

2016 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Local Government (Standards
Committees, Investigations,
Dispensations and Referral) (Wales)
(Amendment) Regulations 2016**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the regulations specified below to implement changes in local authorities with the aim of improving local democracy.

Regulation 2 amends the Standard Committees (Wales) Regulations 2001. It makes provision:

for local authorities to establish joint standards committees and the membership, remit and operation of such joint committees;

amending existing provisions relating to the length of the term of office of members of standards committees;

to clarify that a relevant authority is exempt from making the report or recommendations of an investigation available for public inspection until the proceedings are concluded; and

setting out the procedure that applies where an investigation of misconduct is transferred to the standards committee of another relevant authority.

Regulation 3 amends the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001. It sets out:

details of the procedure for appealing against the decision of a standards committee and specifies that an appeal may only proceed if the President of the Adjudication Panel for Wales or a nominee considers that the appeal has a reasonable prospect of success; and

the duties of a monitoring officer in relation to the operation and decisions of a joint committee.

Regulation 4 amends the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 to provide a procedure for a member's application for a dispensation to be referred to the standards committee of another authority for determination.

The detailed provisions are as follows—

Regulation 2

Joint Standards Committees

Part III of the Local Government Act 2000 (“the 2000 Act”) makes provision with respect to the conduct of local authority members and employees.

Section 53(1) of the 2000 Act requires every relevant authority in Wales, that is, a county or county borough council, fire and rescue authority and a National Park authority but not for this purpose a community council, to establish a standards committee which is to have the functions conferred on it by or under Part III of the 2000 Act.

The Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) amended section 53 (1) of the 2000 Act to enable two or more relevant authorities to establish a joint standards committee.

Under section 53(11) of the 2000 Act, the National Assembly for Wales may by regulations make provision as to (among other things) the size, composition and proceedings of standards committees of relevant authorities in Wales including joint committees, and of any sub-committees established under section 56 of the 2000 Act. The functions of the National Assembly for Wales in this respect have since been transferred to the Welsh Ministers.

Regulation 2 amends the Standard Committees (Wales) Regulations 2001 to make provision for the appointment of community committee and independent members to a joint standards committee and also to limit the number of executive members of a joint standards committee. Further provision is made to ensure that every meeting of a joint standards committee is attended by a monitoring officer of one of the constituent relevant authorities. In addition, the constituent relevant authorities of a joint standards committee must agree which one of them will be responsible for preparing and sending their terms of reference to the Public Ombudsman for Wales.

Provision is made to specify that the length of the term of office of a local authority member of a standards committee is the period to the next ordinary local elections. The previous four year limitation has been removed.

Publication of Misconduct Reports

Section 51(1) of the 2000 Act imposes a duty upon all relevant authorities in Wales to adopt a code specifying the standards of conduct expected of their members and co-opted members.

Under Section 69 of the 2000 Act the Public Services Ombudsman for Wales may investigate any alleged breach by members or co-opted members (or former members or co-opted members) of the code of conduct of a relevant authority in Wales.

Where the Public Services Ombudsman for Wales ceases such an investigation before it is completed (under section 70(4) of the 2000 Act) the matter subject to the investigation may be referred to the monitoring officer of the relevant local authority.

Alternatively, where the Public Services Ombudsman for Wales determines (under section 71(2) of the 2000 Act) that it is appropriate for the matter may be referred to the monitoring officer of the relevant authority, the Ombudsman must produce a report on the outcome of the investigation and send it to the monitoring officer and the authority's Standards Committee.

Regulation 2 makes provision to exempt a standards committee or sub-committee from making a misconduct report or recommendations available for public inspection until proceedings under the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 are concluded. The Regulation also sets out the events that will signify the end of the proceedings and give rise to the obligation to publish the materials as soon as reasonably practicable.

Regulation 3

Section 73 of the 2000 Act enables the Welsh Ministers to make regulations specifying how matters referred to a monitoring officer and standards committee are to be dealt with. The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Order 2001 sets out the responsibilities of the monitoring officer and the standards committee in relation an investigation, the production of a report and the outcome of an investigation.

