

WELSH STATUTORY INSTRUMENTS

**2001 No. 2281 (W. 171 )**

**LOCAL GOVERNMENT, WALES**

**Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001**

*Made* - - - - - *21st June 2001*  
*Coming into force* - - - - - *28th July 2001*

The National Assembly for Wales, in exercise of the functions given to it by section 73(1) of the Local Government Act 2000(1) makes the following Regulations:

**Modifications etc. (not altering text)**

**C1** Regulations 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**

**Name, commencement and application**

1.—(1) These Regulations are called the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001 and they come into force on the 28th July 2001.

(2) The regulations apply to relevant authorities in Wales only.

**Commencement Information**

**I1** [Reg. 1](#) in force at 28.7.2001, see [reg. 1\(1\)](#)

**Interpretation**

2. In these Regulations:

[<sup>F1</sup>“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;]

[<sup>F1</sup>“joint committee” (“*cyd-bwyllgor*”) means a committee established by two or more relevant authorities under section 53(1) of the 2000 Act;]

“relevant authority” (“*awdurdod perthnasol*”) means:

- a county council,
- a county borough council,
- a community council<sup>(2)</sup>,
- [<sup>F2</sup>a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies], <sup>F3</sup>...
- a National Park authority established under section 63 of the Environment Act [<sup>F4</sup>1995, and]
- [<sup>F5</sup>a corporate joint committee;]

[<sup>F1</sup>“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;]

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

[<sup>F1</sup>“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;]

#### Textual Amendments

- F1** Words in reg. 2 inserted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(2)**
- F2** Words in reg. 2 substituted (25.10.2005) by The Fire and Rescue Services Act 2004 (Consequential Amendments) (Wales) Order 2005 (S.I. 2005/2929), arts. 1(1), **59**
- F3** Word in reg. 2 omitted (5.8.2022) by virtue of The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **3(a)**
- F4** Words in reg. 2 substituted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **3(b)**
- F5** Words in reg. 2 inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **3(c)**

#### Commencement Information

- I2** Reg. 2 in force at 28.7.2001, see reg. 1(1)

### Functions of monitoring officers

**3.—(1)** Where any matter is referred to the monitoring officer of a relevant authority under section 70(4) of the 2000 Act, the monitoring officer must in respect of that matter:

- (a) conduct an investigation; and

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(2) By virtue of section 56(7) of the Local Government Act 2000 any function which by virtue of provisions of these Regulations is exercisable by or in relation to the Standards Committee of a relevant authority which is a community council is to be exercisable by or in relation to; the standards committee of the county council or county borough council in whose area the community council is situated; or where that county council or county borough council’s standards committee has appointed a sub-committee, that sub-committee.

- (b) report, and if appropriate make recommendations, to the Standards Committee of the relevant authority. (2) Where any matter is referred to the monitoring officer of a relevant authority under section 71

(2) of the 2000 Act, the monitoring officer must consider any report sent to him or her by a Local Commissioner in Wales and, if appropriate, make recommendations to the Standards Committee of the relevant authority.

[<sup>F6</sup>(2A) Where the relevant authority concerned is a corporate joint committee, in the matter of a member or co-opted member who is also a member or co-opted member of—

- (a) a constituent council of the corporate joint committee;
- (b) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,

the monitoring officer of the corporate joint committee must also send a copy of any report and recommendations issued under paragraph (1)(b) or any recommendations made under paragraph (2) to the monitoring officer of that constituent council or National Park authority.]

[<sup>F7</sup>(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.]

#### Textual Amendments

- F6** Reg. 3(2A) inserted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, 4
- F7** Reg. 3(3)(4) inserted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), 3(3)

#### Commencement Information

- I3** Reg. 3 in force at 28.7.2001, see [reg. 1\(1\)](#)

## Investigations

4.—(1) When conducting an investigation under Regulation 3(1)(a) above the monitoring officer may follow such procedures as he or she considers appropriate in the circumstances of the case and in particular may:

- (a) make such enquiries of any person as he or she thinks necessary for the purposes of carrying out the investigation,
- (b) require any person to provide him or her with such information, explanation or documents as he or she considers necessary,
- (c) require any member or co-opted member or officer of a relevant authority to appear before him or her for the purposes of paragraph (a) and (b) above.

(2) In conducting the investigation, the monitoring officer may be assisted by any person.

(3) The monitoring officer may also where necessary obtain expert or other advice from any person who is in his or her opinion particularly qualified to assist in conducting the investigation.

