
WELSH STATUTORY INSTRUMENTS

2006 No. 949 (W.98)

LOCAL GOVERNMENT, WALES

**The Public Services Ombudsman for Wales
(Standards Investigations) Order 2006**

Made - - - - 28 March 2006
Coming into force - - 1 April 2006

The National Assembly for Wales makes the following Order in exercise of the powers conferred on it by section 70(1) and (2) of the Local Government Act 2000⁽¹⁾:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Public Services Ombudsman for Wales (Standards Investigations) Order 2006 and this Order comes into force on 1 April 2006.

(2) This Order applies in relation to Wales.

(3) In this Order—

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

“the 2005 Act” (“*Deddf 2005*”) means the Public Services Ombudsman (Wales) Act 2005⁽²⁾.

Application of provisions of the 2000 Act

2. For the purposes of investigations under section 69 of the 2000 Act, the provisions of that Act as listed in Schedule 1 to this Order apply as if any reference in those provisions to—

(a) an ethical standards officer or such an officer were a reference to the Public Services Ombudsman for Wales;

(b) the Standards Board for England were a reference to the Public Services Ombudsman for Wales;

(c) England were a reference to Wales;

(d) section 59 were a reference to section 69; and

(e) the Secretary of State were a reference to the National Assembly for Wales.

(1) 2000 c. 22. Section 70(2) is amended by paragraph 14(a) of Schedule 4 to the Public Services Ombudsman (Wales) Act 2005 and S.I.2005/2800 (W.199) (C.116) refers.

(2) 2005 c. 10.

Application of provisions of the 2000 Act with modifications

3. For the purposes of investigations under section 69 of the 2000 Act, the provisions of that Act as listed in Schedule 2 to this Order apply subject to the modifications shown in that Schedule.

Application of provisions of the 2005 Act with modifications

4. For the purposes of investigations under section 69 of the 2000 Act, the provisions of the 2005 Act as listed in Schedule 3 to this Order apply subject to the modifications shown in that Schedule.

Law of Defamation

5. For the purposes of the law of defamation, any statement (whether written or oral) made by—
- (a) a member of the staff of the Public Services Ombudsman for Wales (“the Ombudsman”);
or
 - (b) another person acting on behalf of the Ombudsman or assisting the Ombudsman

in connection with the exercise of the Ombudsman’s functions under Part III of the 2000 Act is absolutely privileged.

Revocation

6. The Local Commissioner in Wales (Standards Investigations) Order 2001(3) is revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4).

28 March 2006

D. Elis-Thomas
The Presiding Officer of the National Assembly

(3) S.I. 2001/2286 (W.174).
(4) 1998 c. 38.

SCHEDULE 1

Article 2

<i>Section</i>	<i>Subject Matter</i>
Section 60(1)	Conduct of investigations
Section 61	Procedure in respect of investigations
Section 62(1), (2), (3), (5), (6), (8), (9), (10) and (11)	Investigations: further provisions
Section 63(3)	Restrictions on disclosure of information

SCHEDULE 2

Article 3

Application of provisions of the 2000 Act with modifications

Section 60(4)

1. Section 60(4) of the 2000 Act (Conduct of investigations) applies as if, for that subsection, there were substituted—

“(4) The Public Services Ombudsman for Wales—

- (a) may not at any time conduct an investigation under section 69 in relation to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the Public Services Ombudsman for Wales has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority;
- (b) may, where that Ombudsman is precluded from conducting an investigation by paragraph (a), authorise any person to conduct such an investigation in relation to that member or co-opted member (or former member or co-opted member), to the extent so authorised, under paragraph 13 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005.”.

Section 60(5)

2. Section 60(5) of the 2000 Act (Conduct of investigations) applies as if—

- (a) for “An ethical standards officer who” there is substituted “Where the Public Services Ombudsman for Wales”;
- (b) for “section 59” there is substituted “section 69, the Public Services Ombudsman for Wales”;
- (c) for paragraph (a), there is substituted—
 - “(a) must disclose the nature of the interest to—
 - (i) where section 69(1)(a) applies—
 - (a) the person by whom the allegation is made; and
 - (b) the member or co-opted member (or former member or co-opted member) against whom the allegation is made;
 - (ii) where section 69(1)(b) applies, the member or co-opted member (or former member or co-opted member) concerned; and

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- (iii) the relevant authority concerned;”;
- (d) in paragraph (b), for the full stop, substitute “; and”; and
- (e) after paragraph (b) insert—
 - “(c) may authorise any person to conduct such an investigation in relation to that matter (to the extent so authorised) under paragraph 13 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2005.”.

