.) (25.5.2018) by [The West Suffolk \(Local Government Changes\) Order 2018 \(S.I. 2018/639\), arts. 1, 9\(5\)](#)
- C74** S. 5(2)-(7) applied (with modifications) (E.) (25.5.2018) by [The East Suffolk \(Local Government Changes\) Order 2018 \(S.I. 2018/640\), arts. 1, 9\(5\)](#)
- C75** S. 5(2)-(7) applied with modifications (E.) (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\), arts. 1, 28\(5\)](#)
- C76** S. 5(2)-(7) applied (with modifications) (E.) (26.5.2018) by [The Somerset West and Taunton \(Local Government Changes\) Order 2018 \(S.I. 2018/649\), arts. 1, 9\(5\)](#)
- C77** S. 5(2)-(7) applied with modifications (E.) (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\), arts. 1, 13\(5\)](#)
- C78** S. 5(2)-(7) applied (with modifications) (E.) (23.5.2019) by [The Buckinghamshire \(Structural Changes\) Order 2019 \(S.I. 2019/957\), arts. 1, 7\(4\)](#)
- C79** S. 5(2)-(7) applied (with modifications) (E.) (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\), arts. 1, 9\(5\)](#)
- C80** S. 5(2)-(7) applied (with modifications) (E.) (18.3.2022) by [The Cumbria \(Structural Changes\) Order 2022 \(S.I. 2022/331\), arts. 1\(1\), 9\(5\)](#)

Marginal Citations

- M18** 1975 c. 30.
M19 1974 c. 7.
M20 1988 c. 41.
M21 1972 c. 70.
M22 1973 c. 65.
M23 1971 c. 80.
M24 1985 c. 51.

[^{F120}5A Reports of monitoring officer—local authorities operating executive arrangements

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—
 - (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
 - (b) any such maladministration or [^{F121}failure] as is mentioned in Part III of the Local Government Act 1974 ^{F122} (Local Commissioners)^{F123}; or

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- (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005 [^{F124}or the Public Services Ombudsman (Wales) Act 2019].]
- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.
- [No duty shall arise by virtue of subsection (3)(c) above unless the Public Services
^{F125}(4A) Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 [^{F126}or the Public Services Ombudsman (Wales) Act 2019] in relation to the proposal, decision or omission concerned.]
- (5) It shall be the duty of an authority’s monitoring officer—
- (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority’s paid service under section 4 above and with their chief finance officer; and
 - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [^{F127}and, where the authority has a mayor and council manager executive, the council manager].
- (6) It shall be the duty of the authority’s executive—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
 - (b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
- (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
 - (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
 - (c) the reasons for taking the action specified in the executive’s report or, as the case may be, for taking no action.
- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority’s monitoring officer.

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- (10) The duties of an authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.]

Textual Amendments

- F120** S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/3327](#), arts. 1(2), 23(2); [S.I. 2002/808](#), arts. 1(2), **22(2)**
- F121** Word in s. 5A(3)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 12 para. 14(3)**; [S.I. 2008/917](#), art. 2(1)(n) (with art. 6(5))
- F122** 1974 c.7.
- F123** S. 5A(3)(c) and word inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 25(2)**; [S.I. 2005/2800](#), art. 5(1)(3)
- F124** Words in s. 5A(3)(c) inserted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#), s. 77(1), **Sch. 5 para. 12(a)**; [S.I. 2019/1096](#), reg. 2
- F125** S. 5A(4A) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 25(3)**; [S.I. 2005/2800](#), art. 5(1)(3)
- F126** Words in s. 5A(4A) inserted (23.7.2019) by [Public Services Ombudsman \(Wales\) Act 2019 \(anaw 3\)](#), s. 77(1), **Sch. 5 para. 12(b)**; [S.I. 2019/1096](#), reg. 2
- F127** Words in s. 5A(5)(b) repealed (W.) (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 34(8)(b), 178(2), **Sch. 4 Pt. B**

Modifications etc. (not altering text)

- C81** S. 5A(2)-(7) applied (with modifications) (E.) (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\)](#), arts. 1, **8(4)**
- C82** S. 5A(2)(5) applied (with modifications) (E.) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), arts. 1, **17(4)**
- C83** S. 5A(2)(5) applied (with modifications) (E.) (25.5.2018) by [The West Suffolk \(Local Government Changes\) Order 2018 \(S.I. 2018/639\)](#), arts. 1, **9(5)**
- C84** S. 5A(2)(5) applied (with modifications) (E.) (25.5.2018) by [The East Suffolk \(Local Government Changes\) Order 2018 \(S.I. 2018/640\)](#), arts. 1, **9(5)**
- C85** S. 5A(2)(5) applied (with modifications) (E.) (26.5.2018) by [The Somerset West and Taunton \(Local Government Changes\) Order 2018 \(S.I. 2018/649\)](#), arts. 1, **9(5)**
- C86** S. 5A(2)(5) applied with modifications (E.) (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **13(5)**
- C87** S. 5A(2)(5) applied with modifications (E.) (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **28(5)**
- C88** S. 5A(2)(5) applied (with modifications) (E.) (23.5.2019) by [The Buckinghamshire \(Structural Changes\) Order 2019 \(S.I. 2019/957\)](#), arts. 1, **7(4)**
- C89** S. 5A(2)(5) applied (with modifications) (E.W.) (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\)](#), arts. 1, **9(5)**
- C90** S. 5A(2)(5) applied (with modifications) (E.) (18.3.2022) by [The Cumbria \(Structural Changes\) Order 2022 \(S.I. 2022/331\)](#), arts. 1(1), **9(5)**

6 Officer responsible for financial administration of certain authorities.

- (1) On and after the commencement day the Common Council shall—
- (a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and

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- (b) secure that one of its officers has responsibility for the administration of those affairs.
- (2) Section 17 of the ^{M25}City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.
- (3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—
- (a) be a member of one or more of the bodies specified in subsection (5) below; or
 - (b) be the person who immediately before that day was the chamberlain of the City of London; or
 - (c) be a person who qualifies by virtue of section 113(2)(b) of the ^{M26}Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
 - (d) fulfil two or more of those conditions.
- (4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the ^{M27}Local Government Act 1985 shall—
- (a) be a member of one or more of the bodies specified in subsection (5) below; or
 - (b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or
 - (c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
 - (d) fulfil two or more of those conditions.
- (5) The bodies referred to in subsections (3)(a) and (4)(a) above are—
- (a) the Institute of Chartered Accountants in England and Wales;
 - (b) the Institute of Chartered Accountants of Scotland;
 - (c) the Chartered Association of Certified Accountants;
 - (d) the Chartered Institute of Public Finance and Accountancy;
 - (e) the Institute of Chartered Accountants in Ireland;
 - (f) the Chartered Institute of Management Accountants;
 - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the ^{M28}Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the ^{M29}Local Government Finance Act 1988 (reports etc.) subject to—
- (a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and
 - (b) any other modifications the Secretary of State thinks fit;

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and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(7) In this section—

“the commencement day” means the day on which this section comes into force;

“the Common Council” means the Common Council of the City of London;

“new successor body” means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body’s functions).

(8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Marginal Citations

- M25 1897 c. cxxxiii.
- M26 1988c. 41.
- M27 1985 c. 51.
- M28 1985c. 51.
- M29 1988 c. 41.