*Changes to legislation: There are currently no known outstanding effects for the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001. (See end of Document for details)*

- (4) Where a person has attended before the monitoring officer or provided information or assistance for the purposes of the investigation in accordance with paragraphs (1) or (2) above, the monitoring officer may, subject to the Standards Committee’s authorisation, pay to that person
  - (a) such sums in respect of expenses properly incurred by him or her, and
  - (b) such allowances by way of compensation for the loss of his or her time, as may be determined by the [<sup>F8</sup>Welsh Ministers] .
- (5) Where a person has given advice in accordance with paragraph (3) above, the monitoring officer may pay to that person such fees or allowances incurred subject to the maxima set out in the relevant authority’s allowances scheme.

**Textual Amendments**

**F8** Words in [reg. 4\(4\)\(b\)](#) substituted (19.10.2009 with application in accordance with [reg. 1\(2\)](#)) by [The Local Authorities \(Case and Interim Case Tribunals and Standards Committees\) \(Amendment\) \(Wales\) Regulations 2009 \(S.I. 2009/2578\)](#), [regs. 1\(1\), 4\(1\)](#)

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**Commencement Information**

**I4** [Reg. 4](#) in force at 28.7.2001, see [reg. 1\(1\)](#)

**Restrictions on disclosure of information**

- 5.—(1) Information obtained by a monitoring officer when conducting an investigation must not be disclosed unless:
- (a) the disclosure is made for the purposes of enabling a monitoring officer or standards committee to perform their functions under these Regulations;
  - (b) the disclosure is made for the purpose of enabling a Local Commissioner in Wales to carry out his or her functions;
  - (c) the person to whom the information relates has consented to its disclosure;
  - (d) the information has previously been disclosed to the public with lawful authority;
  - (e) the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings under Regulation 4 above; <sup>F9</sup>...[<sup>F10</sup>or]
  - <sup>F11</sup>(f) .....
  - [<sup>F12</sup>(g) the disclosure is made to the Auditor General for Wales for the purposes of any function of his or hers or of an auditor under Part 2 of the Public Audit (Wales) Act 2004]
- (2) In this Regulation and in Regulation 4 above, any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

**Textual Amendments**

**F9** Word in [reg. 5\(1\)\(e\)](#) omitted (1.4.2005) by virtue of [The Public Audit \(Wales\) Act 2004 \(Consequential Amendments\) \(Wales\) Regulations 2005 \(S.I. 2005/761\)](#), [regs. 1\(1\), 7\(2\)\(a\)](#)

**F10** Word in [reg. 5\(1\)\(e\)](#) inserted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), [regs. 1\(1\), 3\(4\)\(a\)](#)

**F11** [Reg. 5\(1\)\(f\)](#) omitted (1.4.2016) by virtue of [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), [regs. 1\(1\), 3\(4\)\(b\)](#)

**F12** Reg. 5(1)(g) and word inserted (1.4.2005) by The Public Audit (Wales) Act 2004 (Consequential Amendments) (Wales) Regulations 2005 (S.I. 2005/761), regs. 1(1), 7(2)(b)

**Commencement Information**

**I5** Reg. 5 in force at 28.7.2001, see **reg. 1(1)**

**Reports**

6. After concluding an investigation, the monitoring officer must:

(a) produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards Committee of the relevant authority concerned [<sup>F13</sup>or, in accordance with arrangements made under regulation 3(3), to the Standards Committee of another relevant authority],

[<sup>F14</sup>(aa) where any person who is the subject of the investigation is a member or co-opted member of a corporate joint committee and is also a member or co-opted member of—

(i) a constituent council of the corporate joint committee;

(ii) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,

send a copy of the report and any recommendations to the monitoring officer of that constituent council or National Park authority;]

(b) send a copy of the report to any person who is the subject of the investigation, and

(c) take reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation.

**Textual Amendments**

**F13** Words in **reg. 6(a)** inserted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), 3(5)

**F14** Reg. 6(aa) inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, 5

**Commencement Information**

**I6** Reg. 6 in force at 28.7.2001, see **reg. 1(1)**

**Functions of the Standards Committee**

[<sup>F15</sup>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;

[<sup>F16</sup>(ia) where the person who is the subject of the investigation is a member or co-opted member of a corporate joint committee and is also a member or co-opted member of—

- (aa) a constituent council of the corporate joint committee;
  - (bb) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,  
the monitoring officer of that constituent council or National Park authority;]
  - (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.]

