
WELSH STATUTORY INSTRUMENTS

2006 No. 1275

The Local Authorities (Standing Orders) (Wales) Regulations 2006

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authorities (Standing Orders) (Wales) Regulations 2006 and they come into force on 3 July 2006.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 1989 Act” (“*Ddeddf 1989*”) means the Local Government and Housing Act 1989;

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000⁽¹⁾;

“the 1993 Regulations” (“*Rheoliadau 1993*”) means the Local Authorities (Standing Orders) Regulations 1993⁽²⁾;

“alternative arrangements” (“*drefniadau amgen*”) has the same meaning as in Part II of the 2000 Act (arrangements with respect to executives etc.);

“chief officer” (“*prif swyddog*”), in relation to a relevant authority, means—

- (a) the head of its paid service;
- (b) its monitoring officer;
- (c) a statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
- (d) a non-statutory chief officer (within the meaning of section 2(7) of the 1989 Act);

and any reference to an appointment or purported appointment of a chief officer includes a reference to the engagement or purported engagement of such an officer under a contract of employment;

“chief finance officer” (“*prif swyddog cyllid*”) means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972⁽³⁾ (financial administration) for the administration of the local authority’s financial affairs;

“council manager” (“*rheolwr cyngor*”) has the same meaning as in section 11(4)(b) of the 2000 Act;

“disciplinary action” (“*camau disgyblu*”) in relation to a member of staff of a relevant authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a

(1) 2000 c. 22.
(2) S.I.1993/202.
(3) 1972 c. 70.

contract of employment for a fixed term unless the relevant authority has undertaken to renew such a contract;

“elected mayor” (“*maer etholedig*”), “executive” (“*corff gweithredol*”), “executive arrangements” (“*trefniadau gweithredol*”) and “executive leader” (“*arweinydd gweithredol*”) have the same meaning as in Part II of the 2000 Act;

“head of the authority’s paid service” (“*pennaeth gwasanaeth taledig yr awdurdod*”) means the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service);

“member of staff” (“*aelod o'r staff*”) means a person appointed to or holding a paid office or employment, under a relevant authority;

“monitoring officer” (“*swyddog monitro*”) means the officer designated under section 5(1) of the 1989 Act⁽⁴⁾ (designation and reports of monitoring officer);

“relevant authority” (“*awdurdod perthnasol*”) means a county council or county borough council in Wales;

“relevant joint committee” (“*cydbwyllgor perthnasol*”), in relation to a relevant authority, means a joint committee on which the relevant authority is represented; and

“working day” (“*diwrnod gwaith*”) means any day which is not a Saturday, a Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday in Wales or a day appointed for public thanksgiving or mourning (and “bank holiday” means a day to be observed as such under section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971⁽⁵⁾).

Standing orders relating to chief officers

3. No later than the first ordinary meeting of the relevant authority falling after the day on which these Regulations come into force, the relevant authority must, in respect of the appointment of its chief officers—

- (a) make standing orders incorporating—
 - (i) the provisions set out in Part 1 of Schedule 1 to these Regulations, or
 - (ii) provisions to the like effect, or
 - (iii) provisions incorporating the effect of those provisions modified as provided in Part 2 of that Schedule; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions;

and must not thereafter vary standing orders so made or modified other than by way of incorporating provision having effect as described in Part 2 of that Schedule or provisions to the like effect.

Standing Orders relating to Meetings and Proceedings

4.—(1) No later than the first ordinary meeting of the relevant authority falling after the day on which these Regulations come into force, the relevant authority must, in respect of the matters mentioned in paragraph (2)—

- (a) make standing orders incorporating the provisions set out in Schedule 2 to these Regulations, or provisions to the like effect; and

⁽⁴⁾ Subsection (1) of section 5 (as amended).

⁽⁵⁾ 1971 c. 80.

- (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions.
- (2) The matters referred to in paragraph (1) are—
 - (a) the recording of votes of the relevant authority or any of its committees or sub-committees, or of any relevant joint committee, or sub-committee of such a committee; and
 - (b) the signing of minutes of the relevant authority.

Executive arrangements- standing orders relating to staff

5.—(1) Subject to paragraph (3) of regulation 11, where a relevant authority operates executive arrangements under Part II of the 2000 Act, it must upon the coming into force of these Regulations:

- (a) where a relevant authority's executive takes the form specified in section 11(2) of the 2000 Act (mayor and cabinet executive), incorporate in standing orders relating to its staff⁽⁶⁾ the provisions set out in Part 1 of Schedule 3 or provisions to the like effect;
- (b) where its executive takes the form specified in section 11(3) of the 2000 Act (leader and cabinet executive), incorporate in standing orders relating to its staff the provisions set out in Part 2 of Schedule 3 or provisions to the like effect;
- (c) where its executive takes the form specified in section 11(4) of the 2000 Act (mayor and council manager executive), incorporate in standing orders relating to its staff the provisions set out in Part 3 of Schedule 3 or provisions to the like effect; and
- (d) modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraphs (a), (b) and (c).

