



# Local Government Act 2000

## 2000 CHAPTER 22

### PART III

#### CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

### CHAPTER II

#### INVESTIGATIONS ETC: ENGLAND

#### *Investigations*

#### **60 Conduct of investigations.**

- (1) An ethical standards officer may arrange for any person to assist him in the conduct of any investigation under section 59.
- (2) An ethical standards officer to whom an investigation under section 59 is assigned may—
  - (a) cease the investigation at any stage before its completion, and
  - (b) refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (3) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, an ethical standards officer may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (2)(b), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.
- (4) An ethical standards officer may not at any time conduct an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the ethical standards officer has been a member or an officer of the authority or

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a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.

- (5) An ethical standards officer who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an investigation under section 59—
- (a) must disclose the nature of his interest to the Standards Board for England, and
  - (b) may not take part in any investigation under that section which relates to that matter.
- (6) The validity of any acts of an ethical standards officer are not to be affected by any contravention of subsection (4) or (5) or paragraph 3(2) of Schedule 4 or any breach falling within paragraph 3(3) of that Schedule.

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

- C1** Pt. III savings for effects of 2005 c. 10, s. 38 (1.4.2006) by [The Public Services Ombudsman \(Wales\) Act 2005 \(Transitional Provisions and Consequential Amendments\) Order 2006 \(S.I. 2006/362\)](#), arts. 1(1), 4
- C2** S. 60(1)(4)(5) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 2, **Sch. 1**
- C3** S. 60(1) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 2, **Sch. 1**
- C4** S. 60(4) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 1**
- C5** S. 60(5) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 2**
- C6** S. 60(6) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 3, **Sch. 2 para. 1**
- C7** S. 60(6) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 3**

#### **Commencement Information**

- II** S. 60 wholly in force at 28.7.2001; s. 60 not in force at Royal Assent see s. 108; s. 60 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), **art. 2**; s. 60 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## **61 Procedure in respect of investigations.**

- (1) The procedure for conducting an investigation under section 59 is to be such as the ethical standards officer considers appropriate in the circumstances of the case.
- (2) Without prejudice to subsection (1), the ethical standards officer must give any person who is the subject of an investigation under section 59 an opportunity to comment on any allegation that he has failed, or may have failed, to comply with the relevant authority concerned's code of conduct.
- (3) An ethical standards officer may, if he thinks fit, pay to persons who attend or furnish information for the purposes of an investigation under section 59—
- (a) such sums in respect of the expenses properly incurred by them, and
  - (b) such allowances by way of compensation for the loss of their time, as may be determined by the Secretary of State.
- (4) The carrying out of an investigation under section 59 is not to affect—
- (a) any action taken by the relevant authority concerned, or

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- (b) any power or duty of the relevant authority concerned to take further action with respect to any matters which are the subject of the investigation.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, any reference in subsection (4) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

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

- C8** S. 61 modified (W.) (28.7.2001) by [S.I. 2001/2286, art. 2, Sch. 1](#)
- C9** S. 61 applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\), arts. 1\(1\), 2, Sch. 1](#)

#### **Commencement Information**

- I2** S. 61 wholly in force at 28.7.2001; s. 61 not in force at Royal Assent see s. 108; s. 61 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 61 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## **62 Investigations: further provisions.**

- (1) An ethical standards officer, or a person authorised by such an officer, has a right of access at all reasonable times to every document relating to a relevant authority which appears to him necessary for the purpose of conducting an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of the authority.
- (2) An ethical standards officer, or a person authorised by such an officer, may—
  - (a) make such inquiries of any person as he thinks necessary for the purpose of conducting such an investigation,
  - (b) require any person to give him such information or explanation as he thinks necessary for the purpose of conducting such an investigation, and
  - (c) if he thinks necessary, require any person to attend before him in person for the purpose of making inquiries of that person or requiring that person to give any information or explanation.
- (3) Without prejudice to subsections (1) and (2), a relevant authority must provide an ethical standards officer, or a person authorised by such an officer, with every facility and all information which he may reasonably require for the purposes of conducting an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of the authority.
- (4) An ethical standards officer, or a person authorised by such an officer, may under this section require any person—
  - (a) to furnish information concerning communications between the authority concerned and any Government department, or
  - (b) to produce any correspondence or other documents forming part of any such communications.
- (5) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether

