

2014 No. 1514 (W. 155)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Standing
Orders) (Wales) (Amendment)
Regulations 2014**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Standing Orders) (Wales) Regulations 2006 (S.I. 2006/1275) (W. 121) (“the 2006 Regulations”).

The 2006 Regulations require relevant authorities (county and county borough councils in Wales) to incorporate into their standing orders certain provisions relating to their staff, meetings and proceedings. Relevant authorities are required to make or modify standing orders so that they include the provisions set out in the 2006 Regulations or provisions to the like effect.

In part these Regulations amend the 2006 Regulations to reflect provisions in the Local Government (Wales) Measure 2011 (nawm 4) (“the Measure”).

Section 8 of the Measure made provision for county borough councils or county councils in Wales to designate one of their officers as the head of democratic services.

Section 34 of the Measure removed the elected mayor and council manager option from the executive arrangements available in Wales. Section 35 of the Measure provided that county borough councils or county councils in Wales operating alternative arrangements must move to operating one of the executive arrangements described in section 11 of the Local Government Act 2000.

Regulation 3 inserts in the 2006 Regulations definitions of the “head of democratic services” and “remuneration”.

Regulations 3 to 5 remove references in the 2006 Regulations to “alternative arrangements” and the “council manager”.

Regulation 6 amends regulation 7 of the 2006 Regulations to require all decisions on the remuneration of chief officers to be taken by resolution of the authority itself.

Regulations 7 and 8 make provision for any investigation into alleged misconduct by a head of democratic services or by any officer who was, but at the time the investigation committee is appointed no longer is, an officer referred to in regulation 8(1) of the 2006 Regulations to follow the procedures applying to a head of paid service, a monitoring officer or a chief finance officer, where the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer referred to in that regulation. A minor amendment is also made to regulation 9 of the 2006 Regulations.

Regulation 9 amends Part 1 of Schedule 1 to the 2006 Regulations so that where the relevant authority proposes to appoint a chief officer and the remuneration it proposes to pay to the chief officer is £100,000 per annum or greater, the vacancy must be advertised externally. The obligation to advertise externally does not apply where the authority proposes to appoint a chief officer for a period of no longer than 12 months. Regulation 9 also amends Part 2 of Schedule 1 to the 2006 Regulations to remove the authorised variation permitting authorities to decide not to advertise externally when they propose to appoint a non-statutory chief officer.

Regulation 10 amends the 2006 Regulations so as to prevent the appointment or dismissal of, or the taking of disciplinary action against, a monitoring officer or a head of democratic services being discharged by the head of the authority’s paid service or by an officer nominated by the head of the authority’s paid service. The regulation extends the same protection to any officer in relation to whom disciplinary action is proposed and who was, but at the time of the proposed disciplinary action no longer is, an officer referred to in that regulation where the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer referred to in that regulation.

Regulation 10 removes Parts 3 and 4 of Schedule 3 to the 2006 Regulations, which relate to the abolished mayor and council manager executive arrangements and to alternative arrangements.

Regulation 11 amends Schedule 4 to the 2006 Regulations to be consistent with the other amendments made by these Regulations.

Regulation 12 contains transitional provisions in relation to existing standing orders for disciplinary action made under the 2006 Regulations.

Regulation 13 provides that a relevant authority must revise its existing standing orders in so far as is necessary to conform with the amendments made by these Regulations by no later than the date ten weeks after these Regulations come into force.

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 Scrutiny, Democracy and Participation Team, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Standing
Orders) (Wales) (Amendment)
Regulations 2014**

Made 9 June 2014

Laid before the National Assembly for Wales
10 June 2014

Coming into force 1 July 2014

The Welsh Ministers make 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 Welsh Ministers so far as exercisable in relation to Wales⁽²⁾.

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.

(2) These Regulations come into force on 1 July 2014.

(3) In these Regulations “the 2006 Regulations” (“*Rheoliadau 2006*”) means the Local Authorities (Standing Orders) (Wales) Regulations 2006.

