

NATIONAL ASSEMBLY FOR WALES

S T A T U T O R Y I N S T R U M E N T S

2006 No. (W.)

**LOCAL GOVERNMENT,
WALES**

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under sections 8, 20 and 190 of the Local Government and Housing Act 1989 (“the 1989 Act”) and require relevant authorities to incorporate into their standing orders certain provisions relating to their staff, meetings and proceedings.

Regulation 3 and Schedule 1 require relevant authorities to make such provision in relation to the appointment of chief officers. Regulation 4 and Schedule 2 require standing orders to be made in relation to the recording of votes, and the signing of minutes at extraordinary meetings.

Relevant authorities in Wales are required to make or modify standing orders so that they include the provisions set out in the Regulations, or provisions to the like effect.

Part II of the Local Government Act 2000 (“the 2000 Act”) provides for local authorities to draw up proposals for the operation of executive arrangements (under which certain functions of the authority are the responsibility of an executive) or, in the case of certain authorities, for the operation of alternative arrangements. In the case of executive arrangements, the local authority’s executive must take one of the forms specified in section 11 of the 2000 Act.

A relevant authority which operates executive arrangements must have standing orders relating to its staff which include the provisions set out in Schedule 3. The standing orders must be the appropriate ones for the particular form that the executive takes (as set out in different Parts of Schedule 3) and, if that form

changes, the standing orders must be varied accordingly (regulation 5).

A relevant authority which is operating alternative arrangements must have standing orders relating to its staff which include the provisions set out in Part 4 of Schedule 3 (or provisions to the like effect) (regulation 6).

Appointment, discipline, suspension and dismissal of teachers and other school staff employed by the local education authority are not dealt with in these Regulations but in regulations made under section 35(4) and (5) of the Education Act 2002 (see, at present, the School Staffing (Wales) Regulations 2006 (S.I. 2006/ (W.)).

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, make standing orders incorporating the provisions set out in Schedule 4 (or provisions to the like effect). Such standing orders must be made no later than the first ordinary meeting of the relevant authority falling after the day on which these Regulations come into force (regulation 8).

Regulation 9 provides for consideration by an investigation committee of an allegation of misconduct made against the head of the authority's paid service (unless the head of the authority's paid service is the authority's council manager), its monitoring officer or its chief finance officer and prescribes a procedure for further investigation by an independent person, which is to be followed, where there is alleged to have been misconduct by the head of the authority's paid service, its monitoring officer or its chief finance officer which the investigation committee, having considered the matter, consider should be further investigated. Similar provisions were included in the Local Authorities (Standing Orders) Regulations 1993 ("the 1993 Regulations") in relation to the head of the authority's paid service. Following the relevant authority's consideration of the report prepared under paragraph (6)(d), the relevant authority must then comply with the relevant statutory procedures for disciplinary hearings.

Regulation 10 revokes the 1993 Regulations in so far as they extend to Wales (but not in relation to a National Park authority in Wales).

Regulation 11 contains transitional provisions in relation to existing standing orders for disciplinary action made under the 1993 Regulations.

2006 No. (W.)

**LOCAL GOVERNMENT,
WALES**

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

Made 2006

Coming into force 3 July 2006

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by sections 8, 20 and 190 of the Local Government and Housing Act 1989⁽¹⁾ and which are now vested in the National Assembly for Wales so far as exercisable in relation to Wales⁽²⁾.

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

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000⁽³⁾;

“the 1993 Regulations” (“*Rheoliadau 1993*”) means the Local Authorities (Standing Orders) Regulations 1993⁽⁴⁾;

⁽¹⁾ 1989 c. 42. Section 8 was amended by S.I. 2002/803 (W. 88).
⁽²⁾ The functions of the Secretary of State under sections 8, 20 and 190 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Local Government and Housing Act 1989.
⁽³⁾ 2000 c.22.
⁽⁴⁾ S.I. 1993/202.

“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⁽¹⁾ (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 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;

(1) 1972 c.70.

“monitoring officer” (“*swyddog monitro*”) means the officer designated under section 5(1) of the 1989 Act⁽¹⁾ (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⁽²⁾).

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

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- (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) —

(1) Subsection (1) of section 5 (as amended).
(2) 1971 c.80.

- (a) make standing orders incorporating the provisions set out in Schedule 2 to these Regulations, 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.
- (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⁽¹⁾ 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

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

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.

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⁽¹⁾.

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 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.

⁽¹⁾ 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.

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

Date

The Presiding Officer of the National Assembly

⁽¹⁾ 1998 c.38.

