



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

VALID FROM 31/01/2008

PART 10

ETHICAL STANDARDS

CHAPTER 1

CONDUCT OF LOCAL AUTHORITY MEMBERS

Codes of conduct

183 Conduct that may be covered by code

(1) In section 49 of the Local Government Act 2000 (c. 22) (principles governing conduct of members of relevant authorities), after subsection (2) insert—

“(2A) An order under subsection (1) must provide as respects each specified principle—

- (a) that it applies to a person only when acting in an official capacity; or
- (b) that it applies to a person only when not acting in an official capacity;

but the order may provide as mentioned in paragraph (b) only as respects a principle within subsection (2B).

(2B) A principle is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence.

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- (2C) An order under subsection (1) may define, for the purposes of the order—
“official capacity”; and
“criminal offence”.
- (2D) An order under subsection (2)—
(a) may specify principles which are to apply to a person at all times;
(b) may specify principles which are to apply to a person otherwise than at all times.”
- (2) In section 50 of that Act (model code of conduct), after subsection (4) insert—
“(4A) A model code of conduct issued under subsection (1) must provide, as respects each provision of the code which relates to the conduct expected of the persons mentioned in that subsection—
(a) that the provision applies to a person only when acting in an official capacity; or
(b) that it applies to a person only when not acting in an official capacity; but the code may provide as mentioned in paragraph (b) only as respects a provision within subsection (4B).
(4B) A provision is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence.
(4C) A model code of conduct issued under subsection (1) may define for the purposes of the code—
“official capacity”; and
“criminal offence”.
(4D) Provision included under subsection (4A) or (4C) in a model code of conduct—
(a) must be consistent with the provision for the time being included in an order under section 49(1) by virtue of section 49(2A) or (2C);
(b) is to be mandatory except to the extent that it relates to an optional provision;
(c) to the extent that it relates to an optional provision, is to be mandatory where that optional provision is incorporated in a code of conduct under section 51.
(4E) A model code of conduct issued under subsection (2) may include—
(a) provisions which are to apply to a person at all times;
(b) provisions which are to apply to a person otherwise than at all times.”
- (3) In section 51 of that Act (duty of relevant authorities to adopt codes of conduct), after subsection (4) insert—
“(4A) Where under subsection (4)(c) a provision relating to the conduct expected of persons is included in the code of a relevant authority in England or police authority in Wales, the code must provide—
(a) that the provision applies to a person only when acting in an official capacity (within the meaning given by the code); or

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- (b) that it applies to a person only when not acting in an official capacity (within that meaning);
- but the code may provide as mentioned in paragraph (b) only as respects a provision within subsection (4B).
- (4B) A provision of a code is within this subsection if it prohibits particular conduct (or conduct of a particular description) where that conduct would constitute a criminal offence within the meaning of the code.
- (4C) The provisions which may be included under subsection (4)(c) by a relevant authority in Wales other than a police authority include—
- (a) provisions which are to apply to a person at all times;
 - (b) provisions which are to apply to a person otherwise than at all times.”
- (4) In section 52 of that Act (duty to comply with code of conduct), in each of subsections (1) to (4), omit the words “in performing his functions”.
- (5) Subsection (6) below applies where immediately before the commencement date a person is a member or co-opted member of a relevant authority and not prevented by any provision of section 52 of that Act from acting as such.
- (6) The coming into force of this section shall not have the effect of preventing the person from acting as a member or co-opted member of the relevant authority, but—
- (a) he must before the end of the prescribed period give to that authority a written undertaking that he will observe the authority's code of conduct for the time being; and
 - (b) if he fails to comply with paragraph (a), he shall cease to be a member or co-opted member at the end of that period.
- (7) With effect from the commencement date—
- (a) any order under section 49(2) or 50(2) of the Local Government Act 2000 (c. 22), and
 - (b) any code of conduct of a relevant authority in Wales other than a police authority,
- which is in force immediately before that date shall have effect as if the amendments made by this section had always had effect.
- (8) Subsection (7) does not affect the operation of any order or code in relation to any time before the commencement date.
- (9) In this section the following expressions have the same meanings as in Part 3 of the Local Government Act 2000—
- “code of conduct”;
 - “co-opted member”;
 - “member of a relevant authority”;
 - “relevant authority”.
- (10) References in subsections (6) to (8) to the code of conduct of a relevant authority include, in relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b) of the Local Government Act 2000, those mandatory provisions.
- (11) In this section—