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- (1) 1989 c. 42. Section 8 was amended by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8) and S.I. 2002/803 (W. 88); there are other amending instruments but none is relevant. Section 20 was amended by S.I. 2009/3318.
- (2) Powers under sections 8, 20 and 190 of the Local Government and Housing Act 1989 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

Amendments to the Local Authorities (Standing Orders) (Wales) Regulations 2006

2. The Local Authorities (Standing Orders) (Wales) Regulations 2006⁽¹⁾ are amended as follows.

3. In regulation 2 (interpretation)—

- (a) omit the definition of “alternative arrangements” (“*trefniadau amgen*”);
- (b) omit the definition of “council manager” (“*rheolwr cyngor*”);
- (c) omit “and” following the definition of “relevant joint committee” (“*cydbwyllgor perthnasol*”); and
- (d) at the appropriate places insert—
 - (i) ““head of democratic services” (“*pennaeth gwasanaethau democrataidd*”) means the officer designated under section 8 of the Local Government (Wales) Measure 2011 (head of democratic services)⁽²⁾”; and
 - (ii) ““remuneration” (“*cydnabyddiaeth ariannol*”) has the same meaning as in section 43(3) of the Localism Act 2011⁽³⁾”.

4. In regulation 5 (executive arrangements – standing orders relating to staff)—

- (a) omit paragraph (1)(c);
- (b) in paragraph (1)(d) for “(a), (b) and (c)” substitute “(a) and (b)”; and
- (c) in paragraph (2) for “(a), (b), (c) or (d)” substitute “(a), (b) or (d)”.

5. Omit regulation 6 (alternative arrangements – standing orders relating to staff).

6. For regulation 7 (standing orders relating to staff) substitute—

“Standing orders relating to staff

7.—(1) Where a relevant authority has standing orders incorporating the provisions of these Regulations mentioned in paragraph (2), the functions referred to in that paragraph must be exercised by the authority itself and accordingly section 101 of the Local Government Act 1972 (arrangements for

(1) S.I. 2006/1275 (W. 121), amended by S.I. 2010/1142 (W. 101).
(2) 2011 nawm 4.
(3) 2011 c. 20.

discharge of functions by local authorities)(1) does not apply to the exercise of those functions.

(2) The provisions are—

- (a) paragraph 4(1) of Part 1 of Schedule 3 and paragraph 4(1) of Part 2 of Schedule 3 relating to the function of approving the appointment or dismissal of the head of the authority's paid service; and
- (b) paragraph 6 of Part 1 of Schedule 3 and paragraph 6 of Part 2 of Schedule 3 relating to the function of determining the level, and any change in the level, of remuneration to be paid to a chief officer."

7.—(1) The existing text of regulation 8 (standing orders in respect of disciplinary action) becomes regulation 8(1).

(2) In regulation 8(1) for "or its chief finance officer" substitute "its chief finance officer, its head of democratic services or any officer referred to in paragraph (2)".

(3) After regulation 8(1) insert—

"(2) An officer in relation to whom disciplinary action is proposed where—

- (a) the officer was, but at the time of the proposed disciplinary action no longer is, an officer referred to in paragraph (1); and
- (b) the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer referred to in paragraph (1)."

8. In regulation 9 (investigation of alleged misconduct)—

(a) for paragraph (1) substitute—

"(1) 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

(1) 1972 c. 70. Section 101 was amended by S.I. 2002/803 (W. 88), paragraph 3(2) and (3) of Schedule 3 to the Localism Act 2011 (c. 20), paragraph 1 of Part 4 of Schedule 22 to the Marine and Coastal Access Act 2009 (c. 23), paragraph 26(3) of Schedule 15 to the Local Government (Wales) Act 1994 (c. 19) and sections 1 and 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51). There are other amendments to that section which are not relevant to these Regulations.

action has been made against a relevant officer, the relevant authority must appoint a committee (“an investigation committee”) to consider the alleged misconduct.

(1A) For the purposes of this regulation “a relevant officer” (“*swyddog perthnasol*”) is—

- (a) the head of the authority’s paid service;
 - (b) its monitoring officer;
 - (c) its chief finance officer;
 - (d) its head of democratic services; or
 - (e) an officer who was, but at the time the investigation committee is appointed no longer is, an officer referred to in sub-paragraphs (a) to (d) where the alleged misconduct occurred during the period when the officer was an officer referred to in those sub-paragraphs.”;
- (b) in paragraph (5)(b) for “National Assembly for Wales” substitute “Welsh Ministers”; and
- (c) omit paragraph (11).

9.—(1) In Schedule 1, in Part 1—

- (a) for paragraph 1 substitute—

“**1.—**(1) A relevant authority must take the steps set out in sub-paragraph (2) where—

- (a) it proposes to appoint a chief officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006); and
- (b) the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum.

(2) The steps are to—

- (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 publicly 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.