#### Textual Amendments

- F15** Reg. 7 substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(6)**
- F16** Reg. 7(1)(a)(ia) inserted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **6**

#### Commencement Information

- I7** Reg. 7 in force at 28.7.2001, see [reg. 1\(1\)](#)

### [<sup>F17</sup>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;  
[ where a subject of the investigation is a member or co-opted member of a corporate joint committee and is also a member or co-opted member of—  
<sup>F18</sup>(aa) (i) a constituent council of the corporate joint committee;  
(ii) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,  
the monitoring officer of that constituent council or National Park authority;]
  - (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.]

#### Textual Amendments

- F17** Reg. 7A inserted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(7)**
- F18** Reg. 7A(1)(aa) inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **7**

#### Procedure and Powers of Standards Committees

**8.—(1)** Subject to any express provision in these Regulations or in the Standards Committees (Wales) Regulations 2001(**3**), the practice and procedure to be followed in exercising its functions under these Regulations shall be for the Standards Committee of the relevant authority to decide.

[<sup>F19</sup>(2) Paragraphs (3) to (3D) apply—

- (a) in respect of the Public Services Ombudsman for Wales in the case of an investigation undertaken by the Public Services Ombudsman for Wales and referred to the monitoring officer of the relevant authority under section 71(2) of the 2000 Act; and
- (b) in respect of the monitoring officer of the relevant authority in the case of an investigation referred to the monitoring officer under section 70(4) of the 2000 Act.

(3) The Public Services Ombudsman for Wales and the monitoring officer are entitled to attend before the Standards Committee for the purposes of—

- (a) presenting the report and/or explaining any of the matters in it; and
- (b) otherwise playing such part or assisting the Standards Committee as the Standards Committee considers appropriate.

(3A) The Standards Committee may request the Public Services Ombudsman for Wales or the monitoring officer to attend before it for the purposes of—

- (a) presenting the report and/or explaining any of the matters in it; and
- (b) otherwise playing such part or assisting the Standards Committee as the Standards Committee considers appropriate.

(3B) A request under paragraph (3A) must not be unreasonably refused and if such request is refused the Public Services Ombudsman for Wales or monitoring officer must give reasons in writing to the Standards Committee for not complying with the request to attend.

(3C) The attendance shall be when the Standards Committee of the relevant authority is considering any representations made by the person who is the subject of the investigation or, if no such representations are made, at any reasonable time.

(3D) The Public Services Ombudsman for Wales and monitoring officer may be represented by counsel or a solicitor.]

(4) If any person who is the subject of the investigation fails to make representations in accordance with [<sup>F20</sup>regulation 7(1)(b)] above, the Standards Committee may:

- (a) unless it is satisfied that there is sufficient reason for such failure, consider the monitoring officer's report and make a determination in that person's absence; or
- (b) give that person a further opportunity to make representations.

(5) Where appropriate, and in accordance with the provisions of these Regulations, the Standards Committee has power to censure any member or co-opted member (or former member or co-opted member) of [<sup>F21</sup>a relevant authority], or suspend or partially suspend a member or co-opted member for a period not exceeding 6 months.

(6) Any period of suspension or partial suspension shall commence on the day after:

- (a) the expiry of the time allowed to lodge a notice of appeal under Regulation 10(2) below,
- (b) receipt of notification of the conclusion of any appeal in accordance with [<sup>F22</sup>regulation 12(1)(a)(i)]<sup>F23</sup>... below, or
- (c) a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under Regulation [<sup>F24</sup>regulation 12(1)(a)(ii)] below,

whichever occurs last.

#### Textual Amendments

- F19** Reg. 8(2)(3)(3A)-(3D) substituted for reg. 8(2)(3) (19.10.2009 with application in accordance with reg. 1(2)) by [The Local Authorities \(Case and Interim Case Tribunals and Standards Committees\) \(Amendment\) \(Wales\) Regulations 2009 \(S.I. 2009/2578\)](#), regs. 1(1), **4(2)**
- F20** Words in reg. 8(4) substituted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **8(a)**
- F21** Words in reg. 8(5) substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(8)(a)**
- F22** Words in reg. 8(6)(b) substituted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **8(b)**
- F23** Words in reg. 8(6)(b) omitted (1.4.2016) by virtue of [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(8)(b)**
- F24** Words in reg. 8(6)(c) substituted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **8(c)**

#### Commencement Information

- I8** Reg. 8 in force at 28.7.2001, see [reg. 1\(1\)](#)