Appointment and management etc. of staff

7 All staff to be appointed on merit.

(1) Every appointment of a person to a paid office or employment under—

(a) a local authority or parish or community council in England and Wales, ^{F128}...

[^{F129}(aa) an elected local policing body, or]

(b) a local authority in Scotland,

shall be made on merit.

(2) Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the Local Government Act 1972 or section 64 of the Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—

^{F130}(a)

[^{F131}(b) section 18 of the ^{M30}Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);]

^{F132}(c)

^{F132}(d)

(e) section 113 of the ^{M31}Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities);

^{F133}(f)

[^{F134}(g) sections 39, 40 and 49 to 51 of the Equality Act 2010 (employees and office-holders), so far as relating to disability, and Schedule 8 to that Act (reasonable adjustments for disabled persons) so far as it applies in relation to sections 39 and 49 to 51 of that Act;] and

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[^{F134}(h) paragraph 1 of Schedule 9 to that Act (occupational requirements), so far as relating to sex, pregnancy and maternity, marriage and civil partnership, gender reassignment or race.]

(3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

- F128** Word in s. 7(1)(a) omitted (16.1.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 203(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F129** S. 7(1)(aa) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 203(b)**; S.I. 2011/3019, art. 3, Sch. 1
- F130** S. 7(2)(a) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(a)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F131** S. 7(2)(b) repealed (E.W.) (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. 2**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F132** S. 7(2)(c)(d) repealed (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(a)**, **Sch. 27 Pt. 1** (as amended by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2))
- F133** S. 7(2)(f) repealed (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(a)**, **Sch. 27 Pt. 1** (as amended by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2))
- F134** S. 7(2)(g)(h) inserted (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(b)** (as inserted by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2))

Modifications etc. (not altering text)

- C91** S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
 S. 7 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C92** S. 7 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C93** S. 7 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(c)**
- C94** S. 7 excluded (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 3 para. 4(6)**; S.I. 2011/3019, art. 3, Sch. 1
- C95** S. 7 excluded (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 1 para. 8(4)**; S.I. 2012/2892, art. 2(b)
- C96** S. 7 applied (with modifications) (E.) (8.5.2017) by The Greater Manchester Combined Authority (Transfer of Police and Crime Commissioner Functions to the Mayor) Order 2017 (S.I. 2017/470), art. 1(2), **Sch. 1 para. 9(5)**

Marginal Citations

- M30** 1947 c. 41.
M31 1988 c. 41.

8 Duty to adopt standing orders with respect to staff.

(1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—

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- (a) to incorporate such provision as may be prescribed by the regulations instanding orders relating to their staff; and
 - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—
 - (a) the appointment of persons to paid office or employment under the authority; or
 - (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority’s standing orders—
 - (a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee or sub-committee of the authority or by particular officers of the authority;
 - (b) to restrict the power of the authority or any of their committees or sub-committees—
 - (i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or
 - (ii) otherwise to interfere with the making of appointments by such persons;
 - (c) to require the monitoring officer of the authority to prepare a report to the authority in respect of every proposed appointment of a person to a politically restricted post;
 - (d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—
 - (i) without any contravention of any provision made by or under this Part; and
 - (ii) without any matter being taken into account which could not properly be taken into account;and, if in his opinion it cannot be so made, his reasons; and
 - (e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.
- (4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—
 - (a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority’s functions;
 - (b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;

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- (c) provision specifying the consequences—
 - (i) in relation to any appointment or contract of employment;
 - (ii) in relation to any proceedings on a complaint to an ^{F135}employment tribunal]; and
 - (iii) in relation to any expenditure incurred by the authority, of any contravention of standing orders made in pursuance of the regulations; and
 - ^{F136}(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons—
 - (i) in pursuance of section 9 below;
 - (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and
 - (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor’s assistant).]
- (5) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
 - ^{F137}(aa) in relation to Wales, means a corporate joint committee;]
 - (b) in relation to Scotland, means a ^{F138}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

Textual Amendments

- F135** Words in s. 8(4)(c)(ii) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F136** S. 8(4)(d) substituted (E.) (18.5.2001) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 (S.I. 2001/1517), **art. 5**
 S. 8(4)(d) substituted (W.) (1.4.2002) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002 (S.I. 2002/803), **art. 5**
- F137** S. 8(5)(aa) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **11**
- F138** Words in s. 8(5)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(5)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

- C97** S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
 S. 8 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C98** S. 8 applied (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(d)**
- C99** S. 8 applied (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**

9 Assistants for political groups.

- (1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person’s political activities

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or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.

- (2) An appointment is an appointment in pursuance of this section if—
- (a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;
 - (b) the terms of the appointment comply with subsection (3) below;
 - (c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and
 - (d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.
- (3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—
- (a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the ^{M32}Local Government Act 1972 (annual meeting of principal councils); and
 - (b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the ^{M33}Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.
- (4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—
- (a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and
 - (b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;
- and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [^{F139}(4A) An order made under subsection (4)(a) above in relation to England or Wales may, instead of specifying an amount, specify a point on a relevant scale specified by the order.
- (4B) A “relevant scale” is a scale consisting of points and of amounts corresponding to those points.
- (4C) In relation to any time while an order made by virtue of subsection (4A) above is in force, the amount that at that time corresponds to the point specified by the order is to be treated for the purposes of subsection (4)(a) above as specified by the order.]
- (5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—

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- (a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
 - (b) prohibit the allocation of a post to a political group which does not qualify for one; and
 - (c) prohibit the allocation of more than one post to any one political group.
- (6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—
- (a) the membership of that group comprises at least one-tenth of the membership of the authority;
 - (b) the number of the other groups (if any) which are larger than that group does not exceed two; and
 - (c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;

and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that paragraph as secure that there are no more nor less than three groups which do qualify for a post.

- (7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—
- (a) the groups qualifying for a post shall be that group and one other group; and
 - (b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;

and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.

- (8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—
- (a) section 101 of the ^{M34}Local Government Act 1972 (delegation); or
 - (b) section 56 of [^{F140}, or Schedule 10 or 20 to,] the ^{M35}Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland), [^{F141}; or
 - (c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)]

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

- [^{F142}(8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—
- (a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or
 - (b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

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so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

- (8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.]
- (9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.
- (10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—
- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
 - (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;
 - (c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;
 - (d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;
 - (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

- (11) In this section—
- “appropriate year”, in relation to a post held by any person under a relevant authority, means—
- (a) where the authority is ^[F143] subject to whole council elections by virtue of Chapter 1 of Part 2 of the Local Government and Public Involvement in Health Act 2007], the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and
 - (b) in any other case, the period of twelve months beginning with the third anniversary of that person's appointment to that post;
- ^[F144]“area committee” has the same meaning as in section 18 of the Local Government Act 2000;]
- “membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;
- “relevant authority”—
- (a) in relation to England and Wales, means the council of any county, ^[F145] county borough] district or London borough; and

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(b) in relation to Scotland, means a ^{F146}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

Textual Amendments

- F139** S. 9(4A)-(4C) inserted (E.W.) (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 204, 245(5)**; S.I. 2008/172, art. 2(1)(q)
- F140** Words in s. 9(8)(b) repealed (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 161\(1\)\(6\)\(a\), Sch. 14](#) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F141** S. 9(8)(c) and the word preceding it inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(a); S.I. 2002/808, arts. 1(2), **23(a)**
- F142** S. 9(8A)(8B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(b); S.I. 2002/808, arts. 1(2), **23(b)**
- F143** Words in s. 9(11) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 2 para. 2**
- F144** S. 9(11): definition of "area committee" inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(c); S.I. 2002/808, arts. 1(2), **23(c)**
- F145** S. 9(11): words in the definition of "relevant authority" para. (a) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(1)**
- F146** S. 9(11): words in the definition of "relevant authority" para. (b) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 161\(1\)\(6\)\(b\)](#) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