Section 69 of the 2013 Act amended the regulation-making power in the in section 73 of the 2000 Act so that the Welsh Ministers may make provision enabling a monitoring officer or a standards committee to refer a report or recommendations relating to a misconduct investigation to another relevant authority's standards

committee. Regulation 3 amends the Order to set out the procedure to be followed for such a referral.

Regulation 3 also amends the Order to modify and clarify the duties of a monitoring officer of a relevant authority where that relevant authority has established a joint standards committee.

In relation to the right of a member to appeal against the decision of a standards committee, Regulation 3 provides that an appeal may only proceed if the President of the Adjudication Panel for Wales or a nominee has first granted permission for the appeal to proceed. The procedure and timescales that apply to such an application are set out in detail in the Regulation.

Regulation 4

Regulation 4 amends the Standards Committee (Grant of Dispensations) (Wales) Regulations 2001 so that a monitoring officer or standards committee of a relevant authority may refer an application for dispensation to the standards committee of another relevant authority.

[A full regulatory impact assessment [has/has not] been produced for this instrument [to be completed].

DRAFT

2016 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The Local Government (Standards
Committees, Investigations,
Dispensations and Referral) (Wales)
(Amendment) Regulations 2016**

Made ***

Laid before the National Assembly for Wales ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by sections 53(11), (12), 56(5), 73(1), 81(4), 105(1), (2) and 106 of the Local Government Act 2000(1) and now vested in them(2), hereby make the following order:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 and they come into force on [...].

(2) In these Regulations—

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972(3);

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000(4).

(1) 2000 c.22.

(2) The functions of the National Assembly for Wales under sections 53, 56, 73, 81, 105 and 106 were transferred to the Welsh Ministers under section 162 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c 32).

(3) 1972 c.70.

(4) 2000 c.22.

Amendments to the Standards Committees (Wales) Regulations 2001

2.—(1) The Standards Committees (Wales) Regulations 2001⁽¹⁾ are amended as follows—

(2) In regulation 2 (interpretation) (*“dehongli”*) in the appropriate place—

- (a) in the definition of “community committee member” (*“aelod pwyllgor cymunedol”*) after “authority” insert “or authorities”;
- (b) in the definition of “fire authority” (*“awdurdod tân”*), in the first place it occurs after “fire” insert “and rescue”;
- (c) in the definition of “independent member” (*“aelod annibynnol”*) after “relevant authority” the first time it occurs insert “or authorities”;
- (d) in the definition of “lay panel member” (*“aelod panel lleyg”*) after “authority” the first time it occurs insert “or authorities”;
- (e) in the definition of “mayor and cabinet executive” (*“gweithrediaeth maer a chabinet”*) omit the words after “in” and substitute “section 11(2) of the 2000 Act”;
- (f) in the definition of “member” (*“aelod”*) after “fire” insert “and rescue”;
- (g) in the definition of “relevant authority” (*“awdurdod perthnasol”*) in paragraph (d) after “fire” insert “and rescue”;
- (h) in the definition of “section 54(A) sub-committee” (*“is-bwyllgor adran 54A”*) after “authority” insert “or authorities”;
- (i) in the definition of “standards committee” (*“pwyllgor safonau”*) delete the words after “means” and substitute—
 - “(a) a standards committee of a relevant authority;
 - (b) a joint committee established with one or more other relevant authorities;
 - (c) a section 54A sub-committee; and
 - (d) a community sub-committee;”

(3) In regulation 4, in paragraph (a) after “authority” insert “or authorities”.

(4) In regulation 8, in paragraph (3) after “fire” insert “and rescue”.

(5) In regulation 9, after paragraph (1) insert—

“(3) Where a local authority operates executive arrangements no more than one

(1) S.I. 2001/2283/(W.172).

executive member from that local authority may be a member of a joint committee.”.

(6) In regulation 10—

- (a) in paragraph (1), at the end of sub paragraph (a) insert “or in the case of a joint committee, in the area of that joint committee’s constituent local authorities”;
- (b) in paragraph (2), after “local authority” the second time it occurs insert “ or in the case of a joint committee by the designated local authority”;
- (c) in paragraph (3), in sub paragraphs (a) and (b) after “area” insert “or in the case of a joint committee, the combined areas of the constituent authorities”.

(7) At the beginning of regulation 13 insert—

“A13.

