



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2006 Rhif 949 (Cy.98)

2006 No. 949 (W.98)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

**Gorchymyn Ombwdsmon
Gwasanaethau Cyhoeddus Cymru
(Ymchwiliadau Safonau) 2006**

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

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

(This note is not part of the Order)

O dan adran 70 o Ddeddf Llywodraeth Leol 2000, (fel y'i diwygiwyd) ("Deddf 2000"), caiff Cynulliad Cenedlaethol Cymru wneud darpariaeth mewn perthynas ag ymchwiliadau safonau o dan adran 69 o'r Ddeddf honno gan Ombwdsmon Gwasanaethau Cyhoeddus Cymru ("Yr Ombwdsmon"). Mae'r ymchwiliadau hyn yn ymwneud ag ymddygiad aelodau neu aelodau cyfetholedig o awdurdod perthnasol yng Nghymru pan fo honiad wedi'i wneud fod aelod neu aelod cyfetholedig o'r fath wedi methu â chydymffurfio â chod ymddygiad yr awdurdod perthnasol neu y gall fod wedi methu â chydymffurfio â chod ymddygiad o'r fath.

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.

Mae'r Gorchymyn hwn yn darparu ar gyfer cymhwyso adrannau 60 i 63 o Ddeddf 2000 ac adrannau 26 i 32 o Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 ("Deddf 2005") i ymchwiliadau safonau. Mewn rhai achosion, cymhwysir darpariaethau yn yr adrannau hynny gydag addasiadau.

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.

Mae erthygl 2 (drwy gyfeirio at Atodlen 1 i'r Gorchymyn) yn cymhwyso adrannau 60(1); 61; 62(1) i (3), (5), (6) ac (8) i (11); a 63(3) o Ddeddf 2000 at ymchwiliad safonau o dan adran 69 o'r Ddeddf honno.

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.

Mae erthygl 3 (drwy gyfeirio at Atodlen 2 i'r Gorchymyn) yn cymhwyso adrannau 60(4) i (6), 62(4) a 63(1) a (2) o Ddeddf 2000 at ymchwiliad safonau o dan adran 69 o'r Ddeddf honno yn y ffurf wedi'i haddasu a restrir yn Atodlen 2.

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.

Mae erthygl 4, drwy addasu'r darpariaethau yn adran 26 o Ddeddf 2005 (sy'n ymwneud â datgelu gwybodaeth gan yr Ombwdsmon), yn caniatáu i'r Ombwdsmon ddatgelu gwybodaeth a gafwyd mewn cysylltiad ag ymchwiliad o dan Ran 2 o Ddeddf 2005 at ddibenion ymchwiliad safonau o dan adran 69 o Ddeddf 2000 (ac mae Atodlen 3 i'r Gorchymyn yn cyfeirio at hynny).

Yn rhinwedd erthygl 5, mae braint absoliwt, at ddibenion y gyfraith ddifenwi, yn cael ei hestyn i ddatganiadau aelodau o staff yr Ombwdsmon, personau sy'n gweithredu ar ran yr Ombwdsmon a phersonau sy'n cynorthwyo'r Ombwdsmon gydag arfer swyddogaethau'r Ombwdsmon o dan Ran III o Ddeddf 2000.

Mae erthygl 6 yn dirymu Gorchymyn Comisiynydd Lleol yng Nghymru (Ymchwiliadau Safonau) 2001.

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.

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Gorchymyn Ombwdsmon
Gwasanaethau Cyhoeddus Cymru
(Ymchwiliadau Safonau) 2006

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

*Wedi'i wneud**28 Mawrth 2006**Made**28 March 2006**Yn dod i rym**1 Ebrill 2006**Coming into force**1 April 2006*

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Gorchymyn canlynol drwy arfer y pwerau a roddwyd iddo gan adran 70(1) a (2) o Ddeddf Llywodraeth Leol 2000(1):

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):

Enwi, cychwyn, cymhwyso a dehongli**Title, commencement, application and interpretation**

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Ombwdsmon Gwasanaethau Cyhoeddus Cymru (Ymchwiliadau Safonau) 2006 a daw'r Gorchymyn hwn i rym ar 1 Ebrill 2006.