Modifications etc. (not altering text)

- C100** S. 9 applied in part (8.5.2000) by [1999 c. 29, s. 67\(8\)](#) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C101** S. 9 applied in part (with modifications) (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), **3(7)(8)**
- C102** S. 9 applied in part (with modifications) (E.) (2.11.2018) by [The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority \(Establishment and Functions\) Order 2018 \(S.I. 2018/1133\)](#), arts. 1, **6** (with art. 28)
- C103** S. 9 applied in part (with modifications) (E.) (8.5.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(4), **23(5)(6)**
- C104** S. 9 applied in part (with modifications) (E.) (8.5.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\)](#), arts. 1(3), **20(5)(6)**
- C105** S. 9 applied in part (with modifications) (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **23(5)(6)**
- C106** S. 9 applied in part (with modifications) (E.) (8.5.2017) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(3), **16(5)(6)**
- C107** S. 9 applied in part (with modifications) (E.) (28.7.2020) by [The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority \(Functions and Amendment\) Order 2020 \(S.I. 2020/806\)](#), arts. 1, **15(5)(6)**
- C108** S. 9 applied in part (with modifications) (E.) (coming into force in accordance with art. 1(3) of the amending S.I.) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(3), **4(5)(6)**
- C109** S. 9(3) applied (with modifications) (E.) (8.5.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(4), **23(6)**
- C110** S. 9(3) applied (with modifications) (E.) (8.5.2017) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(3), **16(6)**
- C111** S. 9(3) applied (with modifications) (E.) (8.5.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\)](#), arts. 1(3), **20(6)**
- C112** S. 9(3) applied (with modifications) (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **23(6)**

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- C113** S. 9(3) applied (E.) (with modifications) (coming into force in accordance with art. 1(3) of the amending S.I.) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(3), **4(1)(6)**
- C114** S. 9(8) applied (with modifications) (E.) (8.5.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(4), **23(5)**
- C115** S. 9(8) applied (with modifications) (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **23(5)**
- C116** S. 9(8) applied (with modifications) (E.) (8.5.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\)](#), arts. 1(3), **20(5)**
- C117** S. 9(8)(9) applied (with modifications) (E.) (8.5.2017) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(3), **16(5)**
- C118** S. 9(8) applied (coming into force in accordance with art. 1(3) of the amending S.I.) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(3), **4(1)(5)**
- C119** S. 9(9) applied (with modifications) (E.) (8.5.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(4), **23(5)**
- C120** S. 9(9) applied (with modifications) (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **23(5)**
- C121** S. 9(9) applied (with modifications) (E.) (8.5.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\)](#), arts. 1(3), **20(5)**
- C122** S. 9(9) applied (coming into force in accordance with art. 1(3) of the amending S.I.) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(3), **4(1)(5)**
- C123** S. 9(11) applied (with modifications) (E.) (8.5.2017) by [The Liverpool City Region Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/430\)](#), arts. 1(3), **20(5)**
- C124** S. 9(11) applied (with modifications) (E.) (8.5.2017) by [The West Midlands Combined Authority \(Functions and Amendment\) Order 2017 \(S.I. 2017/510\)](#), arts. 1(2), **23(5)**
- C125** S. 9(11) applied (with modifications) (E.) (8.5.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(4), **23(5)**
- C126** S. 9(11) applied (with modifications) (E.) (8.5.2017) by [The Greater Manchester Combined Authority \(Functions and Amendment\) Order 2016 \(S.I. 2016/1267\)](#), arts. 1(3), **16(5)**
- C127** S. 9(11) applied (E.) (coming into force in accordance with art. 1(3) of the amending S.I.) by [The West Yorkshire Combined Authority \(Election of Mayor and Functions\) Order 2021 \(S.I. 2021/112\)](#), arts. 1(3), **4(1)(5)**

Marginal Citations

- M32** 1972 c. 70.
M33 1973 c. 65.
M34 1972 c. 70.
M35 1973 c. 65.

10 Limit on paid leave for local authority duties.

- (1) Notwithstanding anything in ^{F147}section 50(4) of the Employment Rights Act 1996] (conditions of time off for public duties), where—
- a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and
 - those duties do not include the duties of chairman of the council,
- it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time

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off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

“chairman”, in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

“employee” has the same meaning as in the [F148]the Employment Rights Act 1996];

“financial year” means the twelve months ending with 31st March; and

“relevant council” means the council of any county, [F149]county borough] district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of [F150]subsection (2) of section 50] of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

- F147** Words in s. 10(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(a)** (with ss. 191-195, 202)
- F148** S. 10(2): words in the definition of “employee” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(i)** (with ss. 191-195, 202)
- F149** S. 10(2): words in the definition of “relevant council” inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(2)**
- F150** S. 10(2): words in the definition of “relevant council” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(ii)** (with ss. 191-195, 202)

Modifications etc. (not altering text)

- C128** S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
 S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(3)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- C129** S. 10 applied (E.W.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777)**, arts. 1, **15(2)**
- C130** S. 10 applied (E.W.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778)**, arts. 1, **15(2)**

11 Confidentiality of staff records.

- (1) Nothing in [F151]section 17 of the M36Local Government Finance Act 1982 or [F152]... section 101 or 106 of the M37Local Government (Scotland) Act 1973 [F153](public inspection of accounts etc)] shall entitle any person—
- (a) to inspect so much of any document as contains personal information about a member of the relevant body’s staff; or
 - (b) to require any such information to be disclosed in answer to any question.
- (2) Information shall be regarded as personal information about a member of the relevant body’s staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—

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- (a) that that individual holds or has held any office or employment under that body; or
 - (b) that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.
- (3) In this section—
- “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and
 - “relevant body” in relation to accounts which are required to be audited in accordance with ^{F154}... Part VII of the said Act of 1973, means the body whose accounts are required to be audited ^{F155}...;
- and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.
- (4) This section shall have effect only in relation to—
- (a) the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and
 - (b) the disclosure of information in answer to questions about such accounts.

Textual Amendments

- F151** Words in s. 11(1) repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(1)(a), Sch. 5
- F152** Words in s. 11(1) omitted (1.4.2015) by virtue of Local Audit and Accountability Act 2014 (c. 2), s. 49(1), Sch. 12 para. 23(2)(a); S.I. 2015/841, art. 3(x)
- F153** Words in s. 11(1) substituted (1.4.2015) by virtue of Local Audit and Accountability Act 2014 (c. 2), s. 49(1), Sch. 12 para. 23(2)(b); S.I. 2015/841, art. 3(x)
- F154** Words in s. 11(3) omitted (1.4.2015) by virtue of Local Audit and Accountability Act 2014 (c. 2), s. 49(1), Sch. 12 para. 23(3)(a); S.I. 2015/841, art. 3(x)
- F155** Words in s. 11(3) omitted (1.4.2015) by virtue of Local Audit and Accountability Act 2014 (c. 2), s. 49(1), Sch. 12 para. 23(3)(b); S.I. 2015/841, art. 3(x)

Modifications etc. (not altering text)

- C131** S. 11 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11

Marginal Citations

- M36** 1982 c. 32.
- M37** 1973c. 65.

