

REGULATORY APPRAISAL

WELSH PUBLIC SERVICES OMBUDSMAN

THE PUBLIC SERVICES OMBUDSMAN (WALES) ACT 2005 (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) (WALES) ORDER 2006

Purpose and intended effect of the measure

1. The intended effect of this Order is to make a number of amendments to, or revocations of, subordinate legislation as a consequence of the Public Services Ombudsman (Wales) Act 2005. It will also make transitional provision for the consideration and determination of allegations that a past or present member or co-opted member of a relevant authority has failed to comply with his or her authority's code of conduct.
2. The transitional provision will enable the Public Services Ombudsman for Wales (PSOW) to determine, in accordance with pre-existing legislation, an allegation that a past or present member, or co-opted member of a relevant authority has failed to comply with his or her authority's code of conduct. However, the PSOW may only do that if:
 - the allegation has already been made or referred to, but not determined by the Local Commissioner for Wales, or
 - the allegation could have been made or referred to the Local Commissioner for Wales.
3. If either requirement is met the PSOW will be able to determine the allegation in accordance with the legislation that was in force at the time the alleged failure to comply with the authority's code of conduct occurred, that is section 69 of the Local Government Act 2000. The PSOW will not be able to determine the allegation in accordance with the provisions in Part 2 of the Public Services Ombudsman (Wales) Act 2005.

Risk Assessment

4. The amendments to subordinate legislation are required to ensure that references to Welsh public sector ombudsmen are correct, that is, that the legislation refers to, or is only in force for, office/s that are extant. The Government of Wales Act (Complaints of Maladministration) (Transitional and Saving Provisions) Order 1999, The Commission for Local Administration in Wales and Local Commissioner in Wales (Functions and Expenses) Regulations 2001 relate solely to offices that will have been abolished hence the proposal to revoke them.

Options

Option 1: Do Nothing

5. Failure to implement this Order will mean that references in subordinate legislation to the Welsh public sector ombudsmen will be incorrect; subordinate legislation the sole provision of which relates to offices that will have been abolished will remain in force; and persons who have or could have made an allegation to the Local Commissioner for Wales will be disadvantaged as the PSOW, the successor body, will not be able to determine the allegation.

Option 2: Make the Legislation

6. Making this Order will ensure that subordinate legislation that relates to Welsh public sector ombudsmen, the purpose and effect of which is still needed, is maintained but that which is no longer required is revoked. It will also make provision in relation to determination of allegations equivalent to that already provided for PSOW in relation to complaints.

Benefits

7. The Order will benefit those persons who have, or could have, made an allegation to the Local Commissioner for Wales that a past or present member, or co-opted member of a relevant authority has failed to comply with his or her authority's code of conduct as it will enable the PSOW to determine it after the Commission for Local Administration has been abolished.

Costs

8. There are no additional financial implications associated with the making of this Order for the Assembly, other public bodies, or business.

Competition Assessment

9. The introduction of this Order will not have any impact on other sectors and no competition filter is necessary.

Consultation

With Stakeholders

10. A consultation on this proposed Order was undertaken between 4–21 October 2005. A list of consultees is attached at Annex A. The consultation paper was also published on the Assembly's website at:
<http://www.wales.gov.uk/keypubconsultation/content/lgps/content-cao-e.htm>.
Two responses were received to the consultation neither of which commented on the proposed Order.

With Subject Committee

11. The Order was notified to the Local Government and Public Services Committee via the list of forthcoming legislation (LGPS 07-05(p.2), Item no PSOW 02) on 29 June 2005. The Order was not identified for detailed scrutiny.

Review

12. This Order will not need to be kept under review as its purpose is to only make consequential and transitional provisions as a result of the Public Services Ombudsman (Wales) Act 2005.

Summary

13. This Order makes consequential and transitional provisions as a direct consequence of the Public Services Ombudsman (Wales) Act 2005. There are no financial implications for this Order.

LIST OF CONSULTEES

ANNEX A

National Assembly for Wales, Assembly Members,
National Assembly for Wales' Local Government and Public Services Committee

Department of Constitutional Affairs
Department of Health
Department for Work and Pensions
Office of the Deputy Prime Minister

Local Health Boards in Wales
Family Health Service Providers in Wales
Board of Community Health Councils
Community Health Councils in Wales

Unitary Authorities in Wales
Valuation Tribunals in Wales

Public Services Ombudsman for Wales