
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Standards Committees (Wales) Regulations 2001 (2001/2283 (W. 172)) (“the Standards Committee Regulations”), the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (2001/2281 (W. 171)) (“the Functions Regulations”), and the Standards Committees (Grant of Dispensations) (Wales) Regulations 2001 (2001/2279 (W. 169)) (“the Dispensations Regulations”) to implement changes in operation of the system governing member conduct with the aim of improving local democracy.

Regulation 2 amends the Standards Committee Regulations and makes provision:

- amending existing provisions to facilitate the operation of joint standards committees;
- amending existing provisions relating to the length of the term of office of members of standards committees; and
- clarifying that a relevant authority is exempt from making the report or recommendations of an investigation available for public inspection until misconduct proceedings are concluded.

Regulation 3 amends the Functions Regulations and includes provision:

- enabling a monitoring officer and a standards committee of one authority to refer a report or recommendations of the monitoring officer to the standards committee of another authority for determination; and
- detailing the procedure for appealing against the decision of a standards committee.

Regulation 4 amends the Dispensations Regulations 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, county and county borough councils, fire and rescue authorities and National Park authorities, but not for this purpose, community councils, 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.

In accordance with section 53(11) of the 2000 Act, the Welsh Ministers 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 any sub-committees established under sections 54A or 56 of the 2000 Act.

Regulation 2 amends the Standard Committees Regulations to facilitate the operation of joint standards committees. It makes provision for the appointment of community committee and independent members to a joint standards committee; it limits the number of executive members of

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a joint standards committee; and it makes provision ensuring that every meeting of a joint standards committee is attended by a monitoring officer of one of the constituent relevant authorities. In accordance with the amendments in regulation 2 the functions of a standards committee within regulations 13 to 17 of the Standards Committee Regulations may, in the case of a joint standards committee, be discharged by any one of the constituent relevant authorities of a joint standards committee.

Provision is also made within regulation 2 amending the length of the term of office of members of standards committees.

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 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 to 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 misconduct proceedings under the Functions Regulations are concluded. The regulation also sets out the events that will signify the end of the proceedings and which 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 Functions Regulations set out the responsibilities of the monitoring officer and the standards committee in relation to 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 section 73 of the 2000 Act so as to allow the Welsh Ministers to make provision enabling a monitoring officer or a standards committee to refer a report or recommendations relating to a misconduct investigation to the standards committee of another relevant authority. Regulation 3 amends the Functions Regulations to set out the procedure to be followed when making such a referral.

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 an application for permission to appeal are also set out in within the regulation.

Regulation 4

Regulation 4 amends the Dispensations Regulations so an application by a member for a dispensation can be referred to the standards committee of another relevant authority for determination. The regulation also makes provision for an additional category of general dispensation.

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The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Local Government Democracy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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