



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2009 Rhif 2578 (Cy.209)

2009 No. 2578 (W.209)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

Rheoliadau Awdurdodau Lleol
(Tribiwnlysoedd Achos a
Thribiwnlysoedd Achos Interim a
Phwyllgorau Safonau) (Diwygio)
(Cymru) 2009

The Local Authorities (Case and
Interim Case Tribunals and
Standards Committees)
(Amendment) (Wales) Regulations
2009

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn diwygio Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001 ("Rheoliadau'r Phwyllgorau Safonau") a Rheoliadau Dyfarniadau gan Dribiwnlysoedd Achos a Thribiwnlysoedd Achos Interim (Cymru) 2001 ("Rheoliadau'r Tribiwnlysoedd Achos").

These Regulations, which apply in relation to Wales, amend the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 ("the Standards Committees Regulations") and the Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001 ("the Case Tribunals Regulations").

Mae Rhan 3 o Ddeddf Llywodraeth Leol 2000 ("Deddf 2000") yn gwneud darpariaeth i gynghorau sir a chynghorau bwrdeistref sirol, cynghorau cymuned, awdurdodau tân ac achub, awdurdodau heddlu ac awdurdodau Parciau Cenedlaethol yng Nghymru ("awdurdodau perthnasol") fabwysiadu cod ymddygiad ar gyfer aelodau ac aelodau cyfetholedig ac yn gwneud darpariaeth i Ombwdsmon Gwasanaethau Cyhoeddus Cymru ("yr Ombwdsmon") ymchwilio i achosion lle yr honnir bod aelod neu aelod cyfetholedig (neu aelod blaenorol neu aelod cyfetholedig blaenorol) awdurdod perthnasol wedi methu, neu y gallai fod wedi methu, cydymffurfio â chod ymddygiad yr awdurdod.

Part 3 of the Local Government Act 2000 ("the 2000 Act") makes provision for the adoption by county and county borough councils, community councils, fire and rescue authorities, police authorities and National Park authorities in Wales ("relevant authorities") of a code of conduct for members and co-opted members and for the investigation by the Public Services Ombudsman for Wales ("the Ombudsman") of cases in which it is alleged that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed, or may have failed, to comply with the authority's code of conduct.

Os bydd yr Ombwdsmon yn rhoi'r gorau i ymchwiliad o'r fath cyn i'r ymchwiliad gael ei gwblhau (o dan adran 70(4) o Ddeddf 2000) caniateir iddo gyfeirio'r mater sy'n destun yr ymchwiliad i swyddog monitro yr awdurdod perthnasol. Ar y llaw arall, o dan adran 71(2) o Ddeddf 2000, os yw'r Ombwdsmon yn

Where the Ombudsman 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 authority. Alternatively, under section 71(2) of the 2000 Act, where the Ombudsman determines after

penderynu ar ôl ymchwilio y dylai gyfeirio'r mater i swyddog monitro'r awdurdod perthnasol, rhaid iddo lunio adroddiad ar ganlyniad yr ymchwiliad a'i anfon at swyddog monitro'r awdurdod a'r pwyllgor safonau. Mae adran 73 o Ddeddf 2000 yn galluogi Gweinidogion Cymru i wneud rheoliadau sy'n pennu sut y mae awdurdodau perthnasol heblaw awdurdodau heddlu yng Nghymru i ymdrin â'r materion hynny a gyfeiriwyd atynt. Mae Rheoliadau'r Pwyllgorau Safonau yn gwneud darpariaeth ar gyfer swyddogaethau swyddogion monitro a phenderfyniadau pwyllgorau safonau.

