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Llywodraeth Cymru
Welsh Government

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Consultation Document

Local Authorities (Standing Orders) (Wales) Regulations 2006 (Amendment) Regulations 2013

Date of issue: **8 March 2013**

Action required: Responses by **31 May 2013**

Overview

The Local Authority (Standing Orders) (Wales) Regulations 2006, made under the Local Government and Housing Act 1989, require county and county borough councils in Wales to include within their standing orders certain matters related to their staff, meetings and proceedings.

This consultation concerns proposed amendments to the regulations which are outlined below.

How to respond

Please submit your comments on any aspect of the Regulations by **31 May 2013** in any of the following ways:

Via the response form on our website:

<http://wales.gov.uk/consultations/localgovernment/?lang=en>

E-mail: LGDTMailbox@wales.gsi.gov.uk

Or post to the address in the contact details below.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

This document has Two Annexes:

1. Local Authorities (Standing Orders) (Wales) Regulations 2006 (Amendment) Regulations 2013
2. Amendments to the Local Authority (Standing Orders) (Wales) Regulations 2006

Useful References:

Local Government (Wales) Measure 2011 - <http://www.legislation.gov.uk/mwa/2011/4/contents/enacted>

Local Authority (Standing Orders) (Wales) Regulations 2006 - <http://www.legislation.gov.uk/wsi/2006/1275/contents/made>

Contact details

For further information:

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

The Current Regulations

The current regulations are the Local Authorities (Standing Orders) (Wales) Regulations 2006 (“the 2006 Regulations”). These require local authorities to include within the standing orders provisions covering; the appointment of Chief Officers, recording of votes & the signing of minutes, provisions related to staff in local authorities with different types of executive or alternative arrangements, and disciplinary action against certain senior post holders.

Legislative Context

The 2006 Regulations are made under sections 8, 20 and 190 of the Local Government and Housing Act 1989 and require relevant authorities to incorporate into their standing orders certain provisions relating to their staff, meetings and proceedings.

The functions of the Secretary of State under section 8, 20, and 190 of the Local Government and Housing Act 1989 were transferred to the National Assembly for Wales by article 2 of Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), and subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30(1) of Schedule 11 to, the Government of Wales Act 2006.

Purpose of Amending the 2006 Regulations

It is proposed to make amendments to the 2006 regulations which result from changes introduced by the Local Government (Wales) Measure 2011 (“the 2011 Measure”).

Section 8 of the 2011 Measure imposes a duty on local authorities to designate one of its officers as “head of democratic services”. It is proposed to amend the 2006 Regulations to afford the head of democratic services the same protection as other chief officers in relation to disciplinary proceedings. It is also proposed to add heads of democratic services and monitoring officers to the list of officers whose appointment and dismissal are dealt with by committee, rather than by the authority’s head of paid service.

The 2011 Measure also removed the “elected mayor and council manager” option for executive structures in principal councils. The 2006 Regulations require updating to take account of this change.

The proposed amendments would also require the public advertisement of any chief officer vacancies at a local authority.

The Welsh Government take the view that it is no longer appropriate for such senior posts to be appointed without them being publicly advertised

Proposed amendments to the 2006 Regulations (Annex 2)

- Regulation 5 – the removal of references to the mayor and council manager model together with the relevant schedule. This model was removed from the options for political structures available to principal councils by section 34 of the 2011 Measure.
- Regulation 6 - the revocation of this regulation and associated schedule. These refer to the operation of alternative arrangements, the non-executive option made available to principal councils under the provisions of the Local Government Act 2000 but which were removed under section 35 of the 2011 Measure.
- Regulation 8 and 9 – the inclusion of head of democratic services in the list of posts that require certain procedures to be followed in the event of an investigation into allegations of misconduct. This would add the new post established under the 2011 Measure to those of the head of paid service, monitoring officer and chief finance officer, to which regulations 8 and 9 of the 2006 regulations already apply.
- Schedule 1 –the removal of the provision enabling local authorities to avoid the need to advertise a vacancy publicly if they are intent on appointing internally in regard to chief officers..
- Parts 1 & 2 to Schedule 3 – the inclusion of monitoring officer and head of democratic services to the list of those posts who are not subject to appointment or dismissal by the head of paid services or another officer designated by him. This clarifies that these two officer posts are not to be appointed or dismissed by the head of paid service even if they are not chief, or deputy chief, officers.

Consultation questions

1. Do you agree that the head of democratic services should be subject to the same disciplinary procedures as the head of paid service, monitoring officer and chief finance officer?
2. Do you agree that the role of the independent person should be retained in the disciplinary process applying to these officer posts?
3. Do you agree that all vacancies at chief officer level should be subject to public advertisement?
4. Are there any other issues you would like to raise in relation to these proposals, or more generally in this area?

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please say so in your response.