In regulations 13-17 a requirement or act of a relevant authority or local authority in respect of that authority’s area includes in the case of a joint committee, the combined areas of that committee’s constituent authorities”.

(8) In regulation 18—

- (a) for paragraph (1) substitute—

“The term of office of a member of a local authority standards committee who is a member of that authority shall be no longer than the period until the next ordinary election for that authority following the member’s appointment to the committee.”;
- (b) in paragraph (2), at the end insert “or in the case of a joint committee, of a constituent local authority of that committee”.

(9) In regulation “18A”—

- (a) for paragraph (1) substitute—

“The term of office of a member of a local authority standards committee who is a community committee member shall be no longer than the period until the next ordinary election for the community council of which the community committee member is a member following the member’s appointment to the standards committee.”;
- (b) in paragraph (2), at the end insert “or in the case of a joint committee, of a constituent local authority of that committee”;

(10) In regulation 19—

- (a) for paragraph (1) substitute—

“Where a relevant authority is a National Park authority or a fire and rescue authority, the term of office of a member of that

authority's standards committee who is a member of such an authority shall be no longer than the period until that member ceases to be a member of that authority.”;

- (b) in paragraph (2), at the end insert “or in the case of a joint committee, of a constituent relevant authority of that committee”.

(11) In regulation 21—

- (a) for paragraph (1) substitute—

“Subject to paragraph (2) of regulation 18 and paragraph (2) of regulation 19 above, a member of the standards committee of a relevant authority who is a member of that authority or in the case of a joint committee, is a member of a constituent authority of that committee may be reappointed by the relevant authority or in the case of a joint committee by the relevant authority, if any, designated by the constituent relevant authorities for that purpose, for one further consecutive term.”

- (b) in paragraph (2), after “ authority” the second time it occurs insert “ or in the case of a joint committee, by the relevant authority, if any, designated by the constituent relevant authorities for that purpose”.

(12) In regulation 21A—

- (a) in paragraph (1), after “ authority” the second time it occurs insert “or in the case of a joint committee, by the relevant authority, if any, designated by the constituent relevant authorities for that purpose”;

- (b) in paragraph (2)—

- (i) after “authority” insert “or in the case of a joint committee, the local authority, if any designated for that purpose”;

- (ii) in sub paragraphs (a) and (b) after “area” insert “or in the case of a joint committee, the combined areas of the constituent authorities”

(13) In regulation 22, at the end of paragraph (8) insert “or in the case of a joint committee, to the proper officer designated for that purpose”.

(14) In regulation 23, in paragraph (1), after “relevant authority” insert “or authorities”.

(15) In regulation 25, for paragraph (3) substitute—

“The monitoring officer or a representative of the monitoring officer of a relevant authority or in the case of a joint committee, a monitoring officer or a representative of a constituent authority of that joint committee shall attend every meeting of the standards committee”.

(16) In regulation 27, after paragraph (2) insert—

“(2A)

- (a) A local authority may exempt from publication in accordance with paragraph (2) agendas for, records of or information connected to a matter referred to its standards committee pursuant to section 70(4) or (5) or section 71(2) or (4) of the 2000 Act;
- (b) The exemption in paragraph (a) will cease to apply upon the conclusion of the proceedings of the standards committee or sub-committee;
- (c) The conclusion of the proceedings in paragraph (b) means the latest of the following events specified in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001;
 - (i) the expiry of time allowed to lodge a notice seeking permission to appeal under regulation 10(2);
 - (ii) receipt of notification of the decision of the President of the Adjudication Panel for Wales or the nominated panel member in accordance with regulation 10(8);
 - (iii) receipt of notification of the conclusion of any appeal in accordance with regulation 12 (a)(i) or (b); or
 - (iv) a further determination by the standards committee made after receiving a recommendation from an appeals tribunal under regulation 12(a)(ii).
- (d) The standards committee or sub-committee as the case may be must publish the materials to which paragraph (a) refers as soon as reasonably practicable following the conclusion of the proceedings.”.

(17) In regulation 28, in paragraph (1), after “relevant authority concerned” insert “or in the case of a joint committee, the proper officer of a constituent authority of that joint committee”;

(18) In regulation 29 after “relevant authority” in each place it occurs insert “or in the case of a joint committee, the designated relevant authority”.

