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INSTRUMENTS

2016 Rhif 84 (Cy. 38)

2016 No. 84 (W. 38)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) (Diwygio) 2016

The Local Authorities (Model Code
of Conduct) (Wales) (Amendment)
Order 2016

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn diwygio Atodlen 1 i Orchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) 2008 ("Gorchymyn 2008") sy'n nodi cod enghreifftiol o ran yr ymddygiad y disgwylir i aelodau ac aelodau cyfetholedig o awdurdodau perthnasol yng Nghymru ei arddel o dan adran 50(2) o Ddeddf Llywodraeth Leol 2000. Mae adran 50(3) o'r Ddeddf honno yn galluogi Gweinidogion Cymru i ddiwygio cod enghreifftiol sydd wedi ei ddyroddi.

This Order amends Schedule 1 to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 ("the 2008 Order") in which is set out a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales under section 50(2) of the Local Government Act 2000. Section 50(3) of that Act enables the Welsh Ministers to revise a model code which has been issued.

Yr awdurdodau perthnasol yng Nghymru at ddibenion y Gorchymyn hwn yw: cynghorau sir, cynghorau bwrdeistref sirol, cynghorau cymuned, awdurdodau tân ac achub ac awdurdodau Parciau Cenedlaethol.

Relevant authorities in Wales for the purposes of this Order are: county councils, county borough councils, community councils, fire and rescue authorities and National Park authorities.

Mae erthygl 2 o'r Gorchymyn yn diwygio'r paragraffau a ganlyn o'r cod enghreifftiol a nodir yn yr Atodlen i Orchymyn 2008:

Article 2 of the Order amends the following paragraphs of the model code set out in the Schedule to the 2008 Order:

paragraff 1(1), drwy fewnosod diffiniad o "cofrestr o fuddiannau'r aelodau";

paragraph 1(1), by inserting a definition of "register of members' interests";

paragraff 1(2), drwy fewnosod diffiniad o "swyddog priodol" a darparu eglurhad o ran cyfeiriadau at bwyllgorau safonau mewn perthynas â chynghor cymuned;

paragraph 1(2), by inserting a definition of "proper officer" and providing clarification with regard to references to standards committees in relation to a community council;

paragraff 3(a), drwy hepgor y cyfeiriad at awdurdodau'r heddlu;

paragraph 3(a), by omitting the reference to police authorities;

paragraff 6(1)(c), drwy gael gwared ar y gofyniad i aelodau adrodd ar achosion posibl o ymddygiad sy'n groes i'w cod ymddygiad i Ombwdsmon Gwasanaethau Cyhoeddus Cymru;

paragraph 6(1)(c), by removing the requirement for members to report potential breaches of their code of conduct to the Public Services Ombudsman for Wales;

paragraffau 11(4), 15(2), 16(2) a 17, drwy drosglwyddo rhai swyddogaethau o swyddogion monitro i'r swyddogion priodol o gynghorau cymuned;

paragraff 12(2)(b)(iv), i adlewyrchu'r darpariaethau newydd a geir yn Rhan 8 o Fesur Llywodraeth Leol (Cymru) 2011 mewn perthynas â lwfansau a thaliadau;

paragraff 14, drwy fewnosod is-baragraffau newydd (2A) a (2B) sy'n caniatáu i aelodau gyflwyno cyflwyniadau ysgrifenedig i gyfarfod sy'n ymdrin â mater y mae gan aelod fuddiant sy'n rhagfarnu mewn cysylltiad ag ef. Ni chaniateir cyflwyniadau ysgrifenedig ac eithrio yn yr amgylchiadau hynny lle y byddai caniatâd i aelod wneud cynrychioliadau llafar i gyfarfod mewn perthynas â mater, fel arall, ac os yw awdurdod yr aelod yn mabwysiadu gweithdrefn ar gyfer cyflwyno cyflwyniadau ysgrifenedig, rhaid i aelodau gydymffurfio â'r weithdrefn honno;

mae paragraff 15 yn cael ei ailddatgan. Mae'r ailddatganiad yn egluro y dylid cofrestru unrhyw fuddiant a ddatgelir, pa un a yw'r buddiant hwnnw wedi ei ddatgelu'n unol â pharagraffau 11 neu 15 o'r cod enghreifftiol, yng nghofrestr yr awdurdod o fuddiannau'r aelodau, drwy hysbysu'r swyddog monitro neu, mewn perthynas â chyngor cymuned, swyddog priodol o'r awdurdod hwnnw.