12 Conflict of interest in staff negotiations.

- (1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—
- (a) a person who is both a member of the authority and in such employment; or
 - (b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.

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(2) In this section—

^{F156} “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions;]

“official” and “trade union” have the same meanings as in ^{M38}[^{F157}the Trade Union and Labour Relations (Consolidation) Act 1992]

and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1) (a) [^{F158}or section 80C(1)] of the ^{M39}Local Government Act 1972 or section 31(1)(a) of the ^{M40}Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.

(3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

F156 Definition of 'member' in s. 12(2) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 39(2)**

F157 Words in s. 12(2) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 39(3)**

F158 Words in s. 12(2) inserted (W.) (17.11.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(7), **Sch. 2 para. 5**; S.I. 2021/1249, art. 2(b)

Modifications etc. (not altering text)

C132 S. 12 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11

S. 12 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(8)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)

S. 12 applied (with modifications) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**

C133 S. 12 applied (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(e)**

C134 S. 12 applied (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**

Marginal Citations

M38 1974 c.52.

M39 1972 c. 70.

M40 1973 c. 65.

Voting rights of members of certain committees

13 Voting rights of members of certain committees: England and Wales.

(1) Subject to the following provisions of this section, a person who—

- (a) is a member of a committee appointed under a power to which this section applies by a relevant authority and is not a member of that authority;
- (b) is a member of a joint committee appointed under such a power by two or more relevant authorities and is not a member of any of those authorities; or

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- (c) is a member of a sub-committee appointed under such a power by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

- (2) The powers to which this section applies are—

- (a) the powers conferred on any relevant authority by subsection (1) of section 102 of the ^{M41}Local Government Act 1972 (ordinary committees, joint committees and sub-committees);

^{F159}(b)

^{F160}(c)

- (3) Nothing in subsection (1) above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (4) below; but, except—

- (a) in the case of a sub-committee appointed by a committee falling within paragraph (e) of that subsection; and
- (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

- (4) A committee or sub-committee falls within this subsection if it is—

^{F161}(a)

^{F162}(b)

- (c) a committee established in accordance with any regulations made by virtue of section 7 of the ^{M42}Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);

^{F163}(d)

- (e) a committee appointed under section 102(4) of the Local Government Act 1972 (appointment of advisory committees by local authorities);

- (f) a committee constituted in accordance with [^{F164}Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)];

[^{F165}(fa) an inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009;]

[^{F166}(fb) a committee of a relevant authority which is the scheme manager (or scheme manager and pension board) of a scheme under section 1 of the Public Service Pensions Act 2013;]

- (g) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;

- (h) a sub-committee appointed by a committee falling within any of [^{F167}paragraphs (b) to (g)] above or such a sub-committee as is so prescribed.

- [^{F168}(5) Nothing in this section shall prevent the appointment of a person who is not a member of a [^{F169}local authority] as a voting member of—

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- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any [^{F170}education functions of the authority],
- (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any [^{F171}education functions of the authorities], or
- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee's functions with respect to education,

where that appointment is required [^{F172}either] by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees) [^{F173}or pursuant to regulations under subsection (6) of that section].]

[^{F174}(5ZA) Nothing in this section shall prevent the appointment of a police and crime commissioner as a voting member of—

- (a) any committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority,
- (b) any joint committee appointed by two or more local authorities in England wholly or partly for the purposes of discharging such functions, or
- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purposes of discharging such functions.

(5ZB) In subsection (5ZA) “local authority” does not include—

- (a) 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,
- (b) a joint authority which is a metropolitan county fire and rescue authority, or
- (c) the London Fire Commissioner.]

[^{F175}(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in his place, as a voting member of a joint committee, or a sub-committee of such a committee, where—

- (a) that local authority have a mayor and council manager executive [^{F176}]; and
- (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive.]

[^{F177}(6) The Secretary of State may, if it appears to him appropriate to do so in consequence of the preceding provisions of this section, withdraw any approval given before the coming into force of this section in relation to any arrangements for the purposes of paragraph 1 of Part II of Schedule 1 to the said Act of 1944].

- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (5) above to a voting member, in relation to any [^{F178}committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection], is a reference to a person who is entitled to vote at any meeting of that committee or sub-committee on any question which falls to be decided at that meeting.

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- (8) In subsection (3) of section 102 of the ^{M43}Local Government Act 1972, the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities) shall be omitted.
- (9) In this section—
- [^{F179}“council manager”, “executive” [^{F180}and “mayor and council manager executive”] have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); ^{F181}...]
- [^{F182}“education functions” has the meaning given by section 579(1) of the Education Act 1996; and]
- ^{F183}
...
“relevant authority” means a local authority of any of the descriptions specified in [^{F184}paragraphs (a) to (f) [^{F185}, (h) to [^{F186}(jc)] or (n)] of section 21(1) below or any parish or community council;
- and references in this section to voting include references to making use of a casting vote.

Textual Amendments

- F159** S. 13(2)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F160** S. 13(2)(c) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(h)**
- F161** S. 13(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F162** S. 13(4)(b) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F163** S. 13(4)(d) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F164** Words in s. 13(4)(f) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(2)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F165** S. 13(4)(fa) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 14**; S.I. 2010/2195, art. 3(2)(l)
- F166** S. 13(4)(fb) inserted (1.4.2014) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 8 para. 15** (with Sch. 11 para. 8); S.I. 2014/839, art. 4(2)(h)
- F167** Words in s. 13(4)(h) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F168** S. 13(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(3)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F169** Words in s. 13(5) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(a)**
- F170** Words in s. 13(5)(a) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(b)**
- F171** Words in s. 13(5)(b) substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(c)**
- F172** Word in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

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- F173** Words in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F174** S. 13(5ZA)(5ZB) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 7(8)**, 183(1)(5)(e); S.I. 2017/399, reg. 2, Sch. para. 3
- F175** S. 13(5A) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(c)(i), 178(2), **Sch. 4 Pt. B**
- F176** See regulations 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000/2851) and the Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2001 (S.I. 2001/2287 (W.175)).
- F177** S. 13(6) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(c), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F178** Words in s. 13(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(4)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F179** S. 13(9): definition inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(b); S.I. 2002/803, **art. 6(1)(b)**
- F180** Words in s. 13(9) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(c)(ii), 178(2), **Sch. 4 Pt. B**
- F181** Word in s. 13(9) repealed (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(5)(a)**, **Sch. 3 Pt. 2**
- F182** Words in s. 13(9) inserted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(5)(b)**
- F183** S. 13(9): the definition of “foundation governors” and the “and” immediately following it repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 96(1)(5), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39)
- F184** S. 13(9): words in the definition of “relevant authority” substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F185** Words in s. 13(9) substituted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by Planning (Wales) Act 2015 (anaw 4), **ss. 39(5)(a)**, 58(2)(b)(4)(b); S.I. 2017/546, **art. 3(a)**
- F186** Word in s. 13(9) substituted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 12(3)**

Modifications etc. (not altering text)