Yn dilyn ymchwiliad gan yr Ombwdsmon, caniateir iddo benderfynu y dylid cyfeirio'r materion sydd yn destun yr ymchwiliad at lywydd Panel Dyfarnu Cymru i'w dyfarnu gan driwlynys sy'n dod o fewn adran 76(1) o Ddeddf 2000 ("tribiwnlys achos"). Mewn amgylchiadau penodol caniateir i'r Ombwdsmon, cyn cwblhau ymchwiliad, lunio adroddiad interim a chyfeirio'r materion sydd yn destun yr adroddiad at lywydd Panel Dyfarnu Cymru i'w dyfarnu gan driwlynys sy'n dod o fewn adran 76(2) o Ddeddf 2000 ("tribiwnlys achos interim"). Mae Rheoliadau'r Tribiwnlysoedd Achos, a gafodd eu gwneud o dan adran 77(4) a (6) o Ddeddf 2000 yn gwneud darpariaeth ynglŷn â dyfarniadau gan driwlynlysoedd achos a thribiwnlysoedd achos interim.

Mae rheoliad 4(2) yn disodli rheoliad 8(2) a (3) o Reoliadau'r Pwyllgorau Safonau gan roi darpariaethau newydd o ran swyddogaethau'r Ombwdsmon a'r swyddogion monitro yng ngwrandawliadau pwyllgorau safonau.

Gwneir mân ddiwygiadau eraill i Reoliadau'r Pwyllgorau Safonau.

Mae rheoliad 6(1) yn hepgor y diffiniad o "swyddog ymchwilio" ym mharagraff 1 o'r Atodlen i Reoliadau'r Tribiwnlysoedd Achos. Mae hyn yn digwydd o ganlyniad i ddiwygio rheoliad 6(2).

Mae rheoliad 6(2) yn disodli paragraff 9 o'r Atodlen i Reoliadau'r Tribiwnlysoedd Achos (presenoldeb swyddogion ymchwilio) gan roi darpariaethau newydd o ran swyddogaethau Ombwdsmon yng ngwrandawliadau triwlynlysoedd achos a thribiwnlysoedd achos interim.

Mae rheoliad 6(3) yn diwygio paragraff 16 o'r Atodlen i Reoliadau'r Tribiwnlysoedd Achos drwy ddileu darpariaeth ddiangen ynghylch presenoldeb aelodau o'r Cyngor Tribiwnlysoedd blaenorol a thrwy wneud darpariaeth i gynrychiolydd swyddog monitro i fynychu gwrandawliadau triwlynlysoedd achos a thribiwnlysoedd achos interim.

investigating that he or she should refer the matter to the monitoring officer of the relevant authority, he or she must produce a report on the outcome of the investigation and send it to the authority's monitoring officer and standards committee. Section 73 of the 2000 Act enables the Welsh Ministers to make regulations specifying how such referred matters are to be dealt with by relevant authorities other than police authorities in Wales. The Standards Committees Regulations make provision for the functions of monitoring officers and the determinations of standards committees.

Following an investigation by the Ombudsman, he or she may determine that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1) of the 2000 Act ("a case tribunal"). In certain circumstances the Ombudsman may, before completion of an investigation, produce an interim report and refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2) of the 2000 Act ("an interim case tribunal"). The Case Tribunals Regulations, which were made under section 77(4) and (6) of the 2000 Act, make provision with respect to adjudications by case tribunals and interim case tribunals.

Regulation 4(2) replaces regulation 8(2) and (3) of the Standards Committees Regulations with new provisions as to the roles of the Ombudsman and monitoring officers at hearings of standards committees.

Other minor amendments are made to the Standards Committees Regulations.

Regulation 6(1) omits the definition of "investigating officer" in paragraph 1 of the Schedule to the Case Tribunals Regulations. This is a consequence of the amendment in regulation 6(2).

Regulation 6(2) replaces paragraph 9 of the Schedule to the Case Tribunals Regulations (attendance of investigating officers) with new provisions as to the role of the Ombudsman at hearings of case tribunals and interim case tribunals.

Regulation 6(3) amends paragraph 16 of the Schedule to the Case Tribunals Regulations by deleting an unnecessary provision concerning attendance by members of the former Council on Tribunals and by making provision for the representative of a monitoring officer to attend hearings of case tribunals and interim case tribunals.

