



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 10

ETHICAL STANDARDS

CHAPTER 1

CONDUCT OF LOCAL AUTHORITY MEMBERS

Conduct of local authority members: miscellaneous amendments

187 Chairmen of standards committees

In section 53(4) of the Local Government Act 2000 (c. 22) (composition of standards committees), at the end (but not as part of paragraph (b)) insert “and must be chaired by a person falling within paragraph (b)”.

188 Sub-committees of standards committees

(1) In section 54A of the Local Government Act 2000 (sub-committees of standards committees)—

- (a) in subsection (2) omit the words “55 or”;
- (b) in subsection (3) at the end insert “, but this is subject to section 55(7)(b)”;
- (c) in subsection (6) after “Subject to” insert “section 55(5) and to”.

(2) In section 55 of that Act (standards committees or sub-committees for parish councils)

- (a) in the sidenote, omit “or sub-committees”;
- (b) omit subsection (3);

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- (c) in subsection (4), for “the functions” substitute “a function”;
- (d) in subsection (5), for the words from the beginning to “county council,” substitute “Where a function conferred by this section is to be exercised by a sub-committee of the standards committee of a district council or unitary county council, the number of members of the sub-committee,”;
- (e) after subsection (5) insert—
 - “(5A) Subsection (5) is subject to any provision made by regulations under section 53(6)(a) (as applied by section 54A).”;
- (f) in subsection (6), for “the functions” substitute “any function”;
- (g) for subsection (7) substitute—
 - “(7) Where a sub-committee of the standards committee of a district council or unitary county council discharges any function conferred by this section, the sub-committee—
 - (a) must include at least one member of the standards committee who falls within section 53(4)(b);
 - (b) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority; and
 - (c) must ensure that at least one person falling within paragraph (b) is present at any meeting of the sub-committee when matters relating to those parish councils, or the members of those parish councils, are being considered.”;
- (h) in subsection (8), omit the words from the beginning to “section, and”;
- (i) omit subsections (9) and (10);
- (j) in subsection (11)—
 - (i) omit “or in relation to” in both places where it occurs;
 - (ii) in paragraph (b) for “under this section,” substitute “with responsibility for that function,”;
 - (iii) omit the words after paragraph (b);
- (k) after subsection (11) insert—
 - “(11A) Any function which by virtue of the following provisions of this Part is exercisable in relation to the standards committee of a relevant authority which is a parish council is to be exercisable in relation to the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council.
 - (11B) Any reference in the following provisions of this Part to the standards committee of a relevant authority which is a parish council is to be construed in accordance with subsections (11) and (11A).”

189 Joint committees of relevant authorities in England

After section 56 of the Local Government Act 2000 there is inserted—

“56A Joint committees of relevant authorities in England

- (1) The Secretary of State may make regulations under which two or more relevant authorities in England may—
 - (a) establish a joint committee of those authorities; and
 - (b) arrange for relevant functions to be exercisable by that committee.
- (2) In this section a “relevant function” means a function conferred by or under this Part or any other enactment on the standards committee of any (or each) of the relevant authorities.
- (3) The regulations may in particular—
 - (a) specify functions in relation to which arrangements may, or may not, be made;
 - (b) make provision, in relation to joint committees or sub-committees of joint committees, which corresponds to or applies (with or without modifications)—
 - (i) any provision of, or that could be made under, regulations under section 53(6) or 54(4),
 - (ii) any provision of section 53(3) to (5), (7) to (9), 54(6) or 54A(1), (3) or (6), or
 - (iii) any provision of section 55(4) to (7).
- (4) Regulations under this section may modify any provision of this Part, or any other enactment relating to a standards committee or to any function of a standards committee, in relation to cases where a function of a standards committee is exercisable by a joint committee.
- (5) In this section “enactment” includes any enactment or subordinate legislation, whenever passed or made.
- (6) Any reference in this section to a relevant authority in England does not include a parish council.”