- C135** S. 13 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
 S. 13 excluded (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 9(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C136** S. 13 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(2)**
- C137** S. 13 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(2)**
- C138** S. 13 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)(b)**, 324(1)(c)(d) (with ss. 172(3), 185); S.I. 2010/2195, **art. 3(2)(b)**
- C139** S. 13 modified (E.) (1.4.2011) by The Greater Manchester Combined Authority Order 2011 (S.I. 2011/908), arts. 1, **13**
- C140** S. 13 applied (with modifications) (E.W.) (1.4.2013) by The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218), regs. 1(2), **6**
- C141** S. 13 modified (E.) (1.4.2014) by The Barnsley, Doncaster, Rotherham and Sheffield Combined Authority Order 2014 (S.I. 2014/863), arts. 1, **13**
- C142** S. 13 modified (E.) (1.4.2014) by The Halton, Knowsley, Liverpool, St Helens, Sefton and Wirral Combined Authority Order 2014 (S.I. 2014/865), arts. 1, **16** (with art. 8(4))

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- C143** S. 13 modified (E.) (15.4.2014) by [The Durham, Gateshead, Newcastle Upon Tyne, North Tyneside, Northumberland, South Tyneside and Sunderland Combined Authority Order 2014 \(S.I. 2014/1012\)](#), arts. 1, **15**
- C144** S. 13 modified (E.) (1.4.2016) by [The Tees Valley Combined Authority Order 2016 \(S.I. 2016/449\)](#), arts. 1(a), **10**
- C145** S. 13 modified (E.) (17.6.2016) by [The West Midlands Combined Authority Order 2016 \(S.I. 2016/653\)](#), arts. 1(2), **13**
- C146** S. 13 modified (E.) (9.2.2017) by [The West of England Combined Authority Order 2017 \(S.I. 2017/126\)](#), arts. 1(3), **28**
- C147** S. 13 modified (E.) (3.3.2017) by [The Cambridgeshire and Peterborough Combined Authority Order 2017 \(S.I. 2017/251\)](#), arts. 1(2)(b), **15**
- C148** S. 13 applied (with modifications) (E.) (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), art. 1(2), **Sch. 1 para. 9(6)**
- C149** S. 13 modified (E.) (2.11.2018) by [The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority \(Establishment and Functions\) Order 2018 \(S.I. 2018/1133\)](#), art. 1, **Sch. 5 para. 1(9)** (with art. 28)
- C150** S. 13 modified (E.) (2.11.2018) by [The Newcastle Upon Tyne, North Tyneside and Northumberland Combined Authority \(Establishment and Functions\) Order 2018 \(S.I. 2018/1133\)](#), arts. 1, **21(1)** (with art. 28)
- C151** S. 13(1) excluded (E.) (28.11.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008 \(S.I. 2008/2867\)](#), regs. 1(1), **16(9)** (with reg. 1(2))

Marginal Citations

- M41** 1972 c. 70.
- M42** 1972 c. 11.
- M43** 1972 c. 70.

14 Voting rights of members of certain committees: Scotland.

- (1) Subject to the following provisions of this section, a person who—
 - (a) is a member of a committee appointed under subsection (1) of section 57 of the ^{M44}Local Government (Scotland) Act 1973 by a relevant authority and is not a member of that authority;
 - (b) is a member of a joint committee appointed under that subsection by two or more relevant authorities and is not a member of any of those authorities; or
 - (c) is a member of a sub-committee appointed under that subsection by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

^{F187}(2)

^{F187}(3)

- (4) Nothing in [^{F188}subsection (1)] above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (5) below; but, except—
 - (a) in the case of a sub-committee appointed by a committee falling within paragraph (b) of that subsection; and

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- (b) in such cases as may be prescribed by regulations made by the Secretary of State,
- a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.
- (5) A committee or sub-committee falls within this subsection if it is—
- (a) a committee established in accordance with any regulations made by virtue of section 7 of the ^{M45}Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
 - (b) a committee appointed under section 57(4) of the ^{M46}Local Government (Scotland) Act 1973 (appointment of advisory committees by local authorities);
 - (c) a committee constituted in accordance with Schedule A1 to the ^{M47}Education (Scotland) Act 1980 (appeal committees for hearing placing and other appeals);
 - ^{F189}(d)
 - (e) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
 - (f) a sub-committee appointed by a committee falling within any of paragraphs (a) to [^{F190}(c) or] (e) above or such a sub-committee as is so prescribed.
- [^{F191}(6) Nothing in this section shall prevent the appointment as a voting member of—
- (a) a committee such as is mentioned in subsection (1) of section 124 of the ^{M48}Local Government (Scotland) Act 1973 (committees appointed by education authority); or
 - (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or
 - (c) any sub-committee of such a committee or joint committee,
- of a person such as is mentioned in subsection (4) of the said section 124.]
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (6) above to a voting member, in relation to any such committee, joint committee or sub-committee as is mentioned in that subsection, is a reference to a person who is entitled to vote at any meeting of that committee, joint committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In the Local Government (Scotland) Act 1973—
- (a) in section 57(3), the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities);
 - [^{F192}(aa) section 124(5);]
 - (b) in section 161(6), the words from “but at least” onwards (which make corresponding provision in relation to a social work committee);
 - (c) in Schedule 10, paragraph 11 (which requires at least half of a joint education committee to be members of the appointing authorities);

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- (d) in Schedule 20, paragraph 10 (which requires at least two-thirds of a joint social work committee to be members of the appointing authorities), shall be omitted.
- (9) In this section “relevant authority” means a [^{F193}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and references in this section to voting include references to making use of a casting vote.

Textual Amendments

- F187** S. 14(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(7)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F188** Words in s. 14(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(b)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F189** S. 14(5)(d) repealed (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 2**
- F190** Words in s. 14(5)(f) inserted (24.6.2013) by The Children’s Hearings (Scotland) Act 2011 (Modification of Primary Legislation) Order 2013 (S.S.I. 2013/211), art. 1, **sch. 1 para. 7**
- F191** S. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(d)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F192** S. 14(8)(aa) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(e)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F193** Words in s. 14(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(f)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

Marginal Citations

- M44** 1973 c. 65.
M45 1972 c. 11.
M46 1973 c. 65.
M47 1980 c.44.
M48 1973 c. 65.

Political balance on committees etc.

15 Duty to allocate seats to political groups.

- (1) It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time;
 - where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the ^{M49}Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;
 - where, at the time of the meeting required by paragraph 1 of Schedule 7 to the ^{M50}Local Government (Scotland) Act 1973 to be held in an election year within twenty-one days of the election, the members of the authority are divided into different political groups, at or as soon as practicable after the meeting;

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- (d) as soon as practicable after any such division as is mentioned in paragraphs (a) to (c) above occurs; and
 - (e) at such other times as may be prescribed by regulations made by the Secretary of State.
- (2) Except in such cases as may be prescribed by regulations made by the Secretary of State, it shall be the duty of every committee of a relevant authority which is a committee having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time; and
 - (b) as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under this section.
- (3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.
- (4) Subject to subsection (6) below, it shall be the duty of a relevant authority or committee of a relevant authority—
- (a) in performing their duty under subsection (3) above; and
 - (b) in exercising their power, at times not mentioned in subsection (3) above, to determine the allocation to different political groups of seats on a body to which this section applies,
- to make only such determinations as give effect, so far as reasonably practicable, to the principles specified in subsection (5) below.
- (5) The principles mentioned in subsection (4) above, in relation to the seats on any body which fall to be filled by appointments made by any relevant authority or committee of a relevant authority, are—
- (a) that not all the seats on the body are allocated to the same political group;
 - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
 - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
 - (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
- (6) Where any relevant authority or committee of a relevant authority are required, in determining the allocation to different political groups of seats on a body to which this section applies, to give effect to the principles specified in subsection (5) above—

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- (a) any seats which, in accordance—
- (i) with provision made by virtue of subsection (5) of section 13 above;
 - or
 - (ii) with subsection (6) of section 14 above,
- are to be or may be filled by the appointment of persons who are not members of the authority shall be taken into account for the purpose of determining how many seats constitute a majority of the seats on a body mentioned in either of those subsections; but
- (b) that authority or committee shall, in making that determination, disregard for all other purposes any seats which, in accordance with any such provision, the said subsection (6) or otherwise, are to be or may be so filled;

and for the purposes of this subsection a seat on an advisory committee of a relevant authority or on a sub-committee appointed by such an advisory committee shall not be treated as one which may be so filled unless the authority have determined that it must be so filled.