#### Determinations of the Standards Committee

- 9.—(1) After considering any representations, a Standards Committee must determine:
- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority and that therefore no action needs to be taken in respect of the matters which are the subject of the investigation;
  - (b) that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed to comply with the relevant authority's code of conduct but that no action needs to be taken in respect of that failure;
  - (c) that a member or co-opted member (or former member or co-opted member) of [<sup>F25</sup>a relevant authority] has failed to comply with the authority's code of conduct and should be censured, or



- (d) that a member or co-opted member of a relevant authority has failed to comply with the authority's code of conduct and should be suspended or partially suspended from being a member or co-opted member of that authority for a period not exceeding six months [<sup>F26</sup>or, if shorter, for the remainder of that person's term of office].
- (2) Where an appeals tribunal drawn from the Adjudication Panel for Wales makes a recommendation in accordance with [<sup>F27</sup>regulation 12(1)(a)(ii)] below that a different penalty should be imposed, the Standards Committee must also determine whether or not it should uphold its original determination or accept the recommendation.
- [<sup>F28</sup>(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;
  - [<sup>F29</sup>(aa) where a subject of the investigation is a member or co-opted member of a corporate joint committee and is also a member or co-opted member of—
    - (i) a constituent council of the corporate joint committee;
    - (ii) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,the monitoring officer of that constituent council or National Park authority;]
  - (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.]
- (4) After making a determination in accordance with paragraph (2) above the Standards Committee must also notify the president of the Adjudication Panel for Wales.
- [<sup>F30</sup>(5) Notice given under paragraphs (3) and (4) must include reasons for the determination.]

#### Textual Amendments

- F25** Words in [reg. 9\(1\)\(c\)](#) substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(9)(a)(i)**
- F26** Words in [reg. 9\(1\)\(d\)](#) inserted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(9)(a)(ii)**
- F27** Words in [reg. 9\(2\)](#) substituted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **9(a)**
- F28** [Reg. 9\(3\)](#) substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(9)(b)**
- F29** [Reg. 9\(3\)\(aa\)](#) inserted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **9(b)**
- F30** [Reg. 9\(5\)](#) inserted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), regs. 1(1), **3(9)(c)**

### Commencement Information

**19** Reg. 9 in force at 28.7.2001, see **reg. 1(1)**

### Right of appeal

**10.**—(1) Where a Standards Committee determines under Regulation 9(1) above that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may [<sup>F31</sup>seek permission to] appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.

(2) [<sup>F32</sup>The application for permission to appeal] must be instigated by giving notice in writing within 21 days of receiving notification of the Standard Committee's determination [<sup>F33</sup>to the president of the Adjudication Panel for Wales]

(3) The [<sup>F34</sup>notice seeking permission to] appeal must specify:

(a) the grounds for appeal; and

[<sup>F35</sup>(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.]

[<sup>F36</sup>(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;

[ where the person seeking permission to appeal is a member or co-opted member of a [<sup>F37</sup>(aa) corporate joint committee and is also a member or co-opted member of—

(i) a constituent council of the corporate joint committee;

(ii) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,

the monitoring officer of that constituent council or National Park authority;]

(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.]

#### Textual Amendments

- F31** Words in reg. 10(1) inserted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(a)**
- F32** Words in reg. 10(2) substituted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(b)(i)**
- F33** Words in reg. 10(2) substituted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(b)(ii)**
- F34** Words in reg. 10(3) substituted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(c)(i)**
- F35** Reg. 10(3)(b) substituted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(c)(ii)**
- F36** Reg. 10(4)-(12) inserted (1.4.2016) by The Local Government (Standards Committees, Investigations, Dispensations and Referral) (Wales) (Amendment) Regulations 2016 (S.I. 2016/85), regs. 1(1), **3(10)(d)**
- F37** Reg. 10(10)(aa) inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **10**

#### Commencement Information

- I10** Reg. 10 in force at 28.7.2001, see **reg. 1(1)**

## Appeals

- 11.—**(1) Appeals from a determination of a Standards Committee will be conducted:
- (a) by an appeals tribunal consisting of not less than three members of the Adjudication Panel for Wales,
- (b) by way of an oral hearing unless every person who has given notice of appeal consents to the appeal being conducted by way of written representations in accordance with Regulation 10(3)(b) above.
- (2) The president of the Adjudication Panel for Wales (or in his absence [<sup>F38</sup>a nominated panel member]) is to appoint the members of any appeals tribunal, and the president [<sup>F39</sup>or the nominated panel member] may be a member of a tribunal.
- (3) A member of the Adjudication Panel for Wales may not at any time be a member of an appeals tribunal drawn from the Panel which is to adjudicate on a matter relating to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the member of the Panel has been a member or an officer of the

authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.