2009 Rhif 2578 (Cy.209)

**LLYWODRAETH LEOL,
CYMRU**

Rheoliadau Awdurdodau Lleol
(Tribiwnlysoedd Achos a
Thribiwnlysoedd Achos Interim a
Phwyllgorau Safonau) (Diwygio)
(Cymru) 2009

Gwnaed 19 Medi 2009

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Medi 2009

Yn dod i rym 19 Hydref 2009

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 73, 77(4) a 105 o Ddeddf Llywodraeth Leol 2000(1) ac sydd bellach wedi'u breinio ynddynt(2), ac ar ôl ymgynghori â'r Cyngor Cyfiawnder Gweinyddol a Thribiwnlysoedd yn unol â pharagraff 24 o Atodlen 7 i Ddeddf Tribiwnlysoedd, Llysoedd a Gorfod 2007(3):

Enwi, cychwyn a chymhwys

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Tribiwnlysoedd Achos a Thribiwnlysoedd Achos Interim a Phwyllgorau Safonau) (Diwygio) (Cymru) 2009 a deuant i rym ar 19 Hydref 2009.

(2) Mae'r Rheoliadau hyn yn gymwys i wrandawriad gan—

- (a) tribiwnlys achos neu dribiwnlys achos interim o dan Reoliadau'r Tribiwnlys Achos; a
- (b) pwyllgor safonau o dan Reoliadau'r Pwyllgorau Safonau,

(1) 2000 p. 22.

(2) Yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32) mae'r swyddogaethau a oedd gynt yn arferadwy gan Gynulliad Cenedlaethol Cymru bellach wedi'u breinio yng Ngweinidogion Cymru.

(3) 2007 p. 15.

2009 No. 2578 (W.209)

**LOCAL GOVERNMENT,
WALES**

The Local Authorities (Case and
Interim Case Tribunals and
Standards Committees)
(Amendment) (Wales) Regulations
2009

Made 19 September 2009

*Laid before the National
Assembly for Wales* 25 September 2009

Coming into force 19 October 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon the National Assembly for Wales by sections 73, 77(4) and 105 of the Local Government Act 2000(1) and now vested in them(2), and after consultation with the Administrative Justice and Tribunals Council in accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(3):

Title, commencement and application

1.—(1) The title of these Regulations is The Local Authorities (Case and Interim Case Tribunals and Standards Committees) (Amendment) (Wales) Regulations 2009 and they come into force on 19 October 2009.

(2) These Regulations apply to a hearing by—

- (a) a case tribunal or an interim case tribunal under the Case Tribunal Regulations; and
- (b) a standards committee under the Standards Committees Regulations,

(1) 2000 c. 22.

(2) By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) the functions formerly exercisable by the National Assembly for Wales are now vested in the Welsh Ministers.

(3) 2007 c. 15.

sy'n dechrau ar neu ar ôl 19 Hydref 2009.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "Rheoliadau'r Pwyllgorau Safonau" ("*the Standards Committees Regulations*") yw Rheoliadau Ymchwiliadau Llywodraeth Leol (Swyddogaethau Swyddogion Monitro a Phwyllgorau Safonau) (Cymru) 2001(1);

ystyr "Rheoliadau'r Tribiwnlysoedd Achos" ("*the Case Tribunals Regulations*") yw Rheoliadau Dyfarniadau gan Dribiwnlysoedd Achos a Thribiwnlysoedd Achos Interim (Cymru) 2001(2).

Diwygion Rheoliadau'r Pwyllgorau Safonau

3. Diwygier Rheoliadau'r Pwyllgorau Safonau yn unol â rheoliad 4.

4.—(1) Yn rheoliad 4(4)(b), yn lle "gan Gynulliad Cenedlaethol Cymru" rhodder "gan Weinidogion Cymru".

(2) Yn lle rheoliad 8(2) a (3) rhodder—

(2) Mae paragraffau (3) i (3CH) yn gymwys—

- (a) mewn cysylltiad ag Ombwdsmon Gwasanaethau Cyhoeddus Cymru mewn achos o ymchwiliad yr ymgymerir ag ef gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru ac a gyfeiriwyd at swyddog monitro'r awdurdod perthnasol o dan adran 71(2) o Ddeddf 2000; a
- (b) mewn cysylltiad â swyddog monitro'r awdurdod perthnasol mewn achos o ymchwiliad a gyfeiriwyd at y swyddog monitro o dan adran 70(4) o Ddeddf 2000.