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“the commencement date” means the date this section comes into force;
 “the prescribed period” means such period, beginning with the commencement date, as may be prescribed for the purposes of subsection (6) by order made by the Secretary of State.

184 Certain references to code of conduct to include default code

- (1) In section 37 of the Local Government Act 2000 (c. 22) (local authority constitution), after subsection (3) insert—

“(4) In relation to an authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), the reference in subsection (1)(c) to the authority's code of conduct for the time being under section 51 is to the mandatory provisions which for the time being apply to the members and co-opted members of the authority.”

- (2) In section 52 of that Act (duty to comply with code of conduct), after subsection (4) insert—

“(5) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b)—

- (a) the references in subsections (2) to (4) to the authority's code of conduct for the time being under section 51 include the mandatory provisions which for the time being apply to the members and co-opted members of the authority, and
- (b) the references in subsections (3) and (4) to any time after the authority have adopted a code of conduct under section 51 for the first time are to be read as references to any time after the coming into force of section 184 of the Local Government and Public Involvement in Health Act 2007.”

- (3) In section 54 of that Act (functions of standards committees), after subsection (3) insert—

“(3A) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), references in subsection (1)(b) and (2)(b) and (c) to the authority's code of conduct are to those mandatory provisions.”

Conduct of members of authorities in England: assessment of allegations

185 Assessment of allegations

For section 58 of the Local Government Act 2000 substitute—

“Written allegations

57A Written allegations: right to make, and initial assessment

- (1) A person may make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former

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member or co-opted member) of that authority has failed, or may have failed, to comply with the authority's code of conduct.

- (2) Where a standards committee receives an allegation under subsection (1) it must—
 - (a) refer the allegation to the monitoring officer of the relevant authority concerned (see section 66),
 - (b) refer the allegation to the Standards Board for England (see section 58), or
 - (c) decide that no action should be taken in respect of the allegation.
- (3) Where an allegation under subsection (1) is in respect of a person who—
 - (a) is no longer a member or co-opted member of the relevant authority concerned, but
 - (b) is a member or co-opted member of another relevant authority in England,the standards committee may, if it thinks it more appropriate than referring the allegation to the monitoring officer of the relevant authority concerned, refer the allegation to the monitoring officer of that other relevant authority.
- (4) If the standards committee decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing, to the person who made the allegation, of the decision and the reasons for the decision.
- (5) Subsections (2) to (4) are subject to any direction under section 57D.
- (6) The Standards Board for England—
 - (a) without prejudice to section 54(6), may issue guidance with respect to the exercise of functions under this section and sections 57B and 57C by standards committees of relevant authorities in England;
 - (b) may give a direction to the standards committee of a relevant authority in England with respect to the exercise of the committee's functions under this section.

57B Right to request review of decision not to act

- (1) This section applies where a decision is made under section 57A(2) that no action should be taken in respect of an allegation.
- (2) The person who made the allegation may make a request to the standards committee of the relevant authority concerned for that decision to be reviewed.
- (3) A request under subsection (2)—
 - (a) must be in writing, and
 - (b) may not be made after 30 days beginning with the date of the notice under section 57A(4).
- (4) Where a request under subsection (2) is received by a standards committee—
 - (a) section 57A(2) to (4) again apply to the standards committee, and

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(b) it must make a reference under section 57A(2)(a) or (b) or (3), or a decision under section 57A(2)(c), within 3 months beginning with the date it received the request.

(5) If by virtue of subsection (4) a decision is made under section 57A(2) that no action should be taken in respect of an allegation, this section does not apply in relation to that decision.