(4) A member of the Adjudication Panel for Wales who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an appeal conducted by an appeals tribunal:

- (a) must disclose the nature of his interest to the president of the Panel, and
- (b) may not be a member of the appeals tribunal which considers an appeal in relation to that matter.

(5) Subject to any express provision in these Regulations, the practice and procedure to be followed by appeals tribunals drawn from the Adjudication Panel for Wales will be such as the president of the Panel, after consultation with the [<sup>F40</sup>Welsh Ministers], will decide.

#### Textual Amendments

- F38** Words in [reg. 11\(2\)](#) substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), [regs. 1\(1\)](#), [3\(11\)\(a\)](#)
- F39** Words in [reg. 11\(2\)](#) substituted (1.4.2016) by [The Local Government \(Standards Committees, Investigations, Dispensations and Referral\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/85\)](#), [regs. 1\(1\)](#), [3\(11\)\(b\)](#)
- F40** Words in [reg. 11\(5\)](#) substituted (19.10.2009 with application in accordance with [reg. 1\(2\)](#)) by [The Local Authorities \(Case and Interim Case Tribunals and Standards Committees\) \(Amendment\) \(Wales\) Regulations 2009 \(S.I. 2009/2578\)](#), [regs. 1\(1\)](#), [4\(4\)](#)

#### Commencement Information

- I11** [Reg. 11](#) in force at 28.7.2001, see [reg. 1\(1\)](#)

### Conclusions of an appeals tribunal

12.—<sup>F41</sup>(1) An appeals tribunal must:

- (a) uphold the determination of the relevant authority's Standards Committee that any person who was subject to the investigation breached the code of conduct and either:
  - (i) endorse any penalty imposed, or
  - (ii) refer the matter back to the Standards Committee with a recommendation that a different penalty be imposed;
- or,
- (b) overturn the determination of the relevant authority's Standards Committee that any person has breached the code of conduct <sup>F42</sup>...

<sup>F42</sup> ...

<sup>F43</sup>(2) After making a decision in accordance with paragraph (1), the appeals tribunal must give notice of that decision and reasons for the decision to:

- (a) any person who is the subject of the investigation,
- (b) the Public Services Ombudsman for Wales,
- (c) the Standards Committee of the relevant authority, and
- (d) where any person subject to the investigation is a member of a corporate joint committee, and is also a member or co-opted member of—
  - (i) a constituent council of the corporate joint committee;

- (ii) a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,  
the monitoring officer of that constituent council or National Park authority.]

#### Textual Amendments

- F41** Reg. 12 renumbered as reg. 12(1) (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **11(a)**
- F42** Words in reg. 12(1) omitted (5.8.2022) by virtue of [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **11(b)**
- F43** Reg. 12(2) inserted (5.8.2022) by [The Local Government Investigations \(Functions of Monitoring Officers and Standards Committees\) \(Wales\) \(Amendment\) Regulations 2022 \(S.I. 2022/802\)](#), regs. 1, **11(c)**

#### Commencement Information

- I12** Reg. 12 in force at 28.7.2001, see [reg. 1\(1\)](#)

#### Publication

- 13.**—(1) A Standards Committee must cause to be produced within 14 days after:
- the expiry of the time allowed to lodge a notice of appeal under Regulation 10(2) above,
  - receipt of notification of the conclusion of any appeal in accordance with <sup>F44</sup>regulation 12(1)(a)(i) or (b)] above, or
  - a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under <sup>F45</sup>regulation 12(1)(a)(ii)] above,
- whichever occurs last, a report on the outcome of the investigation.<sup>F46</sup> ....
- <sup>F47</sup>(1A) The Standards Committee must send a copy of the report to:
- any person who is the subject of the investigation,
  - the Public Services Ombudsman for Wales,
  - the monitoring officer of the relevant authority concerned, and
  - where any person subject to the investigation is a member or co-opted member of a corporate joint committee, and is also a member or co-opted member of—
    - a constituent council of the corporate joint committee;
    - a National Park authority which is required by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021 to appoint a member of the corporate joint committee,  
the monitoring officer of that constituent council or National Park authority.
- (1B) The Standards Committee must also take reasonable steps to send a copy of the report to any person who made any allegation which gave rise to the investigation.]
- (2) Upon receipt of the report of the Standards Committee, the monitoring officer of the relevant authority <sup>F48</sup>concerned] shall:
- for a period of 21 days publish the report on the relevant authority’s website and make copies available for inspection by the public without charge at all reasonable hours at one

or more of the authority's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available,

