

Explanatory Memorandum to The Strategic Planning (Composition of Panels and Qualifying Expenditure)(Wales) Regulations 2016

This Explanatory Memorandum has been prepared by the Planning Directorate 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 Strategic Planning (Composition of Panels and Qualifying Expenditure)(Wales) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Carl Sargeant
Minister for Natural Resources
11 January 2016

1. Description

1.1 These Regulations set out technical details for Strategic Planning Panels (Panels) including:

- Details of composition of Panels; and
- Details of financial matters for Panels including the definition of qualifying expenditure.

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

2.1 None.

3. Legislative background

3.1 The Welsh Ministers rely on provisions in the Planning (Wales) Act 2015 (“the 2015 Act”) to make these regulations.

3.2 Part 3, Sections 4 to 9 of the 2015 Act sets out the provisions for strategic planning. The relevant provisions for composition of Strategic Planning Panels are in Schedule 1, paragraph 5; Schedule 1 paragraphs 16 and 19 are the relevant provisions for the financial matters within these regulations.

3.8 The Regulations are subject to the Assembly’s negative procedure.

4. Purpose & intended effect of the legislation

Composition

4.1 The purpose of this legislation is to increase the diversity of representation on Strategic Planning Panels; this will ensure the Panels are more representative of the society they serve in the responsibilities they have to discharge.

4.2 It is recognised that public bodies do not currently reflect the proportion of men and women in society and that achieving diversity on public bodies increases their credibility and public confidence as they reflect the people they serve.

4.3 The Welsh Government is committed to increasing equality and diversity on public bodies and is progressing a number of strategies and policies to deliver this agenda.

- 4.4 There is no known equivalent body to Panels in Wales and therefore the potential make-up of members on a Panel is unknown. However, historically it is recognised that there has been difficulty in achieving gender balance in local government.
- 4.5 There are a number of approaches used throughout Europe and internationally to achieve increased female representation on public bodies including quotas, voluntary measures and reporting mechanisms. It is however recognised that where a legislative approach has been used this has yielded a higher number of female representatives compared to those countries that use a voluntary approach.
- 4.6 There is a recognition that change is not taking place quickly enough, for example it will take until 2076 for women to have an equal voice in Welsh local authorities at the current rate of increase in female councillors. A quota system is seen as an accepted way to deliver change in a timely manner, although it is recognised that this would sit alongside other voluntary measures.

Financial Matters

- 4.7 The purpose of this legislation is to set a definition for qualifying expenditure in relation to Panels. This is the expenditure required to fund a Panel which to be met from the constituent local planning authority budgets.
- 4.8 The 2015 Act sets out the majority of the financial arrangements for the Panels. This approach enables flexibility and gives the Welsh Ministers the ability to respond to changes in functions and procedures within local government.
- 4.9 This subordinate legislation will be accompanied with amendments to national guidance.

5. Consultation

- 5.1. Details of the consultation are included in the Regulatory Impact Assessment (RIA) below.

PART 2 – REGULATORY IMPACT ASSESSMENT

1. Composition of Strategic Planning Panels

Options

- Option one – Do nothing i.e. Voluntary approach, composition of Panels decided by constituent local planning authorities
- Option two – Introduce regulations setting out requirements to achieve gender balance on Panels

Option one – Do nothing

Description

1. There would be no set requirements for the composition of Panels. The composition of Panels would be determined through the appointments made by the constituent local planning authorities.

Costs

2. There are no costs associated with this option.

Benefits

Welsh Government

3. This option is unlikely to deliver the Welsh Government's agenda to increase equality and diversity on public bodies. It is recognised that public bodies do not currently reflect the proportion of men and women in society and that a Panel which is representative of the society it serves will be better able to fulfil the responsibilities it has to discharge.

Local Planning Authorities

4. This option would not require local planning authorities to meet set requirements for gender equality through their appointments to the Panel. It is unlikely therefore to meet the objective to increase female representation on public bodies given historical trends of female representation in local government.

Stakeholders and the Development Industry

5. This option is not likely to lead to an increase in equality and diversity on public bodies; thereby not being representative of decision making.

Option two – Introduce regulations setting out the requirements to achieve gender balance on Panels

Description

6. This option would require the local planning authority Panel members to be a minimum of 40% women and 40% men. This would be achieved through co-ordination and agreement by the constituent local planning authorities.

Costs

Welsh Government

7. The Welsh Government anticipate providing training on Strategic Planning for local authority members which is proposed to cost approximately £11,400.
8. The use of the intervention powers by the Welsh Ministers would be a