

Explanatory Memorandum to the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017

This Explanatory Memorandum has been prepared by the Department for Environment and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017. I am satisfied that the benefits justify the likely costs.

Lesley Griffiths
Cabinet Secretary for Environment and Rural Affairs
27 February 2017

PART 1 – EXPLANATORY MEMORANDUM

1. Description

- 1.1 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 (“the 2017 Regulations”) make provisions for the size and composition of Local Planning Authority planning committees (and sub-committees) in Wales.
- 1.2 They introduce the requirement that, in order to take decisions, Local Planning Authorities in Wales must operate planning committees consisting of between a minimum of 11 members and a maximum of 21 members. In addition, planning committees cannot consist of more than 50 percent of all authority members (excluding National Park Authorities due to their lower number of members).
- 1.3 The 2017 Regulations also make provision concerning the appointment of members to committees from multiple member wards. Where wards have more than one elected member, only one may be appointed to the planning committee, in order to allow the other ward members to perform the representative role for local community interests. This would not apply to 3 Local Planning Authorities which currently consist solely of 16 or less multi-member wards. As a result of their size and composition solely of multi-members wards, these smaller authorities may have had difficulties appointing committees consisting of the minimum size (11 members), particularly taking account of the need to provide political balance. It would also not apply to National Park Authorities due to the composition of their membership, i.e. members are appointed by the unitary authorities with land in the National Park and recruited by the Welsh Government for their particular expertise and do not represent individual wards.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 There are no matters of special interest to the Committee.

3. Legislative background

- 3.1 The powers enabling the 2017 Regulations to be made are contained in sections 319ZB, 319ZC, and 319ZD of the 1990 Act. Section 39 of the Planning (Wales) Act 2015 inserts section 319ZB (size and composition of committee discharging functions), 319ZC (sections 319ZA and 319ZB: supplementary) and 319ZD (interpretation of sections 319ZA to 319ZC) into The Town and Country Planning Act 1990.
- 3.2 The 2017 Regulations are subject to the affirmative procedure.

4. Purpose & intended effect of the legislation

- 4.1 The consultation paper ‘Positive Planning’ set out how the Welsh Government intends to achieve its vision for the planning system in Wales: ‘a planning

system which helps us to deliver national, local and community objectives by supporting appropriate development'. To achieve this we need a planning system which is positive in outlook and facilitates rather than frustrates appropriate development.

- 4.2 The size of planning committees in Wales has historically varied significantly. Only recently in response to these proposals outlined in 'Positive Planning' and the subsequent consultation paper, have some Local Authorities moved away from all-member planning committees.
- 4.3 Large planning committees are resource intensive, including in respect of administrative resources, as well as members requiring attendance at committees, training and preparation reading and absorbing the agendas. They can also diminish the valuable role of members because of the responsibilities which accompany planning committee membership. If a member is not part of the planning committee, they do not need to be concerned with predetermination and can take a view on an application and campaign on behalf of their constituents.
- 4.4 The research also found that, in general, the larger the committee the lower the average attendance, which can impact upon the continuity in membership of larger committees and subsequently the consistency of decision-making.
- 4.5 Smaller committees would not only assist in addressing these issues but also enable member training to be more focused, resulting in better trained and robust committees. A culture of better informed evidence-based decision making should be facilitated by the creation of an informed group of councillors with the necessary skills and knowledge to make better decisions in the wider public interest. Smaller planning committees are likely to provide a consistent, fairer, more transparent planning service.
- 4.6 The 2017 Regulations will introduce greater consistency and efficiency in the procedures used to determine planning applications across Wales whilst retaining local democratic accountability.
- 4.7 If the 2017 Regulations are not made, fluctuations in committee size witnessed over previous years may return and large planning committees may once again become prevalent throughout Wales, creating delays within the system and increasing costs for both developers and Local Planning Authorities.

5. Consultation

- 5.1 The requirement for legislation to prescribe the size and composition of planning committees was first discussed in the 'Positive Planning' consultation paper. A more detailed consultation was subsequently undertaken between 06 October 2014 and 16 January 2015.
- 5.2 The responses were significantly in favour of the proposals. A summary of the responses received is available on the Welsh Government website.

PART 2 – REGULATORY IMPACT ASSESSMENT
The Size and Composition of Local Planning Authority Committees (Wales)
Regulations 2017

1 Options

- 1.1 Three options have been considered:
- Option 1: Do nothing i.e. allow LPAs to set the size of their planning committee
 - Option 2: Restrict the number of members that can sit on a LPA planning committee
 - Option 3: Issue guidance encouraging LPAs to limit the size of its planning committee.