SCHEDULE 1
STANDING ORDERS RELATING TO
CHIEF OFFICERS

Regulation 3

PART 1
Prescribed Standing Orders

“Appointments

1. Where the relevant authority proposes to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006), and it is not proposed that the appointment be made exclusively from among its existing officers, it must—

- (a) draw up a statement specifying —
 - (i) the duties of the officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

2.—(1) Where a post has been advertised as provided in paragraph 1(b), the relevant authority must —

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, or if the relevant authority decide to re-advertise the appointment, the relevant authority may make further arrangements for advertisement in accordance with paragraph 1(b).”

PART 2

Authorised Variations

1. The standing orders may provide that —

- (a) the steps taken under paragraph 1 or 2 above may be taken by a committee, sub-committee or chief officer of the relevant authority;
- (b) any chief officer may be appointed by a committee or sub-committee of the relevant authority, or a relevant joint committee.

2. The standing orders may provide that where the duties of a chief officer include the discharge of functions of two or more relevant authorities in pursuance of section 101(5) of the Local Government Act 1972 —

- (a) the steps taken under paragraph 1 or 2 above may be taken by a joint committee of those relevant authorities, a sub-committee of that committee or a chief officer of any of the relevant authorities concerned; and
- (b) any chief officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those relevant authorities.

3. There may be excluded from the application of paragraph 1 and 2 —

- (a) any appointment of a non-statutory chief officer (within the meaning of section 2(7)(a) or (b) of the 1989 Act), and
- (b) any appointment in pursuance of section 9 (assistants for political groups) of the Act, and
- (c) any appointment in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor's assistant).

SCHEDULE 2

STANDING ORDERS RELATING TO MEETINGS AND PROCEEDINGS

Regulation 4

“Recording of votes

1.—(1) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there must be recorded in the minutes of

the proceedings of that meeting whether that person cast a vote for the question or against the question or whether that person abstained from voting.

(2) In this paragraph “relevant body” (“*Corff perthnasol*”) means the relevant authority, a committee or sub-committee of the relevant authority or a relevant joint committee or sub-committee of such a committee.

Signing minutes – extraordinary meetings

2. Where in relation to any meeting of the relevant authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the relevant authority (being a meeting called otherwise than under that paragraph) must be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) (signing of minutes) of that Schedule(1).”

SCHEDULE 3

Regulation 5(1) and 6

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS RELATING TO STAFF

PART 1

Authority with Mayor and Cabinet Executive

“1. In this Part —

“the 1989 Act” (“*Deddf 1989*”) means the Local Government and Housing Act 1989(2);

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000(3);

“disciplinary action” (“*camau disgyblu*”) has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006;

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

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

(1) Paragraph 41 is amended by paragraph 30 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42).

(2) 1989 c. 42.

(3) 2000 c. 22.

“proper officer” (“*swyddog priodol*”) means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 5, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the relevant authority must be discharged, on behalf of the relevant authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by the head of the authority’s paid service.

3. Paragraph 2 does not apply to the appointment or dismissal of, or disciplinary action against —

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽¹⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽²⁾ (assistants for political groups);
- (f) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant); or
- (g) a person to whom regulations made under section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002⁽³⁾ apply.

4.—(1) Where a committee, sub-committee or officer is discharging, on behalf of the relevant authority, the function of the appointment or dismissal of an officer designated as the head of the authority’s paid service, the relevant authority must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

(1) Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56), paragraph 3(a), (b) and (c) of Schedule 2 to the Children Act 2004 (c. 31), and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

(2) There are amendments to section 9 which are not relevant to these Regulations.

(3) 2002 c.32.

(2) Where a committee or a sub-committee of the relevant authority is discharging, on behalf of the relevant authority, the function of the appointment or dismissal of any officer referred to in sub-paragraphs (a), (b), (c) or (d) of paragraph 3—

(a) at least one member of the executive must be a member of that committee or sub-committee; and

(b) not more than half the members of that committee or sub-committee are to be members of the executive of the relevant authority.

5. Nothing in paragraph 2 prevents a person from serving as a member of any committee or sub-committee established by the relevant authority to consider an appeal by a member of staff of the relevant authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.”

PART 2

Authority with Leader and Cabinet Executive

“1. In this Part —

“the 1989 Act” (“*Deddf 1989*”) means the Local Government and Housing Act 1989(1);

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000(2);

“disciplinary action” (“*camau disgyblu*”) has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006;

“executive” (“*corff gweithredol*”) and “executive leader” (“*arweinydd gwreithredol*”) have the same meaning as in Part II of the 2000 Act;

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

“proper officer” (“*swyddog priodol*”) means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 5, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the relevant authority must be discharged, on behalf of the relevant authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service

(1) 1989 c. 42.

(2) 2000 c. 22.

or by an officer nominated by the head of the authority's paid service.

3. Paragraph 2 does not apply to the appointment or dismissal of, or disciplinary action against —

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽¹⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽²⁾ (assistants for political groups); or
- (f) a person to whom regulations made under section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002⁽³⁾ apply.