(2) A relevant authority which has incorporated provisions in standing orders pursuant to paragraph (1) must, where it proposes to change its executive arrangements so that its executive will take a different form, make variations to its standing orders to the extent necessary to conform with the provisions referred to in sub-paragraph (a), (b), (c) or (d) of paragraph (1), as the case may be, on or before the date on which it starts to operate those changed executive arrangements.

Alternative arrangements- standing orders relating to staff

6. Subject to paragraph (3) of regulation 11, a relevant authority operating alternative arrangements under Part II of the 2000 Act must—

- (a) incorporate in standing orders relating to its staff the provisions set out in Part 4 of Schedule 3 or provisions to the like effect; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with the provisions referred to in sub-paragraph (a).

Standing orders relating to staff

7. Where a relevant authority has standing orders incorporating the provisions in paragraph 4(1) of Part 1, paragraph 4(1) of Part 2 or paragraph 4 of Part 4 of Schedule 3 (or provisions to the like effect), the power to approve the appointment or dismissal of the head of the authority's paid service must be exercised by the relevant authority itself and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the exercise of that power.

(6) See paragraph 42 of Schedule 12 to the Local Government Act 1972.

Standing orders in respect of disciplinary action

8. No later than the first ordinary meeting of the relevant authority falling after the day on which these Regulations come into force, a relevant authority must, in respect of disciplinary action against the head of the authority's paid service, its monitoring officer or its chief finance officer—

- (a) incorporate in standing orders the provisions set out in Schedule 4 or provisions to the like effect; and
- (b) modify any of its existing standing orders in so far as is necessary to conform with those provisions.

Investigation of alleged misconduct

9.—(1) Subject to paragraph (11), where, after a relevant authority has incorporated provisions in standing orders pursuant to regulation 8, it appears to the relevant authority that an allegation of misconduct which may lead to disciplinary action has been made against—

- (a) the head of the authority's paid service;
- (b) its monitoring officer; or
- (c) its chief finance officer,

(“*the relevant officer*”), as the case may be, the relevant authority must appoint a committee (“*an investigation committee*”) to consider the alleged misconduct.

(2) The investigation committee must:

- (a) consist of a minimum of 3 members of the relevant authority;
- (b) be politically balanced in accordance with section 15 of the 1989 Act; and

must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.

(3) For the purpose of considering the allegation of misconduct, the investigation committee:

- (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
- (b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and
- (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.

(4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person (“*the designated independent person*”) for the purposes of the standing order which incorporates the provisions in Schedule 4 (or provisions to the like effect).

(5) The designated independent person who is appointed—

- (a) must be such person as may be agreed between the relevant authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
- (b) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.

(6) The designated independent person—

- (a) may direct—
 - (i) that the relevant authority terminate any suspension of the relevant officer;

- (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 3 of Schedule 4 (or in provisions to the like effect);
 - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
 - (iv) that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the relevant authority) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d);
- (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the relevant authority, or which the relevant authority has power to authorise the designated independent person to inspect;
 - (c) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;
 - (d) must make a report to the relevant authority—
 - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
 - (ii) recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer, and
 - (e) must no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.

(7) Subject to paragraph (8), the relevant officer and relevant authority must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

(8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

(9) The relevant authority must consider the report prepared under paragraph (6) (d) within 1 month of receipt of that report.

(10) A relevant authority must pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this regulation.

(11) This regulation does not apply in relation to the head of the authority's paid service if that person is also the council manager of the relevant authority(7).

Revocation of the 1993 Regulations

10. The 1993 Regulations are hereby revoked in relation to Wales save in so far as they apply to National Park Authorities in Wales.

Transitional and consequential provisions

11.—(1) Subject to paragraph (2), where a relevant authority has made standing orders incorporating the provisions set out in paragraph 4 of Part 1 of Schedule 1 to the 1993 Regulations (or provisions to the like effect), then until the relevant authority incorporates into those standing order provisions in accordance with regulation 8, regulation 9 applies in relation to those standing

(7) Neither a monitoring officer nor a chief finance officer of an authority may be a council manager. See paragraph 13(b) and (c) of Schedule 1 to the 2000 Act.

orders in respect of the head of the authority's paid service, as it would in relation to standing orders which incorporate provisions in accordance with regulation 8.

(2) Anything which, before the date on which the relevant authority incorporate provisions in standing orders in accordance with regulation 8, was being done by, to or in relation to an officer in accordance with—

- (a) regulation 3 of the 1993 regulations;
- (b) the provisions set out in paragraph 4 of Part 1 of Schedule 1 to the 1993 Regulations (or provisions to the like effect) incorporated in the relevant authority's standing orders; or
- (c) regulation 9 as applied by paragraph (1),

may be continued after that date by, to or in relation to that officer in accordance with the provisions referred to in sub-paragraphs (a), (b) or (c), as the case may be.

(3) A relevant authority must comply with the requirements of regulation 5 or, as the case may be, regulation 6 as soon as reasonably practicable after the coming into force of these Regulations.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8)

9 May 2006

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