



Local Government Act 2000

2000 CHAPTER 22

PART III

CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

CHAPTER III

INVESTIGATIONS ETC: WALES

Investigations

69 [F¹Investigations by the Public Services Ombudsman for Wales.]

- (1) [F²The Public Services Ombudsman for Wales] may investigate—
 - (a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority ^{F³}... has failed, or may have failed, to comply with the authority's code of conduct, and
 - (b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority ^{F³}... has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).
- (2) If [F⁴the Public Services Ombudsman for Wales] considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.
- (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—

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- (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 Wales 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^{F5}..., 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 [^{F6}if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he] must decide to which of those monitoring officers to refer the matters concerned).
- [^{F7}(6) Sections 69A to 69E apply in relation to the exercise of the functions of the Public Services Ombudsman for Wales under this section.]

Textual Amendments

- F1** Pt. III Ch. III(crossheading)(investigations) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 12](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F2** Words in s. 69(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F3** Words in s. 69(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. 37\(2\), 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)
- F4** Words in s. 69(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F5** Words in s. 69(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. 37\(3\), 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)
- F6** Words in s. 69(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F7** S. 69(6) inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\), s. 175\(7\), Sch. 8 para. 2](#); S.I. 2022/98, art. 2(b) (with art. 3)

Modifications etc. (not altering text)

- C1** Pt. III applied (with modifications) (22.11.2012) by [The Police and Crime Panels \(Application of Local Authority Enactments\) Regulations 2012 \(S.I. 2012/2734\), regs. 1\(1\), 3-6, Sch. Pt. 3](#)

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[^{F8}69A Possible conflict of interest in an investigation

- (1) If subsection (2) or (4) applies in a case involving a member or co-opted member (or former member or co-opted member) of a relevant authority, the Public Services Ombudsman for Wales (“the Ombudsman”) must exercise the power in paragraph 14 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2019 to delegate—
 - (a) the decision as to whether to investigate the case under section 69, and
 - (b) any investigation of the case.
- (2) This subsection applies if at any time within the period of five years ending with the date mentioned in subsection (3) the Ombudsman was—
 - (a) a member,
 - (b) a member of a committee, sub-committee, joint committee or joint sub-committee, or
 - (c) an officer,of the relevant authority concerned.
- (3) The date is—
 - (a) if the case is within section 69(1)(a), the date on which the Ombudsman received the written allegation, or
 - (b) if the case is within section 69(1)(b), the date on which the Ombudsman received the written allegation investigated under section 69(1)(a).
- (4) This subsection applies if the Ombudsman considers that the Ombudsman has, or is likely to have, an interest in the matters which may be investigated or the outcome of any investigation.
- (5) If subsection (4) applies the Ombudsman must disclose the nature of the interest to the person to whom any investigation under section 69 would or does relate, and to any person who has made an allegation as described in section 69(1)(a).
- (6) If the Ombudsman makes a decision as to whether to investigate a case, or investigates a case, in contravention of subsection (1), that contravention does not affect the validity of anything done by the Ombudsman.

Textual Amendments

- F8** Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

69B Investigation procedure

- (1) If the Ombudsman conducts an investigation under section 69, the Ombudsman must give the person to whom the investigation relates an opportunity to comment on whether that person has failed to comply with the code of conduct of the relevant authority of which that person is or was a member or co-opted member.
- (2) An investigation must be conducted in private.
- (3) Subject to subsections (1) and (2), the procedure for conducting an investigation is that which the Ombudsman thinks appropriate in the circumstances of the case.
- (4) The Ombudsman may, among other things—

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- (a) make any inquiries which the Ombudsman thinks appropriate;
 - (b) determine whether any person may be represented in the investigation by an authorised person or another person.
- (5) In subsection (4) “authorised person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).
- (6) The Ombudsman may pay to the person (if any) who made an allegation as described in section 69(1)(a) and to any other person who attends or supplies information for the purposes of the investigation—
- (a) sums in respect of the expenses properly incurred by them, and
 - (b) allowances to compensate for the loss of their time.
- (7) The Ombudsman may attach conditions to payments under subsection (6).
- (8) The carrying out of an investigation under section 69 does not affect—
- (a) the validity of any action taken by a relevant authority, or
 - (b) any power or duty of a relevant authority to take further action in respect of any matter under investigation.