(6) Subsection (4) is subject to any direction under section 57D.

57C Information to be given to subject of allegation

(1) Subsections (2) to (4) apply where a person makes an allegation under section 57A to a standards committee.

(2) The standards committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation (“P”); but this is subject to regulations under subsection (7).

(3) If the standards committee makes a decision under section 57A(2) that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing to P of the decision and the reasons for the decision.

(4) If the standards committee receives a request under section 57B in relation to the allegation, it must take reasonable steps to give notice in writing to P of the request.

(5) The reference in subsection (3) to a decision under section 57A(2) includes a decision under section 57A(2) as applied by section 57B(4) or 58(3).

(6) Subsections (2) to (4) are subject to any direction under section 57D.

(7) The Secretary of State may by regulations—

(a) provide that in circumstances prescribed by the regulations the duty in subsection (2) does not arise at the time the standards committee receives the allegation, and

(b) make provision, in relation to cases where that duty has been prevented by the regulations from arising at that time, as to when it does arise.

57D Power to suspend standards committee's functions

(1) In such circumstances as may be prescribed, the Standards Board for England may direct that, until such time as the direction may be revoked by the Standards Board for England—

(a) sections 57A(2) to (4), 57B(4) and 57C(2) to (4) shall not apply to the standards committee of a specified authority in relation to relevant allegations and relevant requests, and

(b) that standards committee must refer any such allegations or requests to a specified body.

(2) The body which is specified in the direction may be—

(a) the Standards Board for England, or

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- (b) the standards committee of another relevant authority in England, if that committee has consented to being so specified.
- (3) For the purposes of subsection (1) an allegation is “relevant” if it is an allegation under section 57A which—
 - (a) is received after the direction is given, or
 - (b) was received before then, but is an allegation in respect of which the standards committee has yet to comply with section 57A(2).
- (4) For the purposes of subsection (1) a request is “relevant” if it is a request under section 57B which—
 - (a) is received after the direction is given, or
 - (b) was received before then, but relates to an allegation in respect of which the standards committee has yet to comply with section 57A(2) (as applied by section 57B(4)).
- (5) In subsection (3) “received”, in relation to an allegation, means—
 - (a) received under section 57A, or
 - (b) received on a reference back to the standards committee under section 58 or regulations under section 66.
- (6) The Secretary of State may by regulations make provision—
 - (a) for prescribed provisions of or made under this Part to apply, with or without modifications, where an allegation or request has been referred by reason of a direction (including where it has been referred and subsequently the direction is revoked),
 - (b) prescribing the circumstances in which the power to revoke a direction under this section is exercisable,
 - (c) with respect to the procedure to be followed (including the publicity to be given) where a direction has been made or revoked,
 - (d) modifying section 67(2) in relation to any case where a direction under this section is in force at a time when a Local Commissioner is of the opinion mentioned there,
 - (e) modifying section 67(2A) in relation to any case where a direction under this section is in force at a time when the Public Services Ombudsman for Wales is of the opinion mentioned there.
- (7) The Standards Board for England may issue guidance in connection with—
 - (a) this section or any regulations under this section, or
 - (b) any direction under this section.
- (8) In this section—
 - “prescribed” means prescribed by regulations made by the Secretary of State,
 - “specified” means specified in the direction.

58 Allegations referred to Standards Board

- (1) Where an allegation is referred to the Standards Board for England under section 57A(2), the Standards Board for England must—
 - (a) refer the case to one of its ethical standards officers for investigation under section 59,

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- (b) decide that no action should be taken in respect of the allegation, or
 - (c) refer the allegation back to the standards committee of the relevant authority concerned.
- (2) If the Standards Board for England decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing of the decision and the reasons for the decision to—
- (a) the person who made the allegation, and
 - (b) the person who was the subject of the allegation.
- (3) On a reference back under subsection (1)(c), section 57A(2) to (4) again apply to the standards committee but as if section 57A(2)(b) were omitted.
- (4) Subsection (3) is subject to any direction under section 57D.”