190 Standards Board for England: functions

- (1) In section 57(5) of the Local Government Act 2000 (c. 22) (functions of Standards Board for England), after paragraph (a) insert—
 - “(aa) may issue guidance to ethical standards officers with respect to the exercise by those officers of their functions,”.
- (2) In Schedule 4 to that Act (further provision about Standards Board), in paragraph 2(1) —
 - (a) omit the “or” following paragraph (b);
 - (b) after paragraph (c) insert—
 - “(d) the functions of the standards committee of a relevant authority in England, or
 - (e) the functions of the monitoring officer of a relevant authority in England.”

Status: This is the original version (as it was originally enacted).

191 Ethical standards officers: investigations and findings

- (1) In section 59 of the Local Government Act 2000 (functions of ethical standards officers)—
 - (a) in subsection (1)(a) for “58(2)” substitute “58(1)”;
 - (b) in subsection (4)(a) for “is no evidence of any” substitute “has been no”;
 - (c) for subsection (4)(b) substitute—
 - “(b) that there has been such a failure to comply but no action needs to be taken.”.
- (2) In the cross-heading before section 60 of that Act, after “Investigations” insert “by ethical standards officers”.
- (3) In section 62(1) of that Act (ethical standards officer’s right of access to documents relating to a relevant authority)—
 - (a) omit the words “relating to a relevant authority”;
 - (b) omit the words from “in relation to” to the end.
- (4) In section 63(1) of that Act (restrictions on disclosure of information obtained by ethical standards officers), after paragraph (f) insert—
 - “(g) the disclosure is made for the purposes of enabling the monitoring officer of a relevant authority to perform functions conferred on him by or under this Part,
 - (h) the disclosure is made to the Commission for Local Administration in England for the purposes of any of its functions,
 - (i) the disclosure is made to the Electoral Commission for the purposes of any of its functions,
 - (j) the disclosure is made to any person specified in an order made by the Secretary of State for the purposes of this paragraph, for purposes so specified.”
- (5) In section 105(6) of that Act (instruments subject to affirmative procedure) after “49” insert “, 63(1)(j)”.

192 Ethical standards officers: reports etc

- (1) In the cross-heading before section 64 of the Local Government Act 2000, after “Reports etc” insert “by ethical standards officers”.
- (2) Section 64 of that Act (reports etc by ethical standards officers) is amended as mentioned in subsections (3) to (5) below.
- (3) After subsection (3) insert—
 - “(3A) Where an ethical standards officer produces a report under subsection (1) or (3), he may send a copy of it to the standards committee of the relevant authority concerned if he believes that it will assist that committee in the discharge of its functions under this Part.”
- (4) In subsection (4)(a), for “and (3)(c)” substitute “, (3)(c) and (3A)”.
- (5) After subsection (6) insert—
 - “(7) The Secretary of State may by regulations make provision for or in connection with the withdrawal of a reference under subsection (3)(b).”

- (6) Section 65 of that Act (interim reports by ethical standards officers) is amended as mentioned in subsections (7) to (10) below.
- (7) In subsection (3)(b) for “79(4)(b)” substitute “78A”.
- (8) After subsection (4) insert—
- “(4A) The Secretary of State may by regulations make provision for or in connection with the withdrawal of a reference under subsection (4).”
- (9) After subsection (5) insert—
- “(5A) A copy of any report under this section may be given to the standards committee of the relevant authority concerned if the ethical standards officer believes that it will assist that committee in the discharge of its functions under this Part.”
- (10) In subsection (6)(b), for “the reference in subsection (5)(b)” substitute “any reference in subsection (5)(b) or (5A)”.

193 Disclosure by monitoring officers of ethical standards officers' reports

- (1) After section 65 of the Local Government Act 2000 (c. 22) insert—

“65A Disclosure by monitoring officers of ethical standards officers' reports

- (1) Where by virtue of section 64(1)(c) or (d) the monitoring officer of a relevant authority—
- (a) receives a copy of a report on the outcome of an investigation, or
 - (b) is informed of the outcome of an investigation,
- he may inform any relevant person of the outcome of the investigation.
- (2) Where by virtue of section 64(1)(c) or 65(5) the monitoring officer of a relevant authority receives a copy of a report, he may send a copy of it or of any part of it to any relevant person; but this is subject to subsection (3).
- (3) A monitoring officer may exercise a power under subsection (2) only where he believes that it will assist in promoting high standards of conduct by the members and co-opted members of the relevant authority.
- (4) In this section “relevant person” means—
- (a) any member or co-opted member of the relevant authority;
 - (b) any officer of that authority;
 - (c) where that authority has an executive, any member of the executive.”