(3) Mae gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru a'r swyddog monitro yr hawl i fod yn bresennol gerbron y Pwyllgor Safonau at ddibenion—

- (a) cyflwyno'r adroddiad a/neu esbonio unrhyw un neu unrhyw rai o'r materion sydd ynddo; a
- (b) fel arall chwarae'r cyfryw ran neu gynorthwyo'r Pwyllgor Safonau ag y mae'r Pwyllgor Safonau yn ystyried ei bod yn briodol.

which begins on or after 19 October 2009.

Interpretation

2. In these Regulations—

"the Case Tribunals Regulations" ("*Rheoliadau'r Tribiwnlyys Achos*") means the Adjudications by Case Tribunals and Interim Case Tribunals (Wales) Regulations 2001(1);

"the Standards Committees Regulations" ("*Rheoliadau'r Pwyllgorau Safonau*") means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001(2).

Amendment of the Standards Committees Regulations

3. The Standards Committees Regulations are amended in accordance with regulation 4.

4.—(1) In regulation 4(4)(b), for "National Assembly for Wales" substitute "Welsh Ministers".

(2) For regulation 8(2) and (3) substitute—

"(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.

(1) O.S. 2001/2281 (Cy.171) fel y'i diwygiwyd gan O.S. 2005/761 (Cy.65), 2005/2929 (Cy.214) a 2006/362 (Cy.48).

(2) O.S. 2001/2288 (Cy.176) fel y'i diwygiwyd gan O.S. 2006/362 (Cy.48).

(1) S.I. 2001/2288 (W.176) as amended by S.I. 2006/362 (W.48).

(2) S.I. 2001/2281(W.171) as amended by S.I. 2005/761 (W.65), 2005/2929 (W.214) and 2006/362 (W.48).

(3A) Caniateir i'r Pwyllgor Safonau wneud cais i Ombwdsmon Gwasanaethau Cyhoeddus Cymru neu'r swyddog monitro fod yn bresennol ger ei fron at ddibenion—

- (a) cyflwyno'r adroddiad a/neu esbonio unrhyw un neu unrhyw rai o'r materion sydd ynddo; a
- (b) fel arall chwarae'r cyfryw ran neu gynorthwyo'r Pwyllgor Safonau ag y mae'r Pwyllgor Safonau yn ystyried ei bod yn briodol.

(3B) Rhaid peidio â gwrthod yn afresymol gais a wneir o dan baragraff (3A) ac os gwrthodir cais o'r fath rhaid i Ombwdsmon Gwasanaethau Cyhoeddus Cymru neu'r swyddog monitro roi rhesymau ysgrifenedig i'r Pwyllgor Safonau am beidio â chydymffurfio â'r cais i fod yn bresennol.

(3C) Bydd y presenoldeb hwnnw'n digwydd pan fydd Pwyllgor Safonau awdurdod perthnasol yn ystyried unrhyw sylwadau a wnaed gan y person sy'n destun yr ymchwiliad neu, os na wnaed sylwadau o'r fath, ar unrhyw adeg resymol.

(3CH) Caniateir i Ombwdsmon Gwasanaethau Cyhoeddus Cymru a'r swyddog monitro gael eu cynrychioli gan gwsler neu gan gyfreithiwr."

(3) Yn rheoliad 10(2), yn lle "Yr Is-adran Moderneiddio Llywodraeth Leol Cynulliad Cenedlaethol Cymru Parc Cathays Caerdydd CF10 3NQ" rhodder—

"Y Llywydd

Panel Dyfarnu Cymru

Llywodraeth Cynulliad Cymru

Parc Cathays

Caerdydd

CF10 3NQ."

