

# Local Government & Public Services Committee

**LGPS(2)-08-06(p8b)**

**To: Business Committee**

**From: Sue Essex AM**

**Minister for Finance, Local Government and Public Services**

**Explanatory Memorandum**

**Local Government, Wales**

**The Standards Committees (Wales) (Amendment) Regulations 2006**

## **Summary**

These Regulations make provision to amend the Regulations concerning (amongst other things) the size, composition and proceedings of standards committees of relevant authorities in Wales, other than police authorities. Such provisions are contained in the Standards Committees (Wales) Regulations 2001 (SI 2001/2283). The Regulations also make provision for any sub-committees of standards committees established under section 54A or section 56 of the Local Government Act 2000.

This Memorandum is submitted to the Assembly's Business Committee in relation to The Standards Committees (Wales) (Amendment) Regulations 2006, in accordance with Standing Order 24.6.

A copy of the Instrument is submitted with this Memorandum.

## **Enabling Power**

The powers enabling this Instrument to be laid are contained in sections 53(11), 54A(5)(a) and 56(5) of the Local Government Act 2000. These powers have been conferred on the National Assembly for Wales. Responsibility for issues relating to the contents of this Instrument has been delegated to my portfolio as Minister for Finance, Local Government and Public Services.

## **Effect**

These Regulations amend the Standards Committees (Wales) Regulations 2001 and make the following provision:

- To make it clear that a county/county borough council shall have the final decision on the appointment of community committee members to their standards committees, subject to prior

consultation with town and community councils and any community council associations within their area.

- That the term of office for community committee members be four years, or the period until the next community council elections following the appointment of the individual in question, whichever is shorter. An individual shall cease to be a community committee member if he or she ceases to be a member of a community council situated within the area of the principal authority. A community committee member may be re-appointed for one further consecutive term following appropriate consultation..
- To permit a second term of office for independent members, in line with the provisions of Regulation 21(1) of the Standards Committees (Wales) Regulations 2001 and without the need for a detailed appointment process. (Regulation 21(1) provides that a member of a standards committee of a relevant authority and who is a member of that authority may be re-appointed for one further consecutive term). The second term of office of an independent member is to be restricted to a maximum of 4 years.
- To remove any perceived conflict by amending Regulation 24 of the Standards Committees (Wales) Regulations 2001 to make it clear that "chairperson" referred to in that Regulation means either the person elected as chairperson under Regulation 22(1) and presiding at the relevant meeting, the person elected as vice-chairperson under Regulation 22(1) and presiding in the absence of the chairperson (under Regulation 22(4)) or an independent member presiding in accordance with Regulation 22(5).
- To regulate on the composition of sub-committees appointed under section 54A(1) of the Local Government Act 2000. To regulate that such a sub-committee should consist of a minimum of three members, at least half of whom (including the Chairperson) must be independent. The quorum for a meeting of a section 54A sub-committee is to be two members (including the chairperson of the sub-committee) These provisions do not affect a sub-committee established under section 56(3) of the Local Government Act 2000 to undertake the functions of standards committees relating to community councils, which remain subject to the same requirements under the Regulations as the 'full' standards committee itself.

## **Target Implementation**

It is intended that the Instrument be made on 11 July 2006 and come into force on 14 July 2006. Unitary authorities are very anxious to be in a position to re-appoint independent members to their standards committees (due to recruitment difficulties), therefore any delay would impact on this process.

## **Financial Implications**

The costs arising from the preparation of these Regulations will be met from existing Welsh Assembly

Government running costs. There are no financial implications arising from the introduction of the Regulations for either the Assembly or local government.

## **Regulatory Appraisal**

A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

## **Consultation**

### **With Stakeholders**

An eight week consultation on the principles of the Regulations took place between 26 August 2005 and 25 October 2005. Those consulted were:

- Chief Executives/Monitoring Officers of County/County Borough Councils
- Clerks of Community and Town Councils
- Clerks of National Park authorities
- Clerks of Fire and Rescue authorities
- Clerks of Police authorities
- Chairs of Standards Committees
- The Audit Commission for Wales
- Commission for Local Administration in Wales
- Information Commissioner
- One Voice Wales
- The Society of Local Authority Chief Executives
- Wales Council for Voluntary Action
- The Welsh Association of National Park Authorities
- The Welsh Local Government Association

## **A total of 57 responses were received. These were made up as follows:**

- 16 from county/county borough councils
- 2 from Fire and Rescue authorities
- 2 from National Park authorities
- 37 from community and town councils

The results of the consultation showed an overwhelming majority of respondents in favour of the proposals. Some minor comments were however made with respect to some of the detail. These were given due consideration and incorporated into the proposals where appropriate.

- As regards the term of office/re-appointment of community committee members the Regulations now provide that a member may be re-appointed following further consultation with community councils and any regional association in the principal authority's area. The Regulations also provide that a person will cease to be a community committee member of a standards committee if they cease to be a member of a community council in the principal authority's area.
- The Regulations have now been drafted on the basis that a second term of office for independent members be limited to a maximum period of 4 years.

There were 6 responses that disagreed with the proposed changes to Regulation 10 of the Standards Committees (Wales) Regulations 2001 ie they believed that local councils /Community Council Association or One Voice Wales should have the final decision on the appointment of a community committee member. The responses came from community and town councils and as there was no consensus of opinion as to an alternative means of appointing community committee members, it was felt that there was no basis to amend the original proposal.

A 4 week consultation on the Instrument started on 22 February 2006 and ended on 22 March 2006. A total of 24 responses were received. These were made up as follows:

- 8 from unitary authorities
- 12 from community and town councils
- 1 from Police Authority
- 1 from National Park authority

- 1 from Information Commissioner's Office
- 1 from North Wales Fire and Rescue Authority

Seventeen of the respondents fully supported the proposals. All the comments made were given full consideration. As a result the following amendments have been incorporated:

- The Regulations will provide that no business of a section 54A sub-committee shall be transacted unless 2 members, including the chairperson of the sub-committee are present. The quorum for a community sub-committee (established under section 56 of the Local Government Act 2000) is to remain unchanged.
- The Regulations shall make it clear that a chairperson or vice-chairperson that is re-appointed for a second term as an independent member may also serve a second term as a chairperson/vice-chairperson.
- The Regulations shall make it clear that the requirements in Regulations 13 -17 of the Standards Committees (Wales) Regulations 2001 (relating to the recruitment process for independent members) do not apply to the re-appointment of existing independent members. The Instrument will not however prevent authorities from applying these provisions, should they choose to do so.

The view made by one respondent that the Regulations assume that the chairperson and vice-chairperson of a standards committee would also be members of sub-committees of that standards committee is not accepted. The effect of Regulation 22(1) of the Standards Committees (Wales) Regulations 2001 is that each sub-committee is required to elect its own chairperson and vice-chairperson.

One respondent was of the opinion that a sub-committee could consist of two members. This was not accepted as all comments relating to the size of a sub-committee were fully considered following the first consultation.

### **With Subject Committee**

The Regulations were put on the list of forthcoming legislation on 21 September 2005 under paper number LGPS (2)-08-05(p2) and are due to be considered by Subject Committee on 4 May 2006.

### **Recommended Procedure**

Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Standard Procedure in order to give Assembly Members an opportunity to debate it.

### **Compliance**

The proposed legislation will (as far as applicable):-

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community Law (section 106)
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

The information in this Memorandum has been cleared by the Legal Services Department (LS) and the Assembly Compliance Office (ACO)

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Sue Essex June 2006

Minister For Finance, Local Government And Public Services