Option 1: Do nothing

Description

- 1.2 Option 1 would continue the existing practice whereby each local planning authority decides the size of its planning committee. The legislative power in the Planning (Wales) Act 2015 would not be commenced.

Costs

Welsh Government

- 1.3 There would be no financial consequences for the Welsh Government.

Local Planning Authorities

- 1.4 The size of planning committees in local planning authorities in Wales has fluctuated significantly over the years, with both increases and decreases observed.
- 1.5 Most recently, the planning committees at both Rhondda Cynon Taff County Borough Council and the City of Swansea Council have moved from all member committees (including two regional committees in the case of Swansea) to single committees of a scale within the proposed threshold following the publication of the Welsh Government consultation document in 2014. Neath Port Talbot County Borough Council also significantly reduced their committee size.
- 1.6 Whilst there is no publicly available data with regards to the cost of operating a planning committee in Wales, the costs in the table below have been estimated based on number of Members on the committee, a minimum LPA staff presence and their associated cost (per meeting):

No of Members on Planning Committee	Estimated Staff & Member Cost (includes on-costs)
11	£839.50

18	£1,065.32
30	£1,452.44
46	£1,968.60
72	£2,807.36

1.7 These illustrative figures demonstrate the variation in costs between committees of differing sizes. LPAs which operate planning committees that consists of a large number of the elected Members will incur significant costs per meeting.

Development Industry / Applicants

1.8 Large committees can be slower and inconsistent when making decisions, contributing to delays in the planning process. Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy.

Benefits

Welsh Government

1.9 This option would not give rise to any benefits to the Welsh Government in terms of improved performance.

Local Planning Authorities

1.10 A committee that would exceed the recommend size, would retain their influence in the planning application decision making process. However an opportunity to create consistency throughout Wales at planning committees to improve the decision making–process would be lost. There would also be a threat that those committees which previously consisted of all local authority members and restructured their committees following the Welsh Government consultation paper, would return back to all member committees and the current benefits would diminish.

Development Industry / Applicants

1.11 Delays and inconsistency in the decision making process would remain, and could be exacerbated should LPAs return to large committees, consequently there are no benefits to this sector.

Option 2: Restrict the size and composition planning committees

Description

1.12 Option 2 will prescribe in subordinate legislation the size and composition of Local Planning Authority planning committees to achieve a more consistent approach in terms of how planning committees operate in Wales. In order to take decisions, planning committees must comply with the following:

- Size: Committee must comprise of a minimum of 11 members and a maximum of 21 members (but no more than 50% of the authority members, excluding National Park Authorities);
- Composition: Where wards have more than one elected member, only one may be appointed to the planning committee, in order to allow the other ward members to perform the representative role for local community interests.

Costs

Welsh Government

1.13 There would be no financial consequences for the Welsh Government.

Local Planning Authorities

1.14 It is estimated that LPA staff and Member costs for a planning committee, based on the maximum and minimum numbers stated in paragraph 1.6, would be approximately £839.50 (11 Member committee) and £1,162.10 (21 Member committee) respectively per meeting, offering a financial saving to LPAs who committees that are of a size which falls outside of the proposed threshold.

1.15 Whilst it is noted that potentially costs could slightly increase at those LPAs who currently operate within the proposed parameters and choose to increase their committee size to the maximum permitted under the regulations (21), this would not impact upon the overriding aim of the regulations as outlined in the Explanatory Memorandum.

1.16 Each LPA will be required to amend the relevant sections of their constitution to take account of the proposed changes to planning committee structures. It would be anticipated that this would normally be an agenda item in a routine full council meeting following the election of a new Council and hence not impose an additional cost.

Development Industry / Applicants

1.17 Implementing the proposed changes would have no direct monetary cost to this sector.

Benefits

Welsh Government

1.18 Smaller planning committees will contribute towards achieving a consistent, fairer, more transparent planning service in Wales. They will facilitate a culture of better informed evidence-based decision making through the creation of an informed group of councillors with the necessary skills and knowledge. This will improve consistency across Wales

1.19 It is acknowledged that the proposed regulations will require a change in practice by only a small number of LPAs. However, the regulations are necessary to ensure that the structure identified as efficient and effective and currently operated by many of the LPAs, is maintained and that committee sizes do not once again increase to a level that is detrimental to efficiency and performance.

Local Planning Authorities

1.20 Planning committee sizes and LPA resources vary. However, prescribing the number of Members who can be part of the committee will reduce the costs and administrative overheads at LPAs whose planning committees exceed the suggested size/composition requirements.

1.21 Reduced committee sizes will enable Members who no longer form part of the planning committee to perform the representative role for local community interests and therefore enhance the democratic process. Councillors acting as community representatives are vital to the planning process.