(4) Yn rheoliad 11(5), yn lle "ymgyngori â Chynulliad Cenedlaethol Cymru" rhodder "ymgyngori â Gweinidogion Cymru".

Diwygio Rheoliadau'r Tribiwnlysoedd Achos

5. Diwygier yr Atodlen i Reoliadau'r Tribiwnlysoedd Achos yn unol â rheoliad 6.

6.—(1) Ym mharagraff 1, hepgorer y geiriau "ystyr "swyddog ymchwilio" ("*investigating officer*") yw person a gynhaliodd yr ymchwiliad a arweiniodd at y cyfeiriad at Banel Dyfarnu Cymru o dan adran 71(3) neu 72(4) o'r Ddeddf".

(2) Yn lle paragraff 9 (presenoldeb swyddogion ymchwilio) rhodder—

(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."

(3) In regulation 10(2), for "Local Government Modernisation Division National Assembly for Wales Cathays Park Cardiff CF10 3NQ" substitute—

"The President

Adjudication Panel for Wales

Welsh Assembly Government

Cathays Park

Cardiff

CF10 3NQ."

(4) In regulation 11(5), for "National Assembly for Wales" substitute "Welsh Ministers".

Amendment of the Case Tribunals Regulations

5. The Schedule to the Case Tribunals Regulations is amended in accordance with regulation 6.

6.—(1) In paragraph 1, omit the words ""investigating officer" ("*swyddog ymchwilio*") means a person who carried out the investigation which gave rise to the reference to the Adjudication Panel for Wales under section 71(3) or 72(4) of the Act".

(2) For paragraph 9 (attendance of investigating officers) substitute—

"Presenoldeb Ombwdsmon Gwasanaethau Cyhoeddus Cymru

9.—(1) Mae gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru yr hawl i fod yn bresennol, a chaniateir i'r tribiwnlys wneud cais i Ombwdsmon Gwasanaethau Cyhoeddus Cymru fod yn bresennol, mewn gwrandawriad dyfarnu at ddibenion—

- (a) cyflwyno'r adroddiad a/neu esbonio unrhyw un neu unrhyw rai o'r materion sydd ynddo; a
- (b) fel arall chwarae'r cyfryw ran neu gynorthwyo'r tribiwnlys yn y gwrandawriad ag y mae'r tribiwnlys yn ystyried ei bod yn briodol.

(2) Rhaid peidio â gwrthod yn afresymol gais a wneir o dan is-baragraff (1) ac os gwrthodir cais o'r fath rhaid i Ombwdsmon Gwasanaethau Cyhoeddus Cymru roi rhesymau ysgrifenedig i'r tribiwnlys am beidio â chydymffurfio â'r cais i fod yn bresennol mewn gwrandawriad.

(3) Caniateir i Ombwdsmon Gwasanaethau Cyhoeddus Cymru gael ei gynrychioli gan gwmsler neu gyfreithiwr."

(3) Ym mharagraff 16(2)—

- (a) hepgorer is-baragraff (b);
- (b) yn is-baragraff (ch), ar ôl "ohono" mewnosoder "neu gynrychiolydd y swyddog monitro".

"Attendance of the Public Services Ombudsman for Wales

9.—(1) The Public Services Ombudsman for Wales is entitled to attend, and the tribunal may request the Public Services Ombudsman for Wales to attend, the hearing of an adjudication 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 tribunal at the hearing as the tribunal considers appropriate.

(2) A request under sub-paragraph (1) must not be unreasonably refused and if such request is refused the Public Services Ombudsman for Wales must give reasons in writing to the tribunal for not complying with a request to attend a hearing.

(3) The Public Services Ombudsman for Wales may be represented by counsel or a solicitor."

(3) In paragraph 16(2)—

- (a) omit sub-paragraph (b);
- (b) in sub-paragraph (d), after "co-opted member" insert "or the representative of the monitoring officer".

Brian Gibbons

Y Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol, un o Weinidogion Cymru

Minister for Social Justice and Local Government, one of the Welsh Ministers

19 Medi 2009

19 September 2009

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