4.—(1) Where a committee, sub-committee or officer is discharging, on behalf of the relevant authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the relevant authority must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

(2) Where a committee or a sub-committee of the relevant authority is discharging, on behalf of the relevant authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3—

- (a) at least one member of the executive must be a member of that committee or sub-committee; and
- (b) not more than half of the members of that committee or sub-committee are to be members of the executive of the relevant authority.

⁽¹⁾ Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56), paragraph 3(a), (b) and (c) of Schedule 2 to the Children Act 2004 (c. 31), and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

⁽²⁾ There are amendments to section 9 which are not relevant to these Regulations.

⁽³⁾ 2002 c.32.

5. Nothing in paragraph 2 prevents a person from serving as a member of any committee or sub-committee established by the relevant authority to consider an appeal by —

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the relevant authority; or
- (b) a member of staff of the relevant authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.”

PART 3

Authority with Mayor and Council Manager Executive

“1. In this Part —

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

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

“disciplinary action” (“*camau disgyblu*”) has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006; and

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

2. Subject to paragraphs 3 and 4, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the relevant authority must be discharged, on behalf of the relevant authority, by the council manager or by an officer nominated by the council manager.

3. Paragraph 2 does not apply to the appointment or dismissal of, or disciplinary action against —

- (a) the council manager(2);
- (b) a person appointed in pursuance of section 9 of the Local Government and Housing 1989 Act(3) (assistants for political groups);
- (c) a person appointed in pursuance of regulations under paragraph 6 of Schedule 1 to the 2000 Act (mayor’s assistant); or
- (d) a person to whom regulations made under section 35(4) and (5) (provision with respect

(1) 2000 c. 22.

(2) The council manager is appointed to the executive by the authority. See section 11(4)(b) and (10) of the 2000 Act.

(3) 1989 c. 42. There are amendments to section 9 which are not relevant to these Regulations.

to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002⁽¹⁾ apply.

4. Nothing in paragraph 2 prevents a person from serving as a member of any committee or sub-committee established by the relevant authority to consider an appeal by a member of staff of the relevant authority against any decision relating to the dismissal or, or taking disciplinary action against, that member of staff.”

PART 4

Authority Operating Alternative Arrangements

“1. In this Part —

“the 1989 Act” (“*Deddf 1989*”) means the Local Government and Housing Act 1989⁽²⁾;

“disciplinary action” (“*camau disgyblu*”) has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006; and

“member of staff” (“*aelod o’r staff*”) means a person appointed to or holding a paid office or employment under the authority.

2. Subject to paragraphs 3 and 5, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the relevant authority must be discharged, on behalf of the relevant authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by the head of the authority’s service.

3. Paragraph 2 does not apply to the appointment or dismissal of, or disciplinary action against —

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act⁽³⁾ (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;

⁽¹⁾ 2002 c. 32.

⁽²⁾ 1989 c. 42.

⁽³⁾ Section 2(6) was amended by paragraph 95 of Schedule 37 to the Education Act 1996 (c. 56), paragraph 3(a), (b) and (c) of Schedule 2 to the Children Act 2004 (c. 31), and Schedule 2 to the Fire and Rescue Services Act 2004 (c. 21).

- (e) a person appointed in pursuance of section 9 of the 1989 Act⁽¹⁾ (assistants for political groups); or
- (f) a person to whom regulations made under section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002⁽²⁾ apply.

4. Where a committee, sub-committee or officer is discharging, on behalf of the relevant authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the relevant authority must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

5. Nothing in paragraph 2 prevents a person from serving as a member of any committee or sub-committee established by the relevant authority to consider an appeal by a member of staff of the relevant authority against any decision relating to the dismissal or, or taking disciplinary action against, that member of staff."

SCHEDULE 4

Regulation 8

PROVISIONS TO BE INCORPORATED IN STANDING ORDERS IN RESPECT OF DISCIPLINARY ACTION

"1. In paragraph 2, "chief finance officer" (*"prif swyddog cyllid"*), "council manager" (*"rheolwr cyngor"*), "disciplinary action" (*"camau disgyblu"*), "head of the authority's paid service" (*"pennaeth gwasanaeth taledig yr awdurdod"*) and "monitoring officer" (*"swyddog monitro"*), have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 and "designated independent person" (*"person annibynnol dynodedig"*) has the same meaning as in regulation 9 of those Regulations.

2. No disciplinary action (other than action to which paragraph 3 applies) in respect of the head of the

⁽¹⁾ There are amendments to section 9 which are not relevant to these Regulations.

⁽²⁾ 2002 c. 32.

authority's paid service (unless the head of the authority's paid service is also a council manager of the relevant authority), its monitoring officer or its chief finance officer, may be taken by the relevant authority, or by a committee, a sub-committee, a joint committee on which the relevant authority is represented or any other person acting on behalf of the relevant authority, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct).

3. The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.”