Textual Amendments

- F8** Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

69C Information, documents, evidence and facilities

- (1) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to an investigation under section 69 to do so.
- (2) The Ombudsman has the same powers as the High Court in relation to—
- (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and
 - (b) the production of documents.
- (3) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to an investigation to provide any facility the Ombudsman may reasonably require.
- (4) The Ombudsman may require the relevant authority concerned to provide any facility the Ombudsman may reasonably require.
- (5) Subject to subsection (6), no person may be compelled to give any evidence or produce any document which the person could not be compelled to give or produce in civil proceedings before the High Court.
- (6) The Crown is not entitled to any privilege in relation to the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.
- (7) Where an obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service has been

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imposed by an enactment or a rule of law, the obligation or restriction does not apply to the disclosure of information for the purposes of the investigation.

Textual Amendments

F8 Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

69D Obstruction and contempt

- (1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, the Ombudsman may issue a certificate to that effect to the High Court.
- (2) The condition is that the person—
 - (a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or
 - (b) has done an act in relation to an investigation under section 69 which, if the investigation were proceedings in the High Court, would constitute contempt of court.
- (3) But the condition in subsection (2) is not met in relation to a person merely because that person has taken action such as is mentioned in section 69B(8).
- (4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.
- (5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with that person in the same manner as it may deal with a person who has committed contempt in relation to the High Court.

Textual Amendments

F8 Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

69E Disclosure of information

- (1) This section applies to information obtained in the exercise of the Ombudsman's functions under this Part by—
 - (a) the Ombudsman;
 - (b) a member of the Ombudsman's staff or other person acting on the Ombudsman's behalf;
 - (c) a person assisting the Ombudsman.
- (2) The information may be disclosed only—
 - (a) for the purposes of the Ombudsman's functions under—
 - (i) Chapter 3 or 4 of this Part;
 - (ii) Part 3 or 5 of the Public Services Ombudsman (Wales) Act 2019;
 - (b) for the purposes of the functions of the Adjudication Panel for Wales, including the functions of its President, Deputy President and tribunals, under Chapter 4 of this Part;

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- (c) for the purposes of criminal proceedings or the investigation of a criminal offence;
- (d) if the disclosure is made to the Auditor General for Wales for the purposes of the Auditor General's functions under Part 2 of the Public Audit (Wales) Act 2004;
- (e) if the disclosure is made to the Electoral Commission for the purposes of any of its functions.

Textual Amendments

F8 Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

69F Power of the Welsh Ministers to amend this Chapter

The Welsh Ministers may by regulations amend this Chapter to make further or different provision about the exercise of the functions of the Public Services Ombudsman for Wales under section 69.]

Textual Amendments

F8 Ss. 69A-69F inserted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 3](#); S.I. 2022/98, art. 2(b) (with art. 3)

70 [^{F9} Ceasing investigations etc.]

^{F10}(1)

^{F11}(2)

- (3) [^{F12}The Public Services Ombudsman for Wales] may cease an investigation under section 69 at any stage before its completion.
- (4) Where [^{F13}the Public Services Ombudsman for Wales] ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (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 ^{F14}..., [^{F13}the Public Services Ombudsman for Wales] may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

Textual Amendments

F9 S. 70 heading heading substituted (5.5.2022) by [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 4\(b\)](#); S.I. 2022/98, art. 2(b) (with art. 3)

F10 S. 70(1) omitted (5.5.2022) by virtue of [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 8 para. 4\(a\)](#); S.I. 2022/98, art. 2(b) (with art. 3)

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- F11** S. 70(2) omitted (5.5.2022) by virtue of Local Government and Elections (Wales) Act 2021 (asc 1), s. 175(7), **Sch. 8 para. 4(a)**; S.I. 2022/98, art. 2(b) (with art. 3)
- F12** Words in s. 70(3) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 14(b)**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)
- F13** Words in s. 70(4)(5) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), s. 40, **Sch. 4 para. 14(c)**; S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F14** Words in s. 70(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. 38(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)

Modifications etc. (not altering text)

- C2** 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
- C3** S. 70(2) modified (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 201(3)**, 245(5) (with s. 201); S.I. 2008/172, art. 4(l)

Commencement Information

- I1** S. 70 wholly in force at 28.7.2001; s. 70 not in force at Royal Assent see s. 108; s. 70(1)(2) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 70 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(2ZA) inserted by [2011 nawm 4 s. 59\(3\)](#)
- s. 21(13)(c) inserted by [2011 nawm 4 s. 59\(5\)\(b\)](#)
- s. 21(15A) inserted by [2011 nawm 4 s. 59\(6\)](#)
- s. 21(18) inserted by [2011 nawm 4 s. 59\(7\)](#)
- s. 21C(6)(aa)(ab) inserted by [2012 c. 7 Sch. 5 para. 97\(a\)](#)