

Explanatory Memorandum to the Local Government (Committees and Political Groups) (Amendment) (Wales) Regulations 2014

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before the National Assembly for Wales 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 Local Government (Committees and Political Groups) (Amendment) (Wales) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Lesley Griffiths AM

Minister for Local Government and Government Business, one of the Welsh Ministers

27 February 2014

1. Description

- 1.1 The Local Government (Committees and Political Groups) (Amendment) (Wales) Regulations 2014 insert Regulation 16AA into the Local Government (Committees and Political Groups) Regulations 1990. The amendment has the effect of ensuring that area committees discharging non-executive functions are subject to the same constitutional rules as those discharging executive functions.

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

None

3. Legislative background

- 3.1 Section 102 of the Local Government Act 1972 enables principal councils to establish committees to carry out functions of the authority, including committees whose responsibilities are confined to a particular area within the authority area.
- 3.2 Section 15 of the Local Government and Housing Act 1989 (“the 1989 Act”) sets out the rules of political balance that apply to committees and subcommittees of a local authority. Under the 1989 Act, regulations may prescribe circumstances in which a committee or a subcommittee may be exempted from the need to reflect political balance.
- 3.3 Regulation 16A of the Local Government (Committees and Political Groups) Regulations 1990 provides that political balance rules do not apply to certain area committees discharging functions of the authority. All voting members of the committee who are members of the council must have been elected for electoral divisions or wards that are wholly or partly within the part of the council concerned. The area covered by such a committee must not exceed 40% of the council’s area and the population covered by the area should also not exceed 40% of the council population.
- 3.4 The Local Government Act 2000 (“the 2000 Act”) established executive arrangements in principal councils and section 18 of the 2000 Act included provisions for regulations to be made which would allow a local authority executive to arrange for the discharge of any of its functions by an area committee.
- 3.5 Section 18 of the 2000 Act was amended by section 55 of the Local Government (Wales) Measure 2011 (“the 2011 Measure”) to the effect that such an area committee, i.e. one discharging executive functions, should be open to membership from any elected member representing a division within the area concerned and that the area must not exceed

50% of the authority's area or cover more than 50% of the population of the authority's area.

4. Purpose & intended effect of the legislation

- 4.1 These Regulations are made under Schedule 1 to the 1989 Act and insert new regulation 16AA into the 1990 Regulations which sets out the conditions to be satisfied in Wales for the exception to apply.
- 4.2 The exception to the duty under section 15 will apply where a committee or subcommittee is established exclusively to discharge functions or to advise in respect of part of the area of the authority and the where that area of that authority does not exceed one half of the total area of the authority or the population of that part does not exceed one-half of the population of that area. In addition, that part of the area of the authority covered by the area committee must consist of the whole of one or more electoral divisions and all the members of the authority who are elected for that electoral division, or those electoral divisions (and no others) are entitled to be members of the area committee.
- 4.3 Representatives of local government expressed their concerns at the discrepancies between “executive” and “non-executive” area committees in terms of the restrictions on the area and population covered.
- 4.4. The Welsh Government considers that it is preferable to make the constitutional arrangements for area committees exercising executive and non-executive arrangements uniform. There is no reason for different arrangements. This may be achieved by amending the 1990 Regulations so as to place those area committees exercising non-executive functions subject to the same requirements as those exercising executive functions under section 18 of the 2000 Act, as described above.

5. Regulatory Impact Assessment (RIA)

- 5.1 The options for achieving the policy objectives in relation to the Regulations are:

Option 1 – Do nothing and do not amend the Regulations

Option 2 – Make the amendments

Option 1 – Costs and benefits

- 5.2 The Welsh Government received representations by Assembly Members and from Rhondda Cynon Taf Council expressing their concerns at the discrepancies between “executive” and “non-executive” area committees in terms of the restrictions on the area and population covered. Not making Regulations would mean that any area committee established by

a principal council continues to reflect the political balance of the council and not open to membership to any other councillor representing a division within the area concerned. Area and population restrictions would also still apply to area committees with non-executive functions.

- 5.3 There would be no financial costs to the Welsh Government or local authorities as a result of failing to amend the Regulations.

Option 2 - Costs and Benefits

- 5.4 The Welsh Government's intention that any area committee established by a principal council in Wales need not reflect the political balance of the council but instead be open to membership to any councillor representing a division within the area concerned. The Welsh Government also wish to change the area and population restrictions currently applying to area committees with non-executive functions.

- 5.5 There would be no financial costs to the Welsh Government or Local Authorities as a result of amending the Regulations.

6. Consultation

- 6.1 The Welsh Government issued an electronic public consultation on the draft (Amendment) Regulations 2014. The consultation ran for 8 weeks from 30 August 2013 to 25 October 2013 and requested views on the content of the draft amendments to the Regulations.

- 6.2 The consultation was available on the Welsh Government website, and was sent directly to:

- Democratic Services of Welsh Principal Councils
- Chief Executives of Welsh Principal Councils
- Lawyers of Local Government
- Welsh Local Government Association Chief Executive
- Local Authority Monitoring Officers
- The Welsh branch of the Society of Local Authority Chief Executives and Senior Managers (SOLACE)

- 6.3 3 responses were received to the consultation. Rhondda Cynon Taf Council are in favour of the proposed amendment.

- 6.4 A published summary report of the consultation responses received will be available on the Welsh Government website in March 2014.

7. Competition Assessment

- 7.1 There are no market implications associated with the making of these Regulations. It has no impact on business, charities or the voluntary sector.