(19) In regulation 30, at the end of paragraph (3) insert—

“(4) A person who is a member of a standards committee on the date The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendments) Regulations 2016 come into force may if the relevant authority so determines, continue in office until the date of the next ordinary election unless that person ceases to be a member of the relevant authority concerned before the next ordinary election.”.

Amendments to the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001

3.—(1) The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001⁽¹⁾ are amended as follows—

(2) In regulation 3—

- (a) in paragraph (2) after “Wales” insert “or by the monitoring officer or standards committee of another relevant authority”;
- (b) after paragraph (2) insert—

“(3) A monitoring officer of a relevant authority will be deemed to discharge the functions specified in paragraphs (1) (b) and (2) if arrangements are made for the functions of the monitoring officer of a relevant authority to be exercised by the monitoring officer of another relevant authority and that other monitoring officer discharges those functions.

(4) A monitoring officer may not make arrangements for the functions specified in regulation (1)(b) to be undertaken by the monitoring officer of another relevant authority unless the Chairperson of the Standards Committee or Standards Committee of the relevant authority has consented in writing”.

(3) In regulation 5 omit sub paragraph (f) of paragraph (1).

(4) For regulation 7 substitute—

“(1) After receiving a report and any recommendations from the monitoring officer, or a report from the Public Services Ombudsman for Wales together with any recommendations of the monitoring officer, the Standards Committee must determine either that:

(1) S.I. 2001/2281 (W.171).

- (a) there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned and give notice to that effect to;
 - (i) the person who is the subject of the investigation;
 - (ii) the person or persons making the allegation which gave rise to the investigation; and
 - (iii) the Public Services Ombudsman for Wales; or
- (b) a person who is the subject of the investigation should be invited to make representations, either orally or in writing in respect of the findings of the investigation and of any allegation of a failure to comply with the relevant authority's code of conduct.

“(2) A standards committee may make arrangements for the functions specified in paragraph (1) to be exercised by the standards committee of another relevant authority.”.

Reports or Recommendations referred to another Standards Committee

“[7A].

(1) Where a monitoring officer under regulation 6 (Reports) or a Standards Committee under regulation 7 (Functions of Standards Committees) makes arrangements under paragraph 3(3) or paragraph 7(2) the monitoring officer or Standards Committee making such arrangements must give the notice described in paragraph (2) to:

- (a) the person or persons who is or are the subject of investigation;
- (b) the person or persons making the allegation of misconduct giving rise to the investigation; and
- (c) the Public Services Ombudsman for Wales.

(2) The notice to which paragraph (1) refers must include the following:

- (a) a statement that the matter has been referred to another relevant authority's Standards Committee for determination;
- (b) the name of the other Standards Committee; and

- (c) the reason why the matter has been referred to the other Standards Committee”.

(5) In regulation 8—

- (a) in paragraph (5) after “of” the second time it occurs omit “the” and substitute “a”;
- (b) in paragraph (6), in paragraph (b) omit “or (b)”.

(6) In regulation 9—

- (a) in paragraph (1), in sub paragraph (d) after “six months” insert “or if shorter the remainder of that person’s term of office”;
- (b) in paragraph (3) after “investigation” insert “and in cases where the Standards Committee made its determination pursuant to arrangements with the standards committee of another relevant authority that other standards committee”.

(7) In regulation 10—

- (a) in paragraph (1) after “that person may” insert “seek permission to”;
- (b) in paragraph (2)—
 - (i) after “The” at the beginning insert “application for permission to”;
 - (ii) omit “this address”; and
 - (iii) omit of the words that follow “Wales”;
- (c) in paragraph (3)—
 - (i) at the beginning after “notice” insert “seeking permission to”;
 - (ii) delete “of”;
 - (iii) delete the words in paragraph (b) and substitute—

“whether or not permission to appeal is granted, the person seeking permission to appeal consents to the appeal being conducted by way of written representations”;

(d) after paragraph (3) insert—

“(4) An application for permission to appeal is to be decided by the President of the Adjudication Panel for Wales or a member of the Panel nominated by the President of the Adjudication Panel to exercise this function and unless the President or the person nominated considers that special circumstances render a hearing desirable the decision on whether to grant permission to appeal will be made in the absence of the parties.