VALID FROM 08/05/2008

186 Information to be provided to Standards Board by relevant authority

After section 66A of the Local Government Act 2000 (c. 22) (inserted by section 195 of this Act) insert—

“Information to be provided to Standards Board by relevant authority

66B Periodic returns

- (1) A relevant authority in England must send to the Standards Board, within such period beginning with the end of each relevant period as the Standards Board may direct, a return containing the required information.
- (2) In subsection (1) “relevant period” means such period as the Standards Board may direct.
- (3) In subsection (1) “the required information” means such information relating to—
 - (a) allegations under section 57A received by the standards committee of the authority during the relevant period,
 - (b) requests under section 57B so received,
 - (c) the exercise during that period of any functions conferred by or under this Part on the standards committee, or
 - (d) the exercise during that period of any functions conferred by or under this Part on the monitoring officer of the authority,
 as the Standards Board may direct.
- (4) Section 57D(5) (meaning of “received”) applies for the purposes of subsection (3)(a).
- (5) A return under subsection (1) must be in such form as the Standards Board may direct.

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- (6) Different directions under this section may be given in relation to different relevant authorities or different descriptions of relevant authority.
- (7) A direction may specify different periods under subsection (2), and may make different provision under subsection (1), (3) or (5) in relation to returns relating to different periods.
- (8) Any direction under this section may be varied or revoked by a subsequent direction of the Standards Board.
- (9) In this section and section 66C—
 - (a) references to a relevant authority in England do not include a parish council,
 - (b) “the Standards Board” means the Standards Board for England.

66C Information requests

- (1) If the Standards Board requests a relevant authority in England to provide information within subsection (2), the authority must comply with the request by such date as the Standards Board may specify.
- (2) Information is within this subsection if it is specified in the request and it relates to the exercise of functions conferred by or under this Part on—
 - (a) the standards committee of the relevant authority, or
 - (b) the monitoring officer of the relevant authority.”

Conduct of local authority members: miscellaneous amendments

VALID FROM 01/04/2008

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—

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“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.”

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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).”

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(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) ”.

Commencement Information

II S. 192(1)-(6)(8)-(10) in force at 31.1.2008 by [S.I. 2008/172](#), [art. 2\(1\)\(m\)](#)

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.”

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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—
 - “(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—

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Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10. (See end of Document for details)

- (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).”

VALID FROM 01/04/2008

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 ”.

VALID FROM 12/12/2008

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.

Status: Point in time view as at 30/12/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10. (See end of Document for details)

(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—

“(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.

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Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10. (See end of Document for details)

- (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,

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- (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.
- (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.”

VALID FROM 12/12/2008

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)—

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(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.”

VALID FROM 01/04/2008

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
- (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.”

VALID FROM 01/04/2008

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

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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 ”.

CHAPTER 2

EMPLOYEES

202 Politically restricted posts: grant and supervision of exemptions

- (1) In section 3 of the Local Government and Housing Act 1989 (c. 42) (grant and supervision of exemptions from political restriction of posts)—
- (a) at the end of the sidenote, insert “ : Scotland and Wales ”;
 - (b) in subsection (1) for the words “It shall be the duty of the Secretary of State to appoint a person” substitute “ It shall be the duty of the Scottish Ministers to appoint in relation to Scotland, and the duty of the Welsh Ministers to appoint in relation to Wales, a person ”;
 - (c) omit subsection (8)(a);
 - (d) in subsection (8)(b), for “that subsection” substitute “ subsection (1) ”.
- (2) After that section insert—

“3A Grant and supervision of exemptions from political restriction: England

- (1) The standards committee of a local authority in England which is a relevant authority—
- (a) must consider any application for exemption from political restriction which is made to the committee, in respect of any post under the relevant authority, by the holder for the time being of that post; and
 - (b) may, on the application of any person or otherwise, give directions to the relevant authority requiring it to include a post in the list maintained by the authority under section 2(2).
- (2) An application may not be made under subsection (1)(a) unless—

