



# Local Government Act 2000

## 2000 CHAPTER 22

### PART III

#### CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

### CHAPTER II

#### INVESTIGATIONS ETC: ENGLAND

#### *Standards Board for England*

#### **57 Standards Board for England**

- (1) There is to be a body corporate known as the Standards Board for England.
- (2) The Standards Board for England is to consist of not less than three members appointed by the Secretary of State.
- (3) The Standards Board for England is to have the functions conferred on it by this Part and such other functions as may be conferred on it by order made by the Secretary of State under this subsection.
- (4) In exercising its functions the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members and co-opted members of relevant authorities in England.
- (5) The Standards Board for England—
  - (a) must appoint employees known as ethical standards officers who are to have the functions conferred on them by this Part,
  - (b) may issue guidance to relevant authorities in England and police authorities in Wales on matters relating to the conduct of members and co-opted members of such authorities,

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- (c) may issue guidance to relevant authorities in England and police authorities in Wales in relation to the qualifications or experience which monitoring officers should possess, and
  - (d) may arrange for any such guidance to be made public.
- (6) Schedule 4 makes further provision in relation to the Standards Board for England.

## **58 Written allegations**

- (1) A person may make a written allegation to the Standards Board for England that a member or co-opted member (or former member or co-opted member) of a relevant authority in England has failed, or may have failed, to comply with the authority's code of conduct.
- (2) If the Standards Board for England considers that a written allegation under subsection (1) should be investigated, it must refer the case to one of its ethical standards officers.
- (3) If the Standards Board for England considers that a written allegation under subsection (1) should not be investigated, it must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.

### *Functions of ethical standards officers*

## **59 Functions of ethical standards officers**

- (1) The functions of ethical standards officers are to investigate—
  - (a) cases referred to them by the Standards Board for England under section 58(2), and
  - (b) other cases in which any such officer considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in England has failed, or may have failed, to comply with the authority's code of conduct and which have come to the attention of any such officer as a result of an investigation under paragraph (a).
- (2) The Standards Board for England may make arrangements in relation to the assignment of investigations under this section to particular ethical standards officers.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
  - (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
  - (b) that no action needs to be taken in respect of the matters which are the subject of the investigation,
  - (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
  - (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(1).

- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly an ethical standards officer who reaches a finding under subsection (4)(c) must decide to which of those monitoring officers to refer the matters concerned).

### *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 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.

## **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

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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
  - (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.

## **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 imposed by any enactment or by any rule of law, is to apply to the disclosure of information in accordance with subsection (4).

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- (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 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 Local Government Act 1974, on the disclosure of information by any members or officers of the Commission for Local Administration in England or the Commission for Local Administration in Wales, or
  - (c) the restriction, imposed by section 15 of the Health Service Commissioners Act 1993, on the disclosure of information by the Health Service Commissioner for England or the Health Service Commissioner for Wales, or by their officers.
- (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.

### **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, the Commission for Local Administration in Wales, a Local Commissioner in 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 Audit Commission Act 1998.

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- (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.

*Reports etc.*

**64 Reports etc**

- (1) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(a) or (b) is appropriate—
- (a) he may produce a report on the outcome of his investigation,
  - (b) he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
  - (c) he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
  - (d) where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(c) is appropriate he must—
- (a) produce a report on the outcome of his investigation,
  - (b) subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
  - (c) send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(d) is appropriate he must—
- (a) produce a report on the outcome of his investigation,
  - (b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(1), and
  - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for England.

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- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England—
  - (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
  - (b) an ethical standards officer who reaches a finding under section 59(4)(c) must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) An ethical standards officer must—
  - (a) inform any person who is the subject of an investigation under section 59, and
  - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,of the outcome of the investigation.

## **65 Interim reports**

- (1) Where he considers it necessary in the public interest, an ethical standards officer may, before the completion of an investigation under section 59, produce an interim report on that investigation.
- (2) An interim report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (3) Where the prima facie evidence is such that it appears to the ethical standards officer producing the interim report—
  - (a) that the person who is the subject of the report has failed to comply with the code of conduct of the relevant authority concerned,
  - (b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and
  - (c) that it is in the public interest to suspend or partially suspend that person immediately,the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.
- (4) Where an ethical standards officer produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(2).
- (5) A copy of any report under this section must be given—
  - (a) to any person who is the subject of the report,
  - (b) to the monitoring officer of the relevant authority concerned, and

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- (c) to the president of the Adjudication Panel for England.
- (6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England—
  - (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
  - (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.
- (7) In this Part “partially suspended” and cognate expressions are to be construed in accordance with section 83(7) and (8).

*References to monitoring officers*

**66 Matters referred to monitoring officers**

- (1) The Secretary of State may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section 60(2) or 64(2) are to be dealt with.
- (2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
  - (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
  - (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
  - (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
  - (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
  - (e) the publicity to be given to any such reports, recommendations or action.
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—
  - (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
  - (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—
  - (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,



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- (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
  - (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) An ethical standards officer who refers any matters to the monitoring officer of a relevant authority under section 60(2) or 64(2) may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

## **67 Consultation with Local Commissioner**

- (1) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part III of the Local Government Act 1974, he may consult the appropriate Local Commissioner about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part III of that Act.
- (2) If, at any stage in the course of conducting an investigation under Part III of that Act, a Local Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under section 59 of this Act, he may consult the Standards Board for England about the investigation and, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under section 58.
- (3) Consultation under subsection (1) or (2) may relate to any matter concerned with the investigation, including—
- (a) the conduct of the investigation, and
  - (b) the form, content and publication of any report relating to the investigation.
- (4) Nothing in section 32(2) of the Local Government Act 1974 or section 63(1) of this Act shall apply in relation to the disclosure of information in the course of consultation held in accordance with this section.
- (5) In this section “Local Commissioner” has the same meaning as in Part III of the Local Government Act 1974.