



Local Government and Housing Act 1989

1989 CHAPTER 42

PART I

LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

Political restriction of officers and staff

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; [^{F1}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 [^{F2}or 3A] below or with section 100G(2) of the ^{M1}Local Government Act 1972 or section 50G(2) of the ^{M2}Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated) [^{F3}; 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—
- ^{F4}(a)
 - ^{F4}(b)

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- (c) posts ^{F5}[^{F6}... 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 [^{F7}or 3A] below, posts for the time being listed under section 100G(2) of the ^{M3}Local Government Act 1972 or section 50G(2) of the ^{M4}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 authority are represented^{F8} 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 [^{F9} 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.
- ^{F10}(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—
- ^{F11}(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);]
 - ^{F12}(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;]
 - (a) the chief education officer [^{F13}or director of education] appointed under [^{F14}section 532 of the Education Act 1996][^{F13}or section 78 of the ^{M5}Education (Scotland) Act 1980][^{F15}(in the case of a local authority in Wales)] ;
 - (b) [^{F16}the chief officer of a fire brigade maintained under the ^{M6}Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;]
 - (c) the director of social services [^{F17}(in the case of a local authority in Wales)] or [^{F18}chief social work officer] appointed under section 6 of the ^{M7}Local Authority Social Services Act 1970 or section 3 of the ^{M8}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 ^{M9}Local Government Act 1985,

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section 112 of the ^{M10}Local Government Finance Act 1988 [^{F19}, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the ^{M11}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
- (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 [^{F20}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

- F1** 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)
- F2** 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)
- F3** 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)
- F4** 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](#)
- F5** 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](#)

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- F6** 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)
- F7** 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)
- F8** 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**
- F9** 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)
- F10** 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)
- F11** 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
- F12** 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)
- F13** 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**
- F14** 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)
- F15** 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
- F16** 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
- F17** 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
- F18** 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)**
- F19** 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**
- F20** 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)

- C1** 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)
- C2** 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)**
- C3** 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)**
- C4** 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)**

Marginal Citations

- M1** 1972 c. 70.
M2 1973 c. 65.
M3 1972 c. 70.
M4 1973 c. 65.
M5 1980 c. 44.
M6 1947 c. 41.
M7 1970 c. 42.
M8 1968 c. 49.
M9 1985 c. 51.
M10 1988 c. 41.

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M11 1973 c. 65.

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