

Explanatory Memorandum to the Code of Recommended Practice on Local Authority Publicity 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 and 27.14.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Code of Recommended Practice on Local Authority Publicity 2014. I am satisfied that the benefits outweigh any costs.

Lesley Griffiths AM,
Minister for Local Government and Government Business

5 June 2014

1. Description

- 1.1 The Code of Recommended Practice on Local Authority Publicity in Wales (“the Code”) provides guidance on the content, style, distribution and cost of local authority publicity. Local authorities are required by legislation to have regard to the Code in coming to any decision on publicity. There are a number of issues which have arisen in the last year or so which suggest that it is timely to review the existing Code which was published in 2001.

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

None

3. Legislative background

- 3.1 The Code is issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986 (‘the 1986 Act’). Those powers were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The powers of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
- 3.2 Local authorities, defined in section 6(2) of the 1986 Act, are required by section 4(1) to have regard to the Code in coming to any decision on publicity. ‘Publicity’ is defined in section 6(4) of the 1986 Act as ‘any communication, in whatever form, addressed to the public at large or a section of the public’.
- 3.3 The existing Code was issued in 2001 by the then Minister for Local Government, Finance and Communities. Section 4(4) of the 1986 Act requires that before issuing, revising or withdrawing the Code the Welsh Ministers must consult such associations of local authorities as appear to be concerned and any local authority with whom consultation appears to be desirable. The consultation ran for 12 weeks from 22 March 2013 to 14 June 2013. A summary of the consultation responses and the Government responses explaining the proposed changes to the code is attached at Doc 1.
- 3.4 The revised Code will apply to all local authorities that fall within the definition in section 6(2) or that have Part 2 of the 1986 Act applied to them.
- 3.5 Under section 4(6) of the 1986 Act, where the Welsh Ministers propose to revise the Code they must lay the proposed alterations before the National Assembly for Wales. The proposed alterations may not be made until after the expiration of 40 days from the date upon which the

alterations were made. The alterations are subject to annulment by the National Assembly for Wales during that 40 day period. The proposed alterations to the 2001 Code are shown in tracked changes. It is intended that the revisions to the Code will be made and will come into force on 25 July 2014.

4. Purpose & intended effect of the code

4.1 The proposed alterations contain guidance on the following issues:

- the production of council newspapers (para 22);
- the benefits of social media as a communication tool (para 39);
- the use of council newspapers as a useful channel for distributing information on council services (paras 46-48);
- the filming and broadcasting of council meetings (paras 53-55);
- the need, when undertaking a community poll, to restrict published information to factual information (para 60).

4.2 There has been considerable discussion surrounding the production of council newspapers and the broadcasting of council meetings. The revised Code therefore contains specific guidance on these issues.

4.3 The proposed alterations also include specific reference to the following:

- the Local Government (Wales) Measure 2009;
- the Communications Act 2003;
- the Housing Transfer Guidelines 2009;
- section 5 of the Local Government (Wales) Measure 2011;
- the Welsh Language (Wales) Measure 2011 and the Welsh Language Act 1993.

4.4 The Local Government (Wales) Measure 2011 introduced a requirement for local authorities to make arrangements for the publication of annual reports by elected members, a provision due to come into effect from next May onwards, when members elected in 2012 will have served their first year. Information about the publication of annual reports by elected members is given in this guidance. Although outside the scope of the Code, this information is relevant to the publication of information and has therefore been included (para 51). Specific guidance will be issued separately in relation to the publication of annual reports.

4.4 The Code applies to County and County Borough Councils, National Park Authorities, Fire and Rescue Authorities and Town and Community Councils in Wales. By virtue of section 70 and paragraph 9 of Schedule 8 of the Environment Act 1995, Part 2 of the 1986 Act has

effect as if a National Park authority were a local authority for the purposes of that Part.

Regulatory Impact Assessment (RIA)

5.1 Options for achieving the policy objectives in relation to the amendments to the Code, as discussed in Section 4, are:

- Option 1 – Do nothing and do not make any amendments to the Code;
- or
- Option 2 – Make amendments to update the Code.

Option 1 – Costs and benefits

5.2 There would be no financial costs to the Welsh Government or Local Authorities as a result of failing to make the revisions to the Code.

5.3 Doing nothing, however, would result in Local Authorities having regard to a Code of best practice for local authority publicity which is out of date and does not reflect current legislation in this area.

Option 2 - Costs and Benefits

5.4 The production of council newspapers is one that is already met within Local Authority budgets. No additional cost is imposed by this Code.

5.5 The broadcasting of council meetings is a discretionary matter for Local Authorities. The Welsh Government issued a grant in 2012/13 of £1.25 million to contribute towards the costs of broadcasting meetings (amongst other things) but there is no ongoing commitment. No additional cost is implied as a result of making this Code

5.6 Community councils will be required to produce material electronically once the relevant provisions in the Local Government (Democracy) (Wales) Act 2013 are commenced (intended for May 2015). Costs related to this were included in the Explanatory Notes to the Act and are not associated with this Code.

5.7 The benefits to local authorities will be a Code of Recommended Practice on Local Authority Publicity, which Local Authorities are required by legislation to have regard to, which will provide guidance on best practice and up to date information on the content, style, distribution and cost of local authority publicity. As some of the amendments are from current legislation, not updating the Code could have a detrimental affect on Local Authorities who might otherwise neglect to comply with new provisions as they were not in the Code.

6. Consultation

6.1 The Welsh Government issued an electronic public consultation on the draft amended Code. The consultation ran for 12 weeks from 22 March 2013 to 14 June 2013, and requested views on the amended

provisions within the Code. A copy of the summary of responses and the Welsh Government response is attached and will be published on the Welsh Government website.

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

- Chief Executives of Principal Councils;
- Leaders of Principal Councils
- Monitoring Officers;
- Chair & Chief Executive of Welsh National Park Authorities;
- Chairs & Clerks of Welsh Fire and Rescue Authorities;
- Democratic Services of County Borough Councils, National Park Authorities, and Fire and Rescue Authorities; and
- Leader and CEO of the WLGA.

6.3 A total of 18 responses were received, the majority of which supported the amendments as posed by the consultation to the current Code.

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.