Section 60(6)

- 3. Section 60(6) of the 2000 Act (Conduct of investigations) applies as if—
 - (a) for “an ethical standards officer” there is substituted “the Public Services Ombudsman for Wales”; and
 - (b) the words “or paragraph 3(2) of Schedule 4 or any breach falling within paragraph 3(3) of that Schedule” are omitted.

Section 62(4)

- 4. Section 62(4) of the 2000 Act (Investigations: further provisions) applies as if—
 - (a) for “An ethical standards officer” there is substituted “The Public Services Ombudsman for Wales”;
 - (b) for “such an officer” there is substituted “that Ombudsman”; and
 - (c) in paragraph (a), the words “the National Assembly for Wales or” are inserted after “the authority concerned and”.

Section 63(1)

- 5. Section 63(1) of the 2000 Act (Restrictions on disclosure of information) applies as if—
 - (a) for “by ethical standards officers” there is substituted “by the Public Services Ombudsman for Wales”;
 - (b) in paragraph (a) the words “; the Public Services Ombudsman for Wales” are omitted; and
 - (c) after paragraph (f), the following paragraph is inserted—
 - “(g) the disclosure is for the purposes of an investigation or report of an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005.”.

Section 63(2)

- 6. Section 63(2) of the 2000 Act (Restrictions on disclosure of information) applies as if—
 - (a) for “The Secretary of State” there is substituted “The National Assembly for Wales”;
 - (b) for “England” there is substituted “Wales”;
 - (c) for “any ethical standards officer” there is substituted “the Public Services Ombudsman for Wales”; and
 - (d) the words “his or (as the case may be)” are omitted.

SCHEDULE 3

Article 4

Application of provisions of the 2005 Act with modifications

Section 26(2)

1. Section 26(2) of the 2005 Act (Disclosure of information) applies as if, after paragraph (j), the following paragraph is inserted—

- “(k) for the purposes of an investigation and of any report to be made under section 69 of the Local Government Act 2000.”.

EXPLANATORY NOTE

(This note is not part of the Order)

The National Assembly for Wales may, under section 70 of the Local Government Act 2000 (as amended) (“the 2000 Act”), make provision with respect to standards investigations under section 69 of that Act by the Public Services Ombudsman for Wales (“the Ombudsman”). These investigations concern the conduct of members or co-opted members of a relevant authority in Wales where an allegation has been made that such member or co-opted member has failed, or may have failed, to comply with the relevant authority’s code of conduct.

This Order makes provision for the application of sections 60 to 63 of the 2000 Act and sections 26 and 32 of the Public Services Ombudsman (Wales) Act 2005 (“the 2005 Act”) to standards investigations. In some instances, provisions of those sections are applied with modifications.

Article 2 (by reference to Schedule 1 to the Order) applies sections 60(1); 61; 62(1) to (3), (5), (6) and (8) to (11); and 63(3) of the 2000 Act to a standards investigation under section 69 of that Act.

Article 3 (by reference to Schedule 2 to the Order) applies sections 60(4) to (6); 62(4); and 63(1) and (2) of the 2000 Act to a standards investigation under section 69 of that Act in the modified form listed in Schedule 2.

Article 4, by modification of the provisions in section 26 of the 2005 Act (which concerns disclosure of information by the Ombudsman) entitles the Ombudsman to disclose information obtained in connection with an investigation under Part 2 of the 2005 Act for the purposes of a standards investigation under section 69 of the 2000 Act (and Schedule 3 to the Order refers).

By virtue of Article 5, absolute privilege for the purposes of the law of defamation is extended to the statements of members of the Ombudsman’s staff, persons acting on behalf of the Ombudsman and persons assisting the Ombudsman in connection with the exercise of the Ombudsman’s functions under Part III of the 2000 Act.

Article 6 revokes the Local Commissioner in Wales (Standards Investigations) Order 2001.