194 Matters referred to monitoring officers

- (1) Section 66 of the Local Government Act 2000 (matters referred to monitoring officers in England) is amended as mentioned in subsections (2) to (7) below.
- (2) In subsection (1), for “60(2) or 64(2)” substitute “57A, 60(2) or (3) or 64(2) or (4)”.
- (3) In subsection (2), after paragraph (e) insert—

Status: This is the original version (as it was originally enacted).

“(f) enabling a monitoring officer of a relevant authority, in such circumstances as may be prescribed by the regulations, to refer back any matters that were referred to him under section 57A.”

(4) After subsection (3) insert—

“(3A) Provision made by virtue of subsection (2)(a) and (3) may make provision corresponding to or applying, with or without modifications, any provisions of sections 62 and 63 (including sections 62(10) and 63(4)) or section 67(1), (1A) and (3) to (5).

(3B) The provision which may be made by virtue of subsection (2)(b) includes provision for or in connection with—

- (a) interim reports;
- (b) the disclosure of reports.”

(5) After subsection (4) insert—

“(4A) The provision which may be made by virtue of subsection (2)(f) includes provision applying any provisions of section 57A or 57C, with or without modifications, where matters have been referred back by the monitoring officer.”

(6) In subsection (5), for “subsection (2), (3) or (4)” substitute “subsections (2) to (4A) or section 66A”.

(7) In subsection (6), for the words from the beginning to “64(2)” substitute “A person who refers any matters to the monitoring officer of a relevant authority under section 57A, 60(2) or (3) or 64(2) or (4),”.

(8) In section 73 of that Act (matters referred to monitoring officers in Wales), in each of subsections (1) and (7), for “70(4) or 71(2)” substitute “70(4) or (5) or 71(2) or (4)”.

(9) In section 82A(1) of that Act (delegation of functions by monitoring officers), for the words from “60(2)” to “71(2)” substitute “57A, 60(2) or (3), 64(2) or (4), 70(4) or (5) or 71(2) or (4)”.

195 References to Adjudication Panel for action in respect of misconduct

After section 66 of the Local Government Act 2000 (c. 22) insert—

“66A References to Adjudication Panel for action in respect of misconduct

(1) The provision which may be made by regulations under section 66 by virtue of subsection (2)(d) of that section also includes provision for or in connection with—

- (a) enabling a standards committee, where it considers that the action it could take against a person is insufficient, to refer the case to the president of the Adjudication Panel for England for a decision by members of that Panel on the action that should be taken against the person,
- (b) the appointment of members of that Panel to deal with such a reference,

- (c) enabling those members (“the panel”) to decide what action, of a kind authorised by the regulations, should be taken against the person and enabling them to take that action,
 - (d) the composition, practice and procedure of the panel (including provision corresponding to or applying, with or without modifications, any provision of section 76(6) to (12) and (15)),
 - (e) conferring a right of appeal on a person in respect of action taken against him by the panel.
- (2) The kinds of action that may be authorised by virtue of subsection (1)(c) include any kinds of action that may be authorised in relation to a tribunal by regulations under section 78A(4) to (6).”

196 Consultation with ombudsmen

- (1) Before section 67 of the Local Government Act 2000, insert the following cross-heading—

“Consultation with ombudsmen”.

- (2) In section 67 of that Act (consultation with ombudsmen), in each of subsections (2) and (2A)—
- (a) after “section 59 of this Act” insert “or regulations under section 66 of this Act”;
 - (b) after “Standards Board for England” insert “or the standards committee of the relevant authority concerned”;
 - (c) for “58” substitute “57A”.