- (7) Schedule 1 to this Act shall have effect for determining the bodies to which this section applies and for the construction of this section and sections 16 and 17 below.

Modifications etc. (not altering text)

- C152** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C153** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C154** S. 15 excluded (3.4.1995) by 1994 c. 19, **ss. 30(11), 31(9)** (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 5**
- S. 15 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b), Sch. Pt. 2**
- S. 15 extended (E.W.) (26.11.2000 for E. and 28.7.2001 for W.) by 2000 c. 22 ss. 21(11)(b), 108(4); S.I. 2000/2849, **art. 2(a)**
- S. 15 excluded (E.W.) (19.12.2000 for E. and police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, **ss. 53(10), 108(4)**; S.I. 2000/3335, **art. 2**
- S. 15 applied (E.) (2.4.2001) by S.I. 2001/1299, **reg. 6(10)(b)**
- S. 15 excluded (W.) (28.7.2001) by S.I. 2001/2283, **reg. 12**
- S. 15 applied (W.) (28.7.2001) by S.I. 2001/2284, **reg. 5(1)(b)**
- C155** S. 15 applied in part (with modifications) (E.W.) (7.7.2005) by The North Northamptonshire Joint Committee Order 2005 (S.I. 2005/1552), **arts. 1(2), 5(3)**
- C156** S. 15 applied (W.) (16.2.2007) by The Local Authorities (Alternative Arrangements) (Wales) Regulations 2007 (S.I. 2007/397), **regs. 1(1), 9(2)**
- C157** S. 15 excluded (E.W.) (28.11.2008) by The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (S.I. 2008/2867), **regs. 1(1), 17** (with reg. 1(2))
- C158** S. 15 modified (3.12.2011 for specified purposes, 4.5.2012 in so far as not already in force) by 2000 c. 22, **s. 9FA(6)(b)** (as inserted by Localism Act 2011 (c. 20), s. 240(2), **Sch. 2 para. 1**; S.I. 2011/2896, **art. 2(e)**; S.I. 2012/1008, **art. 4(b)**)
- C159** S. 15 excluded (3.12.2011 for specified purposes, 4.5.2012 in so far as not already in force) by 2000 c. 22, **s. 9GC** (as inserted by Localism Act 2011 (c. 20), s. 240(2), **Sch. 2 para. 1**; S.I. 2011/2896, **art. 2(e)**; S.I. 2012/1008, **art. 4(b)**)
- C160** S. 15 excluded (E.W.) (1.4.2013) by The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218), **regs. 1(2), 7(a)**
- C161** S. 15 excluded (W.) (24.5.2013) by The Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 (S.I. 2013/1050), **regs. 1(2), 5(3)**

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- C162** S. 15 excluded (W.) (1.5.2014) by [S.I. 1990/1553](#) reg. 16AA (as inserted by [The Local Government \(Committees and Political Groups\) \(Amendment\) \(Wales\) Regulations 2014 \(S.I. 2014/476\)](#), regs. 1(1), 2(4))
- C163** Ss. 15-17: power to apply (with or without modifications) conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107D\(4\)\(f\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C164** Ss. 15-17: power to exclude conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107E\(4\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C165** S. 15(2)(3)(5) modified by [S.I. 1990/1553, reg. 23](#) (as added by [S.I. 1991/1398, reg. 8](#))

Marginal Citations

- M49** 1972 c. 70.
M50 1973 c. 65.

16 Duty to give effect to allocations.

- (1) Where any relevant authority or any committee of a relevant authority have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority or committee so to exercise their power to make appointments to that body as to give effect—
- (a) as soon as practicable after the determination; and
 - (b) if a vacancy subsequently occurs on that body, as soon as practicable after the occurrence of the vacancy,
- to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.
- (2) Where—
- (a) any person has been appointed, otherwise than for a fixed term, to a body to which section 15 above applies; and
 - (b) that appointment was made, in pursuance of subsection (1) above, in accordance with the wishes of a political group,
- then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.
- (3) The proceedings of a body to which section 15 above applies shall not be invalidated by any defect by virtue of this section or that section in the appointment of any person to that body.
- (4) This section applies in relation to an allocation of seats to different political groups whether or not that allocation is made in pursuance of any duty under section 15 above.

Modifications etc. (not altering text)

- C163** Ss. 15-17: power to apply (with or without modifications) conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107D\(4\)\(f\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C164** Ss. 15-17: power to exclude conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107E\(4\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C166** Ss. 15-17 applied (with modifications) by [S.I. 1990/1553, regs. 21, 22](#)

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- C167** Ss. 15, 16 modified by [S.I. 1990/1553, reg. 16\(1\)\(2\)](#)
- C168** S. 16 applied (with modifications) (8.5.2000) by [1999 c. 29, s. 57\(1\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(b\), Sch. Pt. 2](#)
- C169** S. 16 applied (with modifications) (E.W.) (7.7.2005) by [The North Northamptonshire Joint Committee Order 2005 \(S.I. 2005/1552\), arts. 1\(2\), 5\(3\)](#)
- C170** S. 16 excluded (E.W.) (1.4.2013) by [The Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) Regulations 2013 \(S.I. 2013/218\), regs. 1\(2\), 7\(b\)](#)

17 Exceptions to and extensions of political balance requirements.

- (1) Subject to subsection (2) below, sections 15 and 16 above shall not apply in relation to appointments by a relevant authority or committee of a relevant authority to any body in so far as different provision is made by arrangements approved by the authority or committee—
- (a) in such manner as may be prescribed by regulations made by the Secretary of State; and
- (b) without any member of the authority or committee voting against them.
- (2) Arrangements approved under subsection (1) above in relation to any body shall not affect any duty imposed by virtue of section 15(1)(c), (d) or (e) or (2) above on a relevant authority or committee to review the representation of different political groups on that body; and, accordingly, such arrangements shall cease to have effect when any such duty arises.
- (3) The Secretary of State may, for the purpose of securing what appears to him to be the appropriate representation of different political groups on any sub-committee falling within subsection (4) below, by regulations make such provision as he thinks fit.
- (4) The sub-committees that fall within this subsection are those to which appointments may be made by bodies to which section 15 above applies but which are not themselves such bodies.
- (5) Without prejudice to the generality of subsection (3) above, regulations under that subsection may contain provision applying, with or without modifications, any provision made by or under section 15 or 16 above, subsections (1) and (2) above or Schedule 1 to this Act.