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Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10. (See end of Document for details)

- (a) the relevant authority have specified or are proposing to specify the post in the list maintained by them under section 2(2); and
 - (b) in the case of a post within section 2(2)(a) or (b), the relevant authority have certified whether or not, in their opinion, the duties of the post fall within section 2(3);and the relevant authority must give a certificate for the purposes of paragraph (b) above in relation to any post if requested to do so by the holder of that post.
- (3) If, on an application under subsection (1)(a) in respect of any post, the standards committee is satisfied that the duties of the post do not fall within section 2(3), the committee must direct—
 - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
 - (b) that accordingly the post is not to be specified in the list maintained by the relevant authority under section 2(2) or (as the case may be) is to be removed from that list.
- (4) A standards committee may not give a direction under subsection (1)(b) in respect of any post unless the committee is satisfied that—
 - (a) the duties of the post fall within section 2(3); and
 - (b) the post is neither—
 - (i) in any list maintained by the relevant authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor
 - (ii) of a description specified in any regulations under section 2(2) above.
- (5) A standards committee must when determining for the purposes of subsection (3) or (4) whether or not the duties of a post fall within section 2(3) have regard to any general advice given by the Secretary of State under section 3B.
- (6) Every local authority in England which is a relevant authority must—
 - (a) give its standards committee all such information as the committee may reasonably require for the purpose of carrying out its functions under this section;
 - (b) comply with any direction under this section with respect to the list maintained by the authority; and
 - (c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.
- (7) In carrying out its functions under this section a standards committee must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may make regulations requiring a local authority in England which is not a relevant authority to establish a committee to exercise

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Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10. (See end of Document for details)

the functions conferred by this section on the standards committee of a local authority in England which is a relevant authority.

- (9) Regulations under subsection (8) may include provision—
- (a) applying any provisions of this section (with or without modification) where a committee has been established under the regulations;
 - (b) applying (with or without modification) any provision of section 53 of the Local Government Act 2000 or regulations made under subsection (6) of that section.
- (10) In this section—
- “standards committee” means a committee established under section 53(1) of the Local Government Act 2000;
- “relevant authority” has the meaning given by section 49(6) of that Act.

3B General advice as to politically restricted posts: England

- (1) The Secretary of State may in relation to England give such general advice with respect to the determination of questions arising by virtue of section 2(3) as he considers appropriate.
- (2) Before giving general advice under this section the Secretary of State must consult such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.”

VALID FROM 01/04/2008

203 Politically restricted posts: consequential amendments

- (1) In section 2 of the Local Government and Housing Act 1989 (c. 42) (politically restricted posts)—
 - (a) in subsections (1)(g) and (2) after “section 3” insert “ or 3A ”;
 - (b) in subsection (5) after “local authority” insert “ in Scotland and Wales ”;
 - (c) after subsection (5) insert—

“(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.”
- (2) In Schedule 7 to the Environment Act 1995 (c. 25) (national park authorities), in paragraph 7(4) for “3” substitute “ 3A ”.
- (3) In the Greater London Authority Act 1999 (c. 29) —
 - (a) in section 61(2)(a) (power to require attendance at Assembly meetings) for “to 3” substitute “ , 2 and 3A ”;
 - (b) in section 68(1)(b) (disqualification and political restriction) for “and 3” substitute “ and 3A ”;

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(c) in section 70(7) (terms and conditions of employment) for “and 3” substitute “ and 3A ”.

204 Political assistants' pay

In section 9 of the Local Government and Housing Act 1989, after subsection (4) insert—

“(4A) An order made under subsection (4)(a) above in relation to England or Wales may, instead of specifying an amount, specify a point on a relevant scale specified by the order.

(4B) A “relevant scale” is a scale consisting of points and of amounts corresponding to those points.

(4C) In relation to any time while an order made by virtue of subsection (4A) above is in force, the amount that at that time corresponds to the point specified by the order is to be treated for the purposes of subsection (4)(a) above as specified by the order.”

Status:

Point in time view as at 30/12/2007. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 10.