

2009 No. 2578(W.209)

**LOCAL GOVERNMENT,
WALES**

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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”).

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.

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 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.

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(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

(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.

(b) a standards committee under the Standards Committees Regulations,
which begins on or after 19 October 2009.

Interpretation

2. In these Regulations—

“the Case Tribunals Regulations” (*“Rheoliadau’r Tribiwnlys 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) 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) 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—

“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

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

19 September 2009