Modifications etc. (not altering text)

- C163** Ss. 15-17: power to apply (with or without modifications) conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107D\(4\)\(f\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C164** Ss. 15-17: power to exclude conferred (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [2009 c. 20, s. 107E\(4\)](#) (as inserted (E.W.) by [Cities and Local Government Devolution Act 2016 \(c. 1\), ss. 4\(1\), 25\(2\)](#))
- C171** Ss. 15-17 applied (with modifications) by [S.I. 1990/1553, regs. 21, 22](#)
- C172** S. 17 applied (with modifications) (8.5.2000) by [1999 c. 29, s. 57\(1\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(b\), Sch. Pt. 2](#)

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Allowances

18 Schemes for basic, attendance and special responsibility allowances for local authority members.

[^{F194}(1) [^{F195}Subject to subsection (1A),] the Secretary of State may by regulations authorise or require any such relevant authority as may be specified or described in the regulations to make a scheme providing for the payment of—

- (a) a basic allowance for every member of the authority who is a councillor;
- (b) an attendance allowance in relation to the carrying out by any such member of such duties as may be specified in or determined under the regulations; and
- (c) a special responsibility allowance for any such member who has such special responsibilities in relation to the authority as may be so specified or determined.

[^{F196}(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).]

(2) Regulations under this section may also authorise or require a scheme made by a relevant authority under the regulations to include provision for the payment to appointed members of allowances in respect of such losses of earnings and expenses as—

- (a) are necessarily sustained or incurred in the carrying out, in connection with their membership of the authority or any committee or sub-committee of the authority, of duties specified in or determined under the regulations; and
- (b) are not of a description in respect of which provision is made for an allowance under any of sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973.

[^{F197}(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.]

(3) Without prejudice to the generality of the powers conferred by subsections (1) [^{F198}to (2A)] above, regulations under this section may contain such provision as the Secretary of State considers appropriate for requiring a scheme made by a relevant authority under the regulations—

- (a) to make it a condition of any payment by way of allowance that, in the financial year to which the payment would relate, the aggregate amount which the authority has paid out or is already liable to pay out under the scheme does not exceed such maximum amount as may be specified in or determined under the regulations;
- (b) to make provision for different maximum amounts to be applicable, for the purposes of any such condition, in relation to different allowances or in relation to different members or members of different groups;
- (c) to make provision in relation to claims which cannot be paid by virtue of any such condition and provision for the payment to members of the authority who are councillors of an amount by way of supplement to the basic allowance where, in any financial year, the aggregate paid out or owing under the scheme is less than an amount specified in or determined under the regulations;

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- (d) to provide that the amount authorised by virtue of subsection (2) above to be paid by way of allowance in any case shall not exceed such amount as may be so specified or determined;
- (e) to contain such provision as may be so specified or determined with respect to the general administration of the scheme, with respect to the manner in which, time within which and forms on which claims for any allowance are to be made and with respect to the information to be provided in support of any such claim;
- (f) to contain such provision as may be so specified or determined for avoiding the duplication of payments or of allowances, for determining the bodies by which payments of allowances are to be made and for the apportionment of payments between different bodies.]

[Regulations may be made by the Welsh Ministers to make provision for or in ^{F200}(3A) connection with—

- (a) enabling county councils or county borough councils to determine which members of the council are to be entitled to gratuities,
- (b) treating such payments relating to relevant matters (within the meaning of Part 8 of the Local Government (Wales) Measure 2011) as may be specified in the regulations as amounts in respect of which such gratuities are payable.]

[^{F201}(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.

[^{F202}(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 or gratuities, payable to members of county councils and county borough councils in Wales.]

[^{F203}(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.

[^{F204}(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

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- (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.]
- (4) Regulations under this section may—
- (a) prohibit the payment, otherwise than in accordance with sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973 or in such other cases as may be specified in the regulations, of any allowance to a member of a relevant authority who is a councillor or to any appointed member of a relevant authority;
 - (b) impose requirements on a relevant authority with respect to the publication, in the minutes of that authority or otherwise, of the details of amounts paid in pursuance of a scheme made under the regulations;
 - [^{F205}(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and]
 - (c) contain such incidental provision and such supplemental, consequential and transitional provision in connection with the other provisions of the regulations as the Secretary of State considers appropriate.
- (5) In this section “relevant authority” means—
- (a) a local authority of any of the descriptions specified in any of the paragraphs of section 21(1) below, other than [^{F206}paragraphs (d), (g) and (j)], or in section 21(2) below;
 - (b) any body on which a body which is a relevant authority by virtue of paragraph (a) above is represented and which is designated as a relevant authority for the purposes of this section by regulations made by the Secretary of State; or
 - (c) any appeal committee so designated which is constituted in accordance with [^{F207}paragraph 2 or 3 of Schedule 33 to the Education Act 1996];
- and references in this section to an appointed member, in relation to a relevant authority, are references to any person who is a member of the authority without being a councillor or who is a member of one or more of the authority’s committees or sub-committees without being a member of the authority.
- [^{F208}(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.]
- (6) In this section any reference to a councillor includes a reference to a member of the authority concerned who, in accordance with regulations under this section, is to be treated as if he were a councillor.]

Textual Amendments

F194 S. 18(1)-(3) repealed (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), s. 178(3), Sch. 3 para. 2(2), **Sch. 4 Pt. F**; S.I. 2012/1187, art. 2(1)(q)(2)(m)

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- F195** Words in s. 18(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)
- F196** S. 18(1A) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)
- F197** S. 18(2A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(5)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F198** S. 18(3): words “to 2A” substituted for “and (2)” (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(6)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F199** S. 18(3A)-(3G) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(7)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F200** S. 18(3A) substituted (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 2(3)**; S.I. 2012/1187, **art. 2(1)(q)**
- F201** S. 18(3B) repealed (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 2(2)**, **Sch. 4 Pt. F**; S.I. 2012/1187, **art. 2(1)(q)(2)(m)**
- F202** S. 18(3D) repealed (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 2(2)**, **Sch. 4 Pt. F**; S.I. 2012/1187, **art. 2(1)(q)(2)(m)**
- F203** S. 18(3E) repealed (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 2(2)**, **Sch. 4 Pt. F**; S.I. 2012/1187, **art. 2(1)(q)(2)(m)**
- F204** S. 18(3G)-(6) repealed (W.) (30.4.2012) by Local Government (Wales) Measure 2011 (nawm 4), s. 178(3), **Sch. 3 para. 2(2)**, **Sch. 4 Pt. F**; S.I. 2012/1187, **art. 2(1)(q)(2)(m)**
- F205** S. 18: subsection (4)(ba) substituted for the word “and” in subsection (4)(b) (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(8)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F206** Words in s. 18(5)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 37**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F207** Words in s. 18(5)(c) substituted (1.11.1996) by 1996 c. 56, **ss. 582(1)**, 583(2), **Sch. 37 Pt. I para. 97** (with **ss. 1(4)**, 561, 562, **Sch. 39 paras. 30, 39**)
- F208** S. 18(5A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(9)**, 108(4); S.I. 2001/415, **art. 2(b)**

Modifications etc. (not altering text)

