

Explanatory Memorandum to the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013

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 Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013. I am satisfied that the benefits outweigh any costs.

Lesley Griffiths

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

30 April 2013

1. Description

- 1.1 The Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 make provision for two or more local authorities to appoint a joint overview and scrutiny committee.
- 1.2 A joint overview and scrutiny committee may make reports or recommendations to any of the appointing principal councils or their executives.

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

None

3. Legislative background

- 3.1 Chapter 1 of Part 6 of the Local Government (Wales) Measure 2011 enhances the role of non-executive (“backbench”) Local Authority councillors exercising their scrutiny functions. Notable changes are:
 - Enabling councils to delegate functions to councillors;
 - Enabling two or more councils to establish joint overview and scrutiny committees;
 - Introducing on councils a duty to scrutinise any local public services providers which have been designated for the purposes of local authority scrutiny;
 - Enabling overview and scrutiny committees to require information and responses from designated persons outside the council providing services to the public in their area;
 - Providing for local authorities to allocate appointments of chairs of overview and scrutiny committees in proportion to the political balance of the council.
- 3.2 Section 58 permits Welsh Ministers to provide, by regulation, for two or more principal councils to appoint one or more joint overview and scrutiny committees (JOSC), and arrange for the committee or committees to make reports or recommendations to any of the principal councils responsible for setting up the committee or committees, and to the executives of those councils.

4. Purpose & intended effect of the legislation

- 4.1 Current legislation requires each principal council to operate overview and scrutiny committees, with powers to scrutinise and develop policies

in relation to their own authority's functions, including those of the executive, as well as in relation to social, environmental and economic issues affecting their area. However, previous to the Local Government Measure 2011 being passed, there were no legislative provisions which enabled the creation of joint scrutiny committees with other local authorities, even though these were being established in some cases on a voluntary, non-statutory, basis. This did not reflect the increasing development of partnership and joint working across Local Authority boundaries. This meant services or issues which cross county or sectoral boundaries could not be subject to effective scrutiny despite the fact Local Authorities and Public Bodies had been increasingly working together to deliver certain services and address common issues.

- 4.2 Section 58 is an enabling power for Local Authorities. Not all of them will choose, or need, to have a joint committee. Those who do will be permitted by the Regulations to scrutinise matters affecting the whole or part of the area of each of the appointing authorities, for example, the delivery of local authority services where such delivery covers more than one Local Authority area.
- 4.3 Enabling two or more authorities to establish joint overview and scrutiny committees will allow local authorities to utilise formal arrangements to make reports and recommendations on matters affecting the whole or part of the area of each of the appointing authorities, if it suits their circumstances. It increases the options available to local authorities, and aims to strengthen the exercise of scrutiny of public services in local areas and to ensure the process is independent.

Regulatory Impact Assessment (RIA)

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

Option 1 – Do nothing and do not make the Regulations;
Option 2 – Make the Regulations.

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 Regulations. Doing nothing, however, would inhibit the ability of local authorities to exercise jointly an effective scrutiny function in support of collaborative working developed since the Local Government Act 2000 first introduced the scrutiny function.

Option 2 - Costs and Benefits

- 5.3 Local authorities are statutorily obliged to establish a least one overview and scrutiny committee. The power to set up a joint overview and scrutiny committee is an enabling one. There will be no compulsion on local authorities to set one up. The estimated administrative costs for setting up and maintaining a joint overview and scrutiny committee which meets 2-3 times a year is estimated to be £5,000 per annum. A joint overview and scrutiny committee which meets more frequently, up to 6 times a year, could incur administrative costs of up to £18,000. These costs would be shared among the constituent authorities.
- 5.4 In addition, the chair and vice chair of a joint overview and scrutiny committee may be entitled to a payment. Payments to members of a local authority are determined by the Independent Remuneration Panel for Wales. The Panel issued an a Draft Supplementary Report – “Joint Overview and Scrutiny Committees Remuneration” dated 19 March 2013, which set out their considerations of the implications of establishing a joint overview and scrutiny committee for their Remuneration framework. Their preliminary determination is that a chair would be entitled to a payment of £8,375 (£4,368 if the member is already in receipt of a payment) and a vice chair would be entitled to a payment of £4,368 (£2,184 if the member is already in receipt of a payment).
- 5.5 The benefits to local authorities will be to strengthen the exercise of scrutiny of matters such as public services in local areas by extending the scrutiny remit to joint working arrangements, and by ensuring the process is, and is seen to be, independent.

6. Consultation

- 6.1 The Welsh Government issued an electronic public consultation on the draft Regulations. The consultation ran for 12 weeks from 1 October 2012 to 21 December 2012, and requested views on the content of the draft Regulations, and on the draft statutory guidance.
- 6.2 The consultation was available on the Welsh Government web-site, and was sent directly to:

The Association of Council Secretaries and Solicitors;
Chief Scrutiny Officers in the 22 Welsh local authorities; and
The Welsh Local Government Association

- 6.3 A total of 13 responses were received, the majority of which supported the ability of local authorities to establish a joint overview and scrutiny committee.

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.