197 Interim case tribunals

- (1) Section 78 of the Local Government Act 2000 (c. 22) (decisions of interim case tribunals) is amended as follows.
- (2) In subsection (1)(b) for “authority concerned” substitute “relevant authority concerned”.
- (3) For subsections (2) and (3) substitute—
- “(2) If the decision of the interim case tribunal is as mentioned in subsection (1) (a), the tribunal must give notice of its decision to the standards committee of the relevant authority concerned.
 - (3) If the decision of the interim case tribunal is as mentioned in subsection (1) (b), the tribunal must give notice to the standards committee of the relevant authority concerned stating that the person concerned is suspended or partially suspended for the period, and in the way, that the tribunal has decided.
 - (3A) The effect of a notice given under subsection (3) is to suspend or partially suspend the person concerned as mentioned in subsection (3).”
- (4) In subsection (6) for “under section 79 is given” substitute “is given by virtue of section 78A or 79”.
- (5) For subsection (8) substitute—

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“(8) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority—

- (a) the references in subsection (1) to the relevant authority concerned are to be treated as references to that other authority,
- (b) the references in subsections (2) and (7)(b) to the relevant authority concerned are to be treated as including a reference to that other relevant authority,
- (c) the duty under subsection (3) to give notice to the standards committee of the relevant authority concerned is to be treated as a duty—
 - (i) to give that notice to the standards committee of that other relevant authority, and
 - (ii) to give a copy of that notice to the standards committee of the relevant authority concerned.

(8A) Subsection (8) does not apply unless—

- (a) where the relevant authority concerned is in England, the other relevant authority is also in England,
- (b) where the relevant authority concerned is in Wales, the other relevant authority is also in Wales.”

(6) After subsection (10) insert—

“(11) An appeal may not be brought under subsection (10) except with the leave of the High Court.”

198 Case tribunals: England

After section 78 of the Local Government Act 2000 (c. 22) insert—

“78A Decisions of case tribunals: England

- (1) In this section “English case tribunal” means a case tribunal drawn from the Adjudication Panel for England.
- (2) An English case tribunal which adjudicates on any matter must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.
- (3) Where an English case tribunal decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.
- (4) Where an English case tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it may—
 - (a) take in respect of him any action authorised by regulations made by the Secretary of State for the purposes of this subsection, or
 - (b) decide to take no action against him.
- (5) Regulations made under subsection (4) may in particular—
 - (a) enable the tribunal to censure the person,

- (b) enable it to suspend, or partially suspend, the person from being a member or co-opted member of the relevant authority concerned for a limited period,
 - (c) enable it to disqualify the person, for a period not exceeding five years, for being or becoming (whether by election or otherwise) a member of that or any other relevant authority.
- (6) The reference in subsection (5)(b) to the relevant authority concerned is to be read, in relation to a person who is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, as a reference to that other relevant authority.
- (7) Regulations made by the Secretary of State may require an English case tribunal to give a notice to the standards committee of the relevant authority concerned where it decides that a person has failed to comply with the code of conduct of that authority and—
 - (a) decides to suspend or partially suspend the person,
 - (b) decides to disqualify the person,
 - (c) decides to take action against the person other than suspension, partial suspension or disqualification, or
 - (d) decides to take no action against him.
- (8) Regulations under subsection (7) may—
 - (a) prescribe the content of any notice,
 - (b) provide for the effect that any notice is to have,
 - (c) provide for provisions of the regulations to have effect with prescribed modifications where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority in England.

78B English case tribunal decisions: supplementary

- (1) A copy of any notice given under section 78A(3) or under regulations made under section 78A(7)—
 - (a) must be given to the Standards Board for England,
 - (b) must be given to any person who is the subject of the decision to which the notice relates, and
 - (c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.
- (2) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, the following references to the relevant authority concerned are to be treated as including references to that other relevant authority—
 - (a) the second reference in section 78A(3);
 - (b) the reference in subsection (1)(c) above.
- (3) Where an English case tribunal adjudicates on any matter, it must take reasonable steps to give notice of its decision to any person who made any allegation which gave rise to the adjudication.