- (b) supply a copy of the report to any person on request if he or she pays such charge as the relevant authority may reasonably require, and
- (c) not later than 7 days after the report is received from by the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by sub-paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

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#### Textual Amendments

- F44** Words in reg. 13(1)(b) substituted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **12(a)(i)**
- F45** Words in reg. 13(1)(c) substituted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **12(a)(ii)**
- F46** Words in reg. 13(1) omitted (5.8.2022) by virtue of The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **12(a)(iii)**
- F47** Reg. 13(1A)(1B) inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **12(b)**
- F48** Word in reg. 13(2) inserted (5.8.2022) by The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (S.I. 2022/802), regs. 1, **12(c)**

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#### Commencement Information

- I13** Reg. 13 in force at 28.7.2001, see **reg. 1(1)**

### Representation

**14.** A person who makes oral representations to a Standards Committee or who appeals against a decision of a Standards Committee to an appeals tribunal drawn from the Adjudication Panel for Wales may appear before the Committee or tribunal in person or be represented by —

- (a) counsel or a solicitor, or
- (b) any other person he or she desires.

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#### Commencement Information

- I14** Reg. 14 in force at 28.7.2001, see **reg. 1(1)**

### Costs

**15.—(1)** The Standards Committee of a relevant authority shall have no power to make an award of any costs or expenses arising from any of its proceedings.

(2) An appeals tribunal shall not normally make an order awarding costs or expenses, but may, subject to paragraph (3) , make such an order:—

- (a) against a person if it is of the opinion that that person has acted frivolously or vexatiously, or that his or her conduct in pursuing an appeal was wholly unreasonable;
  - (b) as a result of the postponement or adjournment of a hearing.
- (3) No order shall be made under paragraph (2)(a) above against a person without that person having been given an opportunity to make representations against the making of such an order.

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**Commencement Information**

**I15** [Reg. 15](#) in force at 28.7.2001, see [reg. 1\(1\)](#)

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4).

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

Section 51 of the Local Government Act 2000 (“the 2000 Act”) imposes a duty upon local authorities to adopt codes of the conduct which is expected of their members and co-opted members.

Under section 69 of the 2000 Act a Local Commissioner in 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 local authority in Wales.

Where a Local Commissioner in Wales ceases such an investigation before it is completed (under section 70(4) of the 2000 Act) he or she may refer the matter subject to the investigation to the monitoring officer of the relevant local authority.

Alternatively, where a Local Commissioner in Wales determines after investigating (under section 71(2) of the 2000 Act) that it is appropriate, he or she shall refer the matter to the monitoring officer of the relevant authority, produce a report on the outcome of the investigation and send it to the monitoring officer and the authority’s Standards Committee.

Section 73 of the 2000 Act enables the National Assembly for Wales to make regulations specifying how such referred matters are to be dealt with.

These Regulations provide that the monitoring officer of the relevant authority:

- (a) will investigate matters referred under section 70(4) before reporting and, if appropriate, making recommendations, to the relevant authority’s Standards Committee, or
- (b) where a matter has been referred under section 71(2), he or she will consider the report of the Local Commissioner in Wales, before, if appropriate, making recommendations to the relevant authority’s Standards Committee.

The Standards Committee will then make an initial determination either:

- (a) that there is no evidence of a failure to comply with the code of conduct, or
- (b) that any person who is the subject of the investigation must be given an opportunity to respond, either orally or in writing.

After considering any response made by any such person the Standards Committee must conclude that:

- (a) there is no evidence of a failure to comply with the code of conduct and no further action should be taken,
- (b) there is evidence of a failure to comply with the code of conduct but no further action should be taken, or
- (c) there is evidence of a failure to comply with the code of conduct and a member or co-opted member (or former member or co-opted member) should be censured or suspended,

and take any such action accordingly.

The decision of the Standards Committee is subject to a right of appeal to an appeals tribunal drawn from the Adjudication Panel for Wales.

An appeals tribunal may endorse the determination of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the determination.

The Regulations also provide for a report upon the outcome of the investigation to be produced and published.



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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001. (See end of Document for details)*

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001.