Mae erthygl 2 o'r Gorchymyn yn hepgor paragraff 10(2)(b) o'r cod enghreifftiol a nodir yn yr Atodlen i Orchymyn 2008. Mae hyn yn egluro nad yw aelod o awdurdod perthnasol i'w ystyried i gael buddiant personol mewn mater wrth wneud, neu gymryd rhan mewn, penderfyniadau ar ran yr awdurdod am y rheswm, yn syml, fod y busnes sy'n cael ei ystyried yn y cyfarfod yn effeithio ar ward yr aelod hwnnw.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn.

paragraphs 11(4), 15(2), 16(2) and 17, by transferring some functions from monitoring officers to the proper officers of community councils;

paragraph 12(2)(b)(iv), to reflect the new provisions contained in Part 8 of the Local Government (Wales) Measure 2011 in relation to allowances and payments;

paragraph 14, by inserting new sub-paragraphs (2A) and (2B) which permit members to submit written submissions to a meeting which is dealing with a matter in respect of which a member has a prejudicial interest. Written submissions are only permitted in those circumstances in which a member would otherwise be permitted to make oral representations to a meeting in relation to a matter, and if the member's authority adopts a procedure for the submission of written submissions, members must comply with that procedure;

paragraph 15 is restated. The restatement clarifies that any interest disclosed, whether that interest is disclosed in accordance with paragraphs 11 or 15 of the model code, should be registered in the authority's register of members' interests, by giving notification to the monitoring officer, or, in relation to a community council, to the proper officer of that authority.

Article 2 of the Order omits paragraph 10(2)(b) of the model code set out in the Schedule to the 2008 Order. This clarifies that a member of a relevant authority is not to be regarded as having a personal interest in a matter when making, or participating in, decisions on behalf of the authority simply for the reason that the business being considered at the meeting affects that member's ward.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

2016 Rhif 84 (Cy. 38)

**LLYWODRAETH LEOL,
CYMRU**

**Gorchymyn Awdurdodau Lleol
(Cod Ymddygiad Enghreifftiol)
(Cymru) (Diwygio) 2016**

Gwnaed 27 Ionawr 2016
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 1 Chwefror 2016
Yn dod i rym 1 Ebrill 2016

Mae Gweinidogion Cymru yn gwneud y Gorchymyn hwn drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) a 105 o Ddeddf Llywodraeth Leol 2000(1) ac sydd bellach wedi eu breinio ynddynt hwy(2);

Mae Gweinidogion Cymru wedi cynnal y cyfryw ymgynghoriad ag sy'n ofynnol yn rhinwedd adran 50(5) o'r Ddeddf honno;

Mae Gweinidogion Cymru wedi eu bodloni bod y diwygiadau i'r cod ymddygiad enghreifftiol a ddyroddir o dan adran 50(2) yn gyson â'r egwyddorion a bennir yng Ngorchymyn Ymddygiad Aelodau (Egwyddorion) (Cymru) 2001(3) a wnaed yn unol ag adran 49(2), fel sy'n ofynnol gan adran 50(4)(a) o'r Ddeddf honno.

2016 No. 84 (W. 38)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Model Code
of Conduct) (Wales) (Amendment)
Order 2016**

Made 27 January 2016
*Laid before the National Assembly
for Wales* 1 February 2016
Coming into force 1 April 2016

This Order is made by the Welsh Ministers in exercise of the powers conferred on the National Assembly for Wales by sections 50(2), 50(3), 50(4), 50(4E), 81(2), 81(3) and 105 of the Local Government Act 2000(1) and now vested in them(2);

The Welsh Ministers have carried out such consultation as is required by virtue of section 50(5) of that Act;

The Welsh Ministers are satisfied that, as required by section 50(4)(a) of that Act, the amendments to the model code of conduct being issued under section 50(2) are consistent with the principles specified in the Conduct of Members (Principles) (Wales) Order 2001(3) made pursuant to section 49(2).

(1) 2000 p. 22.
(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan adrannau 50, 81 a 105 i Weiniogion Cymru o dan adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32), a pharagraff 30 o Atodlen 11 iddi.
(3) O.S. 2001/2276 (Cy. 166) fel y'i diwygiwyd gan O.S. 2005/2929 (Cy. 214).

(1) 2000 c. 22.
(2) The functions of the National Assembly for Wales under sections 50, 81 and 105 were transferred to the Welsh Ministers under section 162 and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
(3) S.I. 2001/2276 (W. 166) as amended by S.I. 2005/2929 (W. 214).