Status: This is the original version (as it was originally enacted).

- (4) Where an English case tribunal decides under section 78A that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to the High Court against that decision, or any other decision made by the tribunal by virtue of section 78A which relates to him.
- (5) An appeal may not be brought under subsection (4) except with the leave of the High Court.”

199 Case tribunals: Wales

- (1) Section 79 of the Local Government Act 2000 (c. 22) (decisions of case tribunals) is amended as follows.
- (2) For the sidenote substitute “Decisions of case tribunals: Wales”.
- (3) Before subsection (1) insert—
 - “(A1) In this section “Welsh case tribunal” means a case tribunal drawn from the Adjudication Panel for Wales.”
- (4) In subsections (1) to (15) for “case tribunal”, in each place where it occurs, substitute “Welsh case tribunal”.
- (5) In subsection (8)(c) for “must be suspended or partially suspended by the relevant authority concerned” substitute “is suspended or partially suspended”.
- (6) For subsection (9) substitute—
 - “(9) The effect of a notice given to the standards committee of a relevant authority under subsection (8) is to suspend or partially suspend the person concerned as mentioned in subsection (8)(c).”
- (7) In subsection (12), for paragraph (a) substitute—
 - “(a) must be given to the Public Services Ombudsman for Wales,”.
- (8) In subsection (13)—
 - (a) for “the same country (that is to say, England or Wales)” substitute “Wales”;
 - (b) for paragraph (b) substitute—
 - “(b) the reference in subsection (4)(a) to the relevant authority concerned is to be treated as a reference to that other relevant authority,”.
- (9) After subsection (15) insert—
 - “(16) An appeal may not be brought under subsection (15) except with the leave of the High Court.”

200 Exemption from Data Protection Act 1998

In section 31 of the Data Protection Act 1998 (c. 29) (exemptions for regulatory activity), after subsection (6) insert—

- “(7) Personal data processed for the purpose of discharging any function which is conferred by or under Part 3 of the Local Government Act 2000 on—
 - (a) the monitoring officer of a relevant authority,
 - (b) an ethical standards officer, or

Status: This is the original version (as it was originally enacted).

(c) the Public Services Ombudsman for Wales,
are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of that function.

(8) In subsection (7)—

- (a) “relevant authority” has the meaning given by section 49(6) of the Local Government Act 2000, and
- (b) any reference to the monitoring officer of a relevant authority, or to an ethical standards officer, has the same meaning as in Part 3 of that Act.”

201 Supplementary and consequential provision

- (1) Subsection (2) applies in relation to any provision of Part 3 of the Local Government Act 2000 (c. 22) which is applied (with or without modifications) by an order under section 70 of that Act made before the passing of this Act.
- (2) Any amendment of that provision by this Part does not extend to the provision as so applied.
- (3) Where a provision mentioned in section 70(2)(a) of that Act is amended by this Part, the power in section 70(2) of that Act to apply or reproduce that provision (with or without modifications) is a power to apply or reproduce (with or without modifications) that provision either as amended by this Part or without the amendments made by this Part.
- (4) In the Local Government Act 1972 (c. 70)—
 - (a) in section 85(3A) (vacation of office by failure to attend), for “73, 78” substitute “66A, 73, 78, 78A”;
 - (b) in section 86(1)(b) (declaration of vacancy in office), before “79” insert “66A, 78A or”;
 - (c) in section 87(1)(ee) (date of casual vacancies), before “79” insert “66A, 78A or”.
- (5) In section 49(1) of the Audit Commission Act 1998 (c. 18) (restriction on disclosure of information), after paragraph (de) insert—
 - “(df) for the purposes of the functions of a monitoring officer under that Part or regulations made under that Part;”.
- (6) In the Greater London Authority Act 1999 (c. 29), in each of sections 6(5) and 13(2) (failure to attend meetings), for “73, 78” substitute “66A, 73, 78, 78A”.