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- imposed by any enactment or by any rule of law, is to apply to the disclosure of information in accordance with subsection (4).
- (6) Where subsection (4) applies, the Crown is not to be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (7) Nothing in this section affects—
- (a) the restriction, imposed by section 11(2) of the <sup>M1</sup>Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers,
  - (b) the restriction, imposed by section 32(2) of the <sup>M2</sup>Local Government Act 1974, on the disclosure of information by any members or officers of the Commission for Local Administration in England <sup>F1</sup>..., or
  - (c) the restriction, imposed by section 15 of the <sup>M3</sup>Health Service Commissioners Act 1993, on the disclosure of information by the Health Service Commissioner for England [<sup>F2</sup>or by his officers][<sup>F3</sup>, or
  - (d) the restriction imposed by section 26 of the Public Services Ombudsman (Wales) Act 2005.]
- (8) To assist him in any investigation under section 59, an ethical standards officer may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of the Secretary of State.
- (9) Subject to subsections (5) and (6), no person may be compelled for the purposes of an investigation under section 59 to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (10) A person who without reasonable excuse fails to comply with any requirement under subsection (2) or (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

#### Textual Amendments

- F1** Words in s. 62(7)(b) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(a\)](#), 7; [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)
- F2** Words in s. 62(7)(c) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(b\)](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)
- F3** S. 62(7)(d) and word inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(c\)](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)

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

- C10** S. 62(1)-(3)(5)(6)(8)-(11) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 2, [Sch. 1](#)
- C11** S. 62(1)-(3) (5) (6) s. 62(8)-(11) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 2, [Sch. 1](#)
- C12** S. 62(4) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 3, [Sch. 2 para. 2](#)
- C13** S. 62(4) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, [Sch. 2 para. 4](#)

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#### Commencement Information

- I3** S. 62 wholly in force at 28.7.2001; s. 62 not in force at Royal Assent see s. 108; s. 62 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 62 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

- M1** 1967 c. 13.  
**M2** 1974 c. 7.  
**M3** 1993 c. 46.

### 63 Restrictions on disclosure of information.

- (1) Information obtained by ethical standards officers under section 61 or 62 must not be disclosed unless one or more of the following conditions is satisfied—
- (a) the disclosure is made for the purposes of enabling the Standards Board for England, an ethical standards officer, [<sup>F4</sup>the Public Services Ombudsman for Wales ] or the president, deputy president or any tribunal of either of the Adjudication Panels to perform their functions under this Part,
  - (b) the person to whom the information relates has consented to its disclosure,
  - (c) the information has previously been disclosed to the public with lawful authority,
  - (d) the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained under section 62(2),
  - (e) the disclosure is made to the Audit Commission for the purposes of any functions of the Audit Commission or an auditor under the <sup>M4</sup>Audit Commission Act 1998.
- [<sup>F5</sup>(f) the disclosure is made to the Auditor General for Wales for the purposes of any functions of the Auditor General for Wales or an auditor under Part 2 of the Public Audit (Wales) Act 2004]
- (2) The Secretary of State or a relevant authority in England may give notice in writing to any ethical standards officer with respect to—
- (a) any document or information specified in the notice, or
  - (b) any class of documents or information so specified,
- that, in his or (as the case may be) their opinion, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest.
- (3) Where notice is given under subsection (2) to an ethical standards officer, any document or information specified in the notice, or any document or information of a class so specified, may not be disclosed by the ethical standards officer or any other person.
- (4) A person who discloses information or a document in contravention of subsection (1) is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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### Textual Amendments

- F4** Words in s. 63(1)(a) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 6](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)
- F5** S. 63(1)(f) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, [Sch. 2 para. 54](#); [S.I. 2005/558](#), art. 2, [Sch. 1](#)

### Modifications etc. (not altering text)

- C14** S. 63(1) disclosure powers extended (14.12.2001) by [2001 c. 24](#), [ss. 17](#), 127(2) (with s. 14(3))
- C15** S. 63(1) applied (with modifications) (30.6.2003) by [Local Authorities \(Code of Conduct\) \(Local Determination\) Regulations 2003 \(S.I. 2003/1483\)](#), regs. 1(1)(2), [4](#)
- C16** S. 63(1) applied (with modifications) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, [Sch. 2 para. 5](#)
- C17** S. 63(2) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 3, [Sch. 2 para. 3](#)
- C18** S. 63(2) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, [Sch. 2 para. 6](#)
- C19** S. 63(3) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 2, [Sch. 1](#)
- C20** S. 63(3) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 2, [Sch. 1](#)

### Commencement Information

- I4** S. 63 wholly in force at 28.7.2001; s. 63 not in force at Royal Assent see s. 108; s. 63 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 63 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Marginal Citations

- M4** [1998 c. 18](#).

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