- C173** S. 18 applied (with modifications) (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch.** entry 11
S. 18 extended (E.W.) (19.9.1995) by 1995 c. 25, **ss. 63(5)**, 125(2), **Sch. 7 para. 11(1)** (with **ss. 7(6)**, 115, 117, **Sch. 8 para. 7**)
S. 18 modified (E.W.) (19.9.1995) by 1995 c. 25, **ss. 63(5)**, 125(2), **Sch. 7 para. 11(2)** (with **ss. 7(6)**, 115, 117, **Sch. 8 para. 7**)
- C174** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C175** S. 18(1)(b) applied (with modifications) (8.1.1996) by 1995 c. x, **ss. 1(3)**, 44, **Sch. Pt. I**
- C176** S. 18(2)(b) restricted (E.) (1.5.2003) by The Local Authorities (Members Allowances) (England) Regulations 2003 (S.I. 2003/1021), **regs. 1(1)**, **34(1)(c)** (with **reg. 34(2)**)
- C177** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C178** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C179** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**

Members' interests

F209 19 **Members' interests.**

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Textual Amendments

F209 S. 19 repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e) and (E.W.) (22.5.2012) by [Local Government Act 2000 \(c. 22\)](#), s. 108(3)(b)(c), Sch. 5 para. 25, [Sch. 6](#); S.I. 2012/1358, art. 2

Duty to adopt certain procedural standing orders

20 Duty to adopt certain procedural standing orders.

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
 - (a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and
 - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any enactment or the decision of any relevant authority or committee or sub-committee of a relevant authority, authorises persons who are members of such an authority, committee or sub-committee—
 - (a) to requisition meetings of the authority or of any of their committees or sub-committees;
 - (b) to require a decision of a committee or sub-committee of the authority to be referred to and reviewed by the authority themselves or by a committee of the authority;
 - (c) to require that a vote with respect to a matter falling to be decided by the authority or by any of their committees or sub-committees is to be taken in a particular manner.
- (3) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (4) In this section “relevant authority”—
 - (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [^{F210}(j)] [^{F211}or (n)] of section 21(1) below or any parish or community council; and
 - (b) in relation to Scotland, means a local authority.

Textual Amendments

F210 Word in s. 20(4)(a) substituted (E.W.) (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\)](#), s. 25(2), [Sch. 5 para. 12\(4\)](#)

F211 Words in s. 20(4)(a) inserted (6.9.2015 for specified purposes, 5.5.2017 in so far as not already in force) by [Planning \(Wales\) Act 2015 \(anaw 4\)](#), [ss. 39\(5\)\(b\)](#), 58(2)(b)(4)(b); S.I. 2017/546, [art. 3\(a\)](#)

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Modifications etc. (not altering text)

C180 S. 20 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11
S. 20 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 12(3) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Interpretation of Part I

21 Interpretation of Part I.

(1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—

- (a) a county council;
- [^{F212}(aa) a county borough council;]
- (b) a district council;
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
- (e) the Council of the Isles of Scilly;
- [^{F213}(f) 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;]
- ^{F214}(g)
- [^{F215}(ga)
- (h) an authority established under section 10 of the ^{M51}Local Government Act 1985 (waste disposal authorities);
- (i) a joint authority established by Part IV of that Act [^{F216}(fire and rescue services and transport)]^{F217} ...;
- (j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
- [^{F218}(ja) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- (jb) a combined authority established under section 103 of that Act];
- [^{F219}(jc) a sub-national transport body established under section 102E of the Local Transport Act 2008;]
- (k) the Broads Authority;
- (l) any joint board the constituent members of which consist of any of the bodies specified above; [^{F220} . . .]
- ^{F221}(m) [^{F222}and
- (n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the ^{M52}Town and Country Planning Act 1990.]

[^{F223}(1A) In section 7 references to a local authority include a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.

(1B) In the application of section 1(1) to a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 by virtue of subsection (1A) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining such an authority.]

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- [^{F224}(1C) In the following provisions of this Part references to a local authority include the London Fire Commissioner—
- (a) section 7 (all staff to be appointed on merit), and
 - (b) section 10 (limit on paid leave for local authority duties).
- (1D) In the application of section 1(1) to the London Fire Commissioner by virtue of subsection (1C) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining the London Fire Commissioner.]
- (2) Any reference in this Part to a local authority is, in relation to Scotland, a reference to a [^{F225}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board within the meaning of section 235(1) of the ^{M53}Local Government (Scotland) Act 1973.
- (3) In this Part—
- “contravention” includes a failure to comply;
- [^{F226}“corporate joint committee” means a corporate joint committee established by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021;]
- [^{F227}[^{F228}“council manager”], “executive”, “executive arrangements” [^{F228}and “mayor and council manager executive”] have the same meaning as in Part II of the Local Government Act 2000;]
- “modifications” includes additions, alterations and omissions;
- “proper officer”—
- (a) in relation to a local authority in England and Wales [^{F229}or a corporate joint committee], has the same meaning as in the Local Government Act 1972; and
 - (b) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and
- ^{M54}“subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise [^{F230}or a member of any executive of the authority (other than a council manager)]).

Textual Amendments

- F212** S. 21(1)(aa) inserted (7.1.1997) by [S.I. 1996/3071, art. 2, Sch. para. 3\(3\)](#)
- F213** S. 21(1)(f) substituted (E.W.) (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. 71\(2\); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2](#)
- F214** S. 21(1)(g) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 204\(2\); S.I. 2012/2892, art. 2\(i\)](#)
- F215** S. 21(1)(ga) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 13 para. 6\(24\)\(a\); S.I. 2015/994, art. 6\(g\)](#)
- F216** Words in s. 21(1)(i) substituted (1.4.2005) by [Civil Contingencies Act 2004 \(c. 36\), s. 34\(1\), Sch. 2 para. 10\(3\)\(b\); S.I. 2005/772, art. 2\(b\)](#)

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- F217** Words in s. 21(1)(i) omitted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 89(2)**; S.I. 2018/227, reg. 4(c)
- F218** S. 21(1)(ja)(jb) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 81(5)**; S.I. 2009/3318, art. 2(c)
- F219** S. 21(1)(jc) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by Cities and Local Government Devolution Act 2016 (c. 1), s. 25(2), **Sch. 5 para. 12(5)**
- F220** Word in s. 21(1)(l) omitted (23.11.1995) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F221** S. 21(1)(m) repealed (1.4.1997) by 1995 c. 25, s. 120(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F222** S. 21(1)(n) and the preceding “and” added (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**
- F223** S. 21(1A)(1B) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 64**; S.I. 2017/399, reg. 2, Sch. para. 38
- F224** S. 21(1C)(1D) inserted (31.1.2017 for specified purposes, 22.3.2018 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 89(3)**; S.I. 2018/227, reg. 3(1)(d)(iii)
- F225** Words in s. 21(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(8)**; S.I. 1996/323, **art. 4(1)(c)**
- F226** Words in s. 21(3) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **40**
- F227** S. 21(3): definition inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(a); S.I. 2002/808, arts. 1(2), **24(a)**
- F228** Words in s. 21(3) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(d), 178(2), **Sch. 4 Pt. B**
- F229** Words in s. 21(3) inserted (W.) (3.12.2021) by The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 (S.I. 2021/1349), regs. 1(2), **9(3)**
- F230** Words in s. 21(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(b); S.I. 2002/808, arts. 1(2), **24(b)**

Modifications etc. (not altering text)

- C181** S. 21 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. entry 11**

Marginal Citations

- M51** 1985 c. 51.
M52 1990 c. 8.
M53 1973 c. 65.
M54 1978 c. 30.

Status:

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