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) Mae'r Gorchymyn hwn yn gymwys o ran Cymru.

(2) This Order applies in relation to Wales.

(3) Yn y Gorchymyn hwn-

(3) In this Order-

ystyr "Deddf 2000" ("*the 2000 Act*") yw Deddf Llywodraeth Leol 2000; ac

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

ystyr "Deddf 2005" ("*the 2005 Act*") yw Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005(2).

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

Cymhwyso darpariaethau Deddf 2000**Application of provisions of the 2000 Act**

2. At ddibenion ymchwiliadau o dan adran 69 o Ddeddf 2000, bydd darpariaethau'r Ddeddf honno fel y'u rhestrir yn Atodlen 1 i'r Gorchymyn hwn yn gymwys fel pe bai unrhyw gyfeiriad yn y darpariaethau hynny-

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-

(1) 2000 p.22. Diwygir adran 70(2) gan baragraff 14(a) o Atodlen 4 i Ddeddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2005 ac mae O.S. 2005/2800 (Cy.199) (C.116) yn cyfeirio at hynny.

(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 p.10.

(2) 2005 c.10.

- (a) at swyddog safonau moesegol neu at y swyddog hwnnw yn gyfeiriad at Ombwdsmon Gwasanaethau Cyhoeddus Cymru;
- (b) at Fwrdd Safonau Lloegr yn gyfeiriad at Ombwdsmon Gwasanaethau Cyhoeddus Cymru;
- (c) at Loegr yn gyfeiriad at Gymru;
- (ch) at adran 59 yn gyfeiriad at adran 69; a
- (d) at yr Ysgrifennydd Gwladol yn gyfeiriad at Gynulliad Cenedlaethol Cymru.

Cymhwyso darpariaethau yn Neddf 2000 gydag addasiadau

3. At ddibenion ymchwiliadau o dan adran 69 o Ddeddf 2000, bydd darpariaethau'r Ddeddf honno fel y'u rhestrir yn Atodlen 2 i'r Gorchymyn hwn yn gymwys yn ddarostyngedig i'r addasiadau a ddangosir yn yr Atodlen honno.

Cymhwyso darpariaethau yn Neddf 2005 gydag addasiadau

4. At ddibenion ymchwiliadau o dan adran 69 o Ddeddf 2000, bydd darpariaethau Deddf 2005 fel y'u rhestrir yn Atodlen 3 i'r Gorchymyn hwn yn gymwys yn ddarostyngedig i'r addasiadau a ddangosir yn yr Atodlen honno.

Y Gyfraith Ddifenwi

5. At ddibenion y gyfraith ddifenwi, bydd gan unrhyw ddatganiad (boed mewn ysgrifen neu ar lafar) a wneir gan-

- (a) aelod o staff Ombwdsmon Gwasanaethau Cyhoeddus Cymru ("yr Ombwdsmon"); neu
- (b) berson arall sy'n gweithredu ar ran yr Ombwdsmon neu'n cynorthwyo'r Ombwdsmon

mewn perthynas ag arfer swyddogaethau'r Ombwdsmon o dan Ran III o Ddeddf 2000 faint absoliwt.

Dirymu

6. Dirymir Gorchymyn Comisiynydd Lleol yng Nghymru (Ymchwiliadau Safonau) 2001(1).

- (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.

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(1) is revoked.

(1) O.S. 2001/2286 (Cy.174).

(1) S.I. 2001/2286 (W.174).

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998 (1).