Yn unol â hynny, mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn:

Enwi, cychwyn, cymhwyso a dehongli

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) (Diwygio) 2016 a daw i rym ar 1 Ebrill 2016.

(2) Mae'r Gorchymyn hwn yn gymwys i bob awdurdod perthnasol yng Nghymru.

(3) Yn y Gorchymyn hwn—

mae i "awdurdod perthnasol" ("*relevant authority*") yr ystyr a nodir yn Rhan 1 o'r cod enghreifftiol yn yr Atodlen i Orchymyn 2008;

ystyr "Gorchymyn 2008" ("*the 2008 Order*") yw Gorchymyn Awdurdodau Lleol (Cod Ymddygiad Enghreifftiol) (Cymru) 2008(1).

Diwygio'r Atodlen i Orchymyn 2008

2.—(1) Mae'r cod enghreifftiol yn yr Atodlen i Orchymyn 2008 wedi ei ddiwygio fel a ganlyn.

(2) Yn Rhan 1—

(a) ym mharagraff 1(1), yn y man priodol mewnosoder—

"ystyr "cofrestr o fuddiannau'r aelodau" ("*register of members' interests*") yw'r gofrestr a sefydlir ac a gedwir o dan adran 81 o Ddeddf Llywodraeth Leol 2000;"

(b) yn lle paragraff 1(2) rhodder—

"(2) Mewn perthynas â chyngor cymuned—

(a) ystyr "swyddog priodol" ("*proper officer*") yw swyddog o'r cyngor hwnnw o fewn ystyr adran 270(3) o Ddeddf Llywodraeth Leol 1972(2); a

(b) ystyr "pwyllgor safonau" ("*standards committee*") yw pwyllgor safonau'r cyngor sir neu'r cyngor bwrdeistref sirol sydd â swyddogaethau mewn perthynas â'r cyngor cymuned y mae'n gyfrifol amdano o dan adran 56(1) a (2) o Ddeddf Llywodraeth Leol 2000."

(3) Yn Rhan 2—

(a) ym mharagraff 3(a) yn lle "awdurdod heddlu neu Fwrdd" rhodder "Bwrdd";

Accordingly, the Welsh Ministers make the following Order:

Title, commencement, application and interpretation

1.—(1) The title of this Order is the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2016 and it comes into force on 1 April 2016.

(2) This Order applies to each relevant authority in Wales.

(3) In this Order—

"the 2008 Order" ("*Gorchymyn 2008*") means the Local Authorities (Model Code of Conduct) (Wales) Order 2008(1);

"relevant authority" ("*awdurdod perthnasol*") has the meaning set out in Part 1 of the model code in the Schedule to the 2008 Order.

Amendment of the Schedule to the 2008 Order

2.—(1) The model code in the Schedule to the 2008 Order is amended as follows.

(2) In Part 1—

(a) in paragraph 1(1), at the appropriate place insert—

"register of members' interests" ("*cofrestr o fuddiannau'r aelodau*") means the register established and maintained under section 81 of the Local Government Act 2000;"

(b) for paragraph 1(2) substitute—

"(2) In relation to a community council—

(a) "proper officer" ("*swyddog priodol*") means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972(2); and

(b) "standards committee" ("*pwyllgor safonau*") means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000."

(3) In Part 2—

(a) in paragraph 3(a) omit "police authority or";

(1) O.S. 2008/788 (Cy. 82).

(2) 1972 p. 70.

(1) S.I. 2008/788 (W. 82).

(2) 1972 c. 70.

(b) ym mharagraff 6(1)(c) hepgorer “i Ombwdsmon Gwasanaethau Cyhoeddus Cymru ac”.

(4) Yn Rhan 3—

(a) hepgorer paragraff 10(2)(b);

(b) ym mharagraff 11(4), ar ôl “swyddog monitro eich awdurdod” mewnosoder “, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod”;

(c) yn lle paragraff 12(2)(b)(iv) rhodder—

“(iv) â swyddogaethau eich awdurdod mewn cysylltiad â lwfans neu daliad a wneir yn unol â darpariaethau Rhan 8 o Fesur Llywodraeth Leol (Cymru) 2011(1), neu lwfans neu bensiwn a ddarperir o dan adran 18 o Ddeddf Llywodraeth Leol a Thai 1989(2);”;

(d) ym mharagraff 14—

(i) yn is-baragraff (1), ar ôl “is-baragraffau (2),” mewnosoder “(2A),”;