(5) The President of the Adjudication Panel for Wales or the nominated Panel member may request further information from the parties.

(6) The further information requested in paragraph (5) must be submitted to the President of the Adjudication Panel for Wales or the nominated Panel member within a period of 14 days from the date the request for further information is received.

(7) In reaching a decision on whether to grant permission to appeal the President of the Adjudication Panel for Wales or the nominated Panel member must have regard to whether the appeal or part of it has a reasonable prospect of success.

(8) The President of the Adjudication Panel for Wales or the nominated Panel member must decide whether to grant permission to appeal and give notice of the decision no more than 21 days after receipt of the application for permission to appeal or where further information has been requested under paragraph (5) no more than 14 days after the end of the period specified in paragraph (6).

(9) The President of the Adjudication Panel for Wales or the nominated Panel member must notify the decision in paragraph (7) to—

- (a) the member seeking permission to appeal;
- (b) the Public Services Ombudsman for Wales; and
- (c) the standards committee or where the relevant authority has established a joint committee with one or more other relevant authorities to the joint committee of the relevant authority or authorities concerned.

(10) If permission to appeal is refused the notice given under paragraph (9) must give reasons for that decision.

(11) If permission to appeal is granted the President of the Adjudication Panel for Wales or the nominated Panel member must refer the matter to an appeals tribunal.”.

(8) In regulation 11, in paragraph (2) omit “the deputy president” and substitute “a nominated Panel Member” in both cases where it occurs.

(9) In regulation 13, after paragraph (1) add—

“(1A) Where a report on the outcome of an investigation is produced by a standards committee of a relevant authority or a joint committee to which a report or recommendation has been referred by the standards committee or joint committee or monitoring officer of another relevant authority, the report on the outcome of the investigation must be sent to the monitoring officer of the referring relevant authority.”.

Amendments to the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001

4.—(1) The Standards Committees (Grant of Dispensations) (Wales) Regulations 2001⁽¹⁾ are amended as follows—

(2) In regulation 1, in paragraph (3) in the appropriate place insert “joint committee” (“*cyd-bwyllgor*”) means the same as in section 53 of the Act”.

(3) In regulation 2—

- (a) after “relevant authority” insert “or a joint committee”;
- (b) at the end of paragraph (h) omit “or”
- (c) in paragraph (i) for the words that follow “removed” substitute “; or” and
- (d) at the end insert—

“(j) “it appears to the committee to be otherwise appropriate to grant a dispensation.”.

(4) After regulation 2 insert—

[3]. Procedure and powers of Standards Committees

- (a) An application for a dispensation made by a member of a relevant authority may be determined by the Standards Committee of another relevant authority.
- (b) The monitoring officer of a relevant authority to which an application for a dispensation is made may, with the prior written consent of the Chairperson of the Standards Committee of that authority, make arrangements for the application to be considered and determined by the Standards Committee of another relevant authority.
- (c) Where reasonable efforts to contact the Chairperson of the Standards Committee of the relevant authority have been unsuccessful, the Vice-Chairperson of the Standards Committee may decide whether or not an application for a dispensation should be referred to the Standards Committee of another relevant authority.
- (d) Where an application for dispensation is submitted to the Standards Committee of a relevant authority, the

(1) S.I. 2001/2279 (W.169).

Standards Committee may decide not to consider the application and to make arrangements for the application to be considered and determined by the Standards Committee of another relevant authority.

- (e) Where a monitoring officer or Standards Committee makes arrangements for a dispensation application to be considered and determined by the Standards Committee of another relevant authority, the monitoring officer or Standards Committee must notify the person making the application accordingly.
- (f) The notice to which paragraph (e) refers must include the following:
 - (i) a statement that the matter has been referred to another relevant authority's Standards Committee for determination;
 - (ii) the name of the other Standards Committee; and
 - (iii) the reason why the application has been referred to that other Standards Committee.
- (g) when the Standards Committee has determined the application it must give written notice of its decision to the:
 - (i) member applying for the dispensation; and
 - (ii) Standards Committee of the referring relevant authority.”.

Leighton Andrews
Minister for Public Services, one of the Welsh
Ministers

Date