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

28 Mawrth 2006

28 March 2006

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

ATODLEN 1

SCHEDULE 1

Erthygl 2

Article 2

<i>Adran</i>	<i>Pwnc</i>
Adran 60(1)	Cynnal ymchwiliadau
Adran 61	Y weithdrefn mewn perthynas ag ymchwiliadau
Adran 62(1), (2), (3), (5), (6), (8), (9), (10) ac (11)	Ymchwiliadau: darpariaethau pellach
Adran 63(3)	Cyfyngiadau ar ddatgelu gwybodaeth

<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

ATODLEN 2

SCHEDULE 2

Erthygl 3

Article 3

Cymhwyso darpariaethau yn Neddf 2000 gydag addasiadau

Application of provisions of the 2000 Act with modifications

Adran 60(4)

1. Mae adran 60(4) o Ddeddf 2000 (Cynnal ymchwiliadau) yn gymwys fel petai'r canlynol yn cael ei roi yn lle'r is-adran honno-

"(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(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."

Adran 60(5)

2. Bydd adran 60(5) o Ddeddf 2000 (Cynnal ymchwiliadau) yn gymwys fel pe bai-

- (a) y geiriau "Where the Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "An ethical standards officer who";
- (b) y geiriau "section 69, the Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "section 59";
- (c) y canlynol yn cael ei roi yn lle paragraff (a)-
 - "(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
 - (iii) the relevant authority concerned;";
- (ch) ym mharagraff (b), "; and" yn cael ei roi yn lle'r atalnod llawn; a
- (d) ar ôl paragraff (b) y canlynol yn cael ei roi-
 - "(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."

Adran 60(6)

3. Bydd adran 60(6) o Ddeddf 2000 (Cynnal ymchwiliadau) yn gymwys fel pe bai-

- (a) y geiriau "the Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "an ethical standards officer"; a
- (b) y geiriau "or paragraph 3(2) of Schedule 4 or any breach falling within paragraph 3(3) of that Schedule" yn cael eu hepgor.

Adran 62(4)

4. Bydd Adran 62(4) o Ddeddf 2000 (Ymchwiliadau: darpariaethau pellach) yn gymwys fel pe bai-

- (a) y geiriau "The Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "An ethical standards officer";
- (b) y geiriau "that Ombudsman" yn cael eu rhoi yn lle "such an officer"; ac
- (c) ym mharagraff (a), y geiriau "the National Assembly for Wales or" yn cael eu rhoi ar ôl "the authority concerned and".

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
 - (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".

Adran 63(1)

5. Bydd adran 63(1) o Ddeddf 2000 (Cyfyngiadau ar ddatgelu gwybodaeth) yn gymwys fel pe bai-

- (a) y geiriau "by the Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "by ethical standards officers";
- (b) ym mharagraff (a), y geiriau ", the Public Services Ombudsman for Wales" yn cael eu hepgor; ac
- (c) ym mharagraff (f), y paragraff canlynol yn cael ei fewnosod-

"(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."

Adran 63(2)

6. Bydd adran 63(2) o Ddeddf 2000 (Cyfyngiadau ar ddatgelu gwybodaeth) yn gymwys fel pe bai-

- (a) y geiriau "The National Assembly for Wales" yn cael eu rhoi yn lle "The Secretary of State";
- (b) y gair "Wales" yn cael ei roi yn lle "England";
- (c) y geiriau "the Public Services Ombudsman for Wales" yn cael eu rhoi yn lle "any ethical standards officer"; ac
- (ch) y geiriau "his or (as the case may be)" yn cael eu hepgor.

ATODLEN 3

Erthygl 4

Cymhwyso darpariaethau Deddf 2005 gydag addasiadau

Adran 26(2)

1. Bydd adran 26(2) o Ddeddf 2005 (Cyfyngiadau ar ddatgelu gwybodaeth) yn gymwys fel pe bai'r paragraff canlynol yn cael ei fewnosod ar ôl paragraff (j),-

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

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."

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£3.00

W285/04/06

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