(ii) ar ôl is-baragraff (2) mewnosoder—

“(2A) Os oes gennych fuddiant sy’n rhagfarnu mewn unrhyw fusnes y mae a wnelo eich awdurdod ag ef cewch gyflwyno cynrychioliadau ysgrifenedig i gyfarfod sy’n ymwneud â’r busnes hwnnw, ar yr amod y caniateir i’r cyhoedd fod yn bresennol yn y cyfarfod at y diben o wneud cynrychioliadau, ateb cwestiynau neu roi tystiolaeth sy’n ymwneud â’r busnes, pa un ai o dan hawl statudol neu fel arall.

(2B) Pan fyddwch yn cyflwyno cynrychioliadau ysgrifenedig o dan is-baragraff (2A), rhaid i chi gydymffurfio ag unrhyw weithdrefn y caiff eich awdurdod ei fabwysiadu ar gyfer cyflwyno cynrychioliadau o’r fath.”

(5) Yn Rhan 4—

(a) yn lle paragraff 15 rhodder—

“Cofrestru Buddiannau Personol

15.—(1) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl—

(a) i god ymddygiad eich awdurdod gael ei fabwysiadu neu i ddarpariaethau gorfodol y cod enghreifftiol hwn gael eu cymhwyso i’ch awdurdod; neu

(b) in paragraph 6(1)(c) omit “to the Public Services Ombudsman for Wales and”.

(4) In Part 3—

(a) omit paragraph 10(2)(b);

(b) in paragraph 11(4), after “monitoring officer” insert “, or in relation to a community council, your authority’s proper officer”;

(c) for paragraph 12(2)(b)(iv) substitute—

“(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011(1), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989(2);”;

(d) in paragraph 14—

(i) in sub-paragraph (1), after “sub-paragraphs (2),” insert “(2A),”;

(ii) after sub-paragraph (2) insert—

“(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under a statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.”

(5) In Part 4—

(a) for paragraph 15 substitute—

“Registration of Personal Interests

15.—(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority’s code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(1) 2011 mccc 4.
(2) 1989 p. 42.

(1) 2011 nawm 4.
(2) 1989 c. 42.

(b) i chi gael eich ethol neu eich penodi i swydd (os digwydd hynny'n ddiweddarach),

gofrestru eich buddiannau personol, os ydynt yn dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(2) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw fuddiant personol newydd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r buddiant personol newydd hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod.

(3) Yn ddarostyngedig i is-baragraff (4), rhaid i chi, o fewn 28 o ddiwrnodau ar ôl dod yn ymwybodol o unrhyw newid i fuddiant personol a gofrestrwyd sy'n dod o fewn categori a grybwyllir ym mharagraff 10(2)(a), gofrestru'r newid hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.

(4) Nid yw is-baragraffau (1), (2) a (3) yn gymwys i wybodaeth sensitif a benderfynir yn unol â pharagraff 16(1).

(5) Nid yw is-baragraffau (1) a (2) yn gymwys os ydych yn aelod o awdurdod perthnasol sy'n gyngor cymuned pan fyddwch yn gweithredu yn eich capasiti fel aelod o awdurdod o'r fath.

(6) Pan fyddwch yn datgelu buddiant personol yn unol â pharagraff 11 am y tro cyntaf, rhaid i chi gofrestru'r buddiant personol hwnnw yng nghofrestr eich awdurdod o fuddiannau'r aelodau drwy ddarparu hysbysiad ysgrifenedig ar gyfer swyddog monitro eich awdurdod, neu, yn achos cyngor cymuned, swyddog priodol eich awdurdod.”;

- (b) ym mharagraff 16(2), ar ôl “swyddog monitro eich awdurdod” mewnosoder “, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod”;
- (c) ym mharagraff 17, ar ôl “swyddog monitro eich awdurdod” mewnosoder “, neu mewn perthynas â chyngor cymuned, swyddog priodol eich awdurdod”.

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.”;

- (b) in paragraph 16(2), after “monitoring officer” insert “, or in relation to a community council, your authority's proper officer”;
- (c) in paragraph 17, after “monitoring officer” insert “, or in relation to a community council, to your authority's proper officer”.

Leighton Andrews

Y Gweinidog Gwasanaethau Cyhoeddus, un o
Weinidogion Cymru
27 Ionawr 2016

Minister for Public Services, one of the Welsh
Ministers
27 January 2016

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