
WELSH STATUTORY INSTRUMENTS

2016 No. 85

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

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 are amended as follows.

(2) In regulation 2 (interpretation) in the appropriate place insert—

““community sub-committee” (*“is-bwyllgor cymunedol”*) means a sub-committee appointed by a Standards Committee of a local authority under section 56 of the 2000 Act;”;

““joint committee” (*“cyd-bwyllgor”*) means a committee established by two or more relevant authorities under section 53(1) of the 2000 Act;”;

““section 54A sub-committee” (*“is-bwyllgor adran 54A”*) means a sub-committee appointed by a Standards Committee under section 54A(1) of the 2000 Act;”;

““Standards Committee” (*“Pwyllgor Safonau”*) means—

- (a) a Standards Committee of a relevant authority;
- (b) a joint committee;
- (c) a section 54A sub-committee; or
- (d) a community sub-committee;”.

(3) In regulation 3 (functions of monitoring officers) after paragraph (2) insert—

“(3) Subject to paragraph (4), the monitoring officer of a relevant authority may make arrangements to make a report, or recommendations, in accordance with paragraphs (1)(b) and (2) to the Standards Committee of another relevant authority.

(4) The monitoring officer of a relevant authority (“A”) may not make arrangements under paragraph (3) to make a report, or recommendations, to the Standards Committee of another relevant authority (“B”) unless the chairperson of the Standards Committee of A has consented in writing.”

(4) In regulation 5 (restrictions on disclosure of information), in paragraph (1)—

- (a) at the end of sub-paragraph (e) insert “or”;
- (b) omit sub-paragraph (f).

(5) In regulation 6 (reports), at the end of paragraph (a) insert “or, in accordance with arrangements made under regulation 3(3), to the Standards Committee of another relevant authority”.

(6) For regulation 7 (functions of the standards committee) substitute—

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

- (a) that 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) that a person who is the subject of the investigation must 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.”
- (7) After regulation 7 (functions of the standards committee) insert—

“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 the Standards Committee) makes arrangements under regulation 3(3) or 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 relevant authority; and
 - (c) the reason why the matter has been referred to the Standards Committee of the other relevant authority.”
- (8) In regulation 8 (procedure and powers of standards committee)—
- (a) in paragraph (5), for “the relevant authority” substitute “a relevant authority”;
 - (b) in paragraph (6), in sub-paragraph (b) omit “or (b)”.
- (9) In regulation 9 (determinations of the standards committee)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (c), for “the relevant authority” substitute “a relevant authority”;
 - (ii) in sub-paragraph (d), after “six months” insert “or, if shorter, for the remainder of that person's term of office”;
 - (b) for paragraph (3) substitute—

“(3) After making a determination in accordance with paragraph (1) or (2) the Standards Committee must notify:

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

- (d) where the Standards Committee has made its determination pursuant to arrangements with the monitoring officer or Standards Committee of another relevant authority, the Standards Committee of that authority.”;
- (c) after paragraph (4) insert—
 - “(5) Notice given under paragraphs (3) and (4) must include reasons for the determination.”
- (10) In regulation 10 (right of appeal)—
 - (a) in paragraph (1), after “that person may” insert “seek permission to”;
 - (b) in paragraph (2)—
 - (i) for “The appeal” substitute “The application for permission to appeal”;
 - (ii) for the words from “to this address” to “CF10 3NQ” substitute “to the president of the Adjudication Panel for Wales”;
 - (c) in paragraph (3)—
 - (i) for “notice of” where it first appears substitute “notice seeking permission to”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) 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.
 - (5) Unless the president or the person nominated considers that special circumstances render a hearing desirable, the decision on whether to grant permission to appeal is to be made in the absence of the parties.
 - (6) The president of the Adjudication Panel for Wales or the nominated panel member may, in writing, request further information from the parties.
 - (7) The further information requested in paragraph (6) 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 on which the request for further information is received.
 - (8) 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.
 - (9) 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 (6), no more than 14 days after the end of the period specified in paragraph (7).
 - (10) The president of the Adjudication Panel for Wales or the nominated panel member must notify the decision in paragraph (8) to:
 - (a) the person seeking permission to appeal;
 - (b) the Public Services Ombudsman for Wales; and
 - (c) the Standards Committee which made the determination that is the subject of the application for permission to appeal.

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

(12) 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.”

(11) In regulation 11 (appeals), in paragraph (2)—

- (a) for “the deputy president” substitute “a nominated panel member”;
- (b) for “or deputy president” substitute “or the nominated panel member”.