1.22 Decisions will also be more democratic through a reduction in political tensions around debating and voting that can occur at larger committees where votes may be on political lines. The RTP1 research showed that a large committee was felt by some to be unwieldy and did not allow for the full engagement of all committee members in the debate¹.

1.23 Member training would be more focused resulting in well trained and robust committees who have the knowledge and understanding of planning issues enabling them to make more informed decisions in the public interest.

Development Industry / Applicants

1.24 Smaller, well-trained planning committees with the knowledge and ability to debate and assess complex development proposals, which results in the issuing of informed decisions in a timely manner will be of significant assistance in addressing some of the delays in the existing system.

1.25 The public will also benefit from clearer demarcation of roles and responsibilities of Members whether representing local interests or the wider public interest as a member of the planning committee.

Option 3: Issue guidance encouraging LPAs to operate planning committees within the recommended thresholds

Description

¹ RTP1 Cymru. Study into the Operation of Planning Committees in Wales. Fortismere Associates with Arup. 2013. Page 55.

1.26 This option would result in the production of guidance on planning committee procedures including committee size. It would not be mandatory for Local Planning Authorities to follow the guidance.

Costs

Welsh Government

1.27 The costs associated with developing and disseminating the guidance would fall within the day to day role of Welsh Government and would be captured by existing budgets.

Local Planning Authorities

1.28 Issuing guidance would have no direct monetary cost to LPAs.

1.29 LPAs with committees of a size exceeding the range identified as efficient and effective would continue to incur additional costs associated with operating a large committee.

Development Industry / Applicants

1.30 Issuing guidance would have no direct monetary cost to this sector. The associated cost to this sector would remain as set out in option 1.

Benefits

Welsh Government

1.31 There are no benefits for Welsh Government. Guidance would not be mandatory and is therefore unlikely to result in the desired outcome i.e. achieving a consistent approach in terms of how planning committee size and procedures.

1.32 The risk that LPAs would revert to all-member, or large in number, planning committees to the detriment of efficient decision-making would remain.

Local Planning Authorities

1.33 Local Authorities would retain control over the size and composition of their planning committee. The criteria contained within any guidance would not be mandatory and therefore each LPA could decide whether to implement the policy (in full or in part) or to make no changes to their committee size/composition/procedures.

Development Industry / Applicants

1.34 The benefits to this sector would depend on whether, and how, the LPAs reformed their committee composition as a result of the guidance. Inconsistency and delays would likely remain as the guidance would not be

mandatory and with no requirement for LPA's to reform their committee structure or processes.

Summary and Preferred Option

- 1.35 There is a strong evidence base for change provided by the RTPI report referenced in this RIA. In particular it highlights that large planning committees result in a potential waste of scarce Member resources, demanding attendance at committees and time to be familiar with agendas, but also extinguishes the valuable role which non planning members can play in the process. Members who are not planning committee members can become involved in planning issues without the particular constraints which accompany planning committee membership including ward member activities, community leadership or taking up a campaigning role on planning issues affecting their constituents. Members acting as community representatives are in many ways just as vital to the planning process as planning committee members and large planning committee structures overlook this to the authority's disadvantage.
- 1.36 In general, the larger committee the lower the average attendance and consequently larger committees lack continuity of membership which impacts upon consistency in decision-making. Additionally, larger committees can result in less 'democratic' voting through the resulting emphasis placed on the views of the local member and the political tensions that can exist around debating/voting.
- 1.37 Smaller committees will ensure that those decisions taken by the planning committee will be by consistent and robust core of well trained Members with a clearly defined role of representing the wider public interest, using their knowledge and understanding of planning issues to develop a better culture of informed evidence-based decision making and providing a consistent, fairer, more transparent planning service.
- 1.38 Larger committees also result in increased operational and administrative costs to local authorities, as demonstrated in paragraph 1.6. At a time of Local Authority budget limitations, a move towards smaller planning committees offers a potential cost saving in addition to the service improvements.
- 1.39 Option 3 could ensure the planning committee structure identified in the RTPI report is implemented by all LPAs voluntarily, however, as this option relies upon guidance, there would need to be complete buy-in by all LPAs, which cannot be guaranteed.
- 1.40 There is also a significant risk with the Local Government election in 2017 that fluctuations in committee size witnessed over previous years will return and large planning committees will once again become prevalent throughout Wales, creating delays to the system and increasing costs for both developers and LPAs. The publication of guidance (option 3) would be unable to prevent this.

1.41 For this reason option 2 is our preferred option as it will provide a framework for LPAs to formulate their planning committee structure based on parameters which have been consulted upon and have significant buy-in from stakeholders the majority of whom support the proposal.

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