(3) Where sub-paragraph (1) applies, the relevant authority is not required to take the step set out in sub-paragraph (2)(b) if it proposes to

appoint the chief officer for a period of no longer than 12 months.”

(b) in paragraph 2(1) for “1(b)” substitute “1(2)(b)”; and

(c) in paragraph 2(2) for “1(b)” substitute “1(2)(b)”.

(2) In Schedule 1, in Part 2, in paragraph 3 omit subparagraph (a).

10.—(1) In Schedule 3, in Part 1—

(a) the existing text of paragraph 3 becomes paragraph 3(1);

(b) in paragraph 3(1), after paragraph (g) insert—

“(h) the officer designated as the authority’s monitoring officer; or

(i) the officer designated as the authority’s head of democratic services.”;

(c) after paragraph 3(1) insert—

“(2) Paragraph 2 does not apply to the dismissal of, or disciplinary action against, an officer in relation to whom disciplinary action is proposed—

(a) who was, but at the time of the proposed disciplinary action no longer is, an officer referred to in paragraph 3(1)(a) to (i); and

(b) where the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer referred to in paragraph 3(1)(a) to (i).”;

(d) in paragraph 4(2) for “or (d) of paragraph 3” substitute “, (d), (h), or (i) of paragraph 3(1) or the function of dismissal of any officer referred to in paragraph 3(2)”; and

(e) after paragraph 5 insert—

“6. The relevant authority must determine the level, and any change in the level, of the remuneration to be paid to a chief officer.”

(2) In Schedule 3, in Part 2—

(a) the existing text of paragraph 3 becomes paragraph 3(1);

(b) in paragraph 3(1), after paragraph (f) insert—

“(g) the officer designated as the authority’s monitoring officer;

(h) the officer designated as the authority’s head of democratic services.”;

(c) after paragraph 3(1) insert—

“(2) Paragraph 2 does not apply to dismissal of, or disciplinary action against, an officer in relation to whom disciplinary action is proposed—

- (a) who was, but at the time of the proposed disciplinary action no longer is, an officer referred to in paragraph 3(1)(a) to (h); and
- (b) where the alleged misconduct, or, as the case may be, the reason for the proposal for dismissal, occurred during the period when the officer was an officer referred to in paragraph 3(1)(a) to (h).”;
- (d) in paragraph 4(2) for “or (d) of paragraph 3” substitute “, (d), (g), or (h) of paragraph 3(1) or the function of dismissal of any officer referred to in paragraph 3(2)”;
- (e) after paragraph 5 insert—

“6. The relevant authority must determine the level, and any change in the level, of the remuneration to be paid to a chief officer.”

(3) In Schedule 3 omit Parts 3 and 4.

11.—(1) In Schedule 4, in paragraph 1—

- (a) omit ““council manager” (*“rheolwr cyngor”*),”; and
- (b) for “and monitoring officer” (*“swyddog monitro”*)” substitute “, “monitoring officer” (*“swyddog monitro”*) and “head of democratic services” (*“pennaeth gwasanaethau democrataidd”*)”.

(2) In Schedule 4—

- (a) the existing text of paragraph 2 becomes paragraph 2(1) of that paragraph;
- (b) in paragraph 2(1)—
 - (i) omit “(unless the head of the authority’s paid service is also a council manager of the relevant authority)”; and
 - (ii) for “or its chief finance officer” substitute “, its chief finance officer, its head of democratic services or any officer referred to in sub-paragraph (2)”;
- (c) after paragraph 2(1) insert—

“(2) An officer in relation to whom disciplinary action is proposed where—

- (a) the officer was, but at the time of the proposed disciplinary action no longer is, an officer referred to in sub-paragraph (1); and
- (b) the alleged misconduct or, as the case may be, the reason for the proposal for

dismissal, occurred during the period when the officer was an officer referred to in sub-paragraph (1).”

Transitional provisions

12. Anything which, before the date on which the relevant authority incorporates standing orders in accordance with these Regulations, was being done by, to or in relation to an officer in accordance with—

- (a) regulation 9 of the 2006 Regulations; or
- (b) the provisions set out in Schedule 4 to the 2006 Regulations (or provisions to the like effect) incorporated in the relevant authority’s standing orders,

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

Implementation

13. A relevant authority must revise its existing standing orders in so far as is necessary to conform with the amendments made by these Regulations by no later than the date which is ten weeks after these Regulations come into force.

Lesley Griffiths

Minister for Local Government and Government
Business, one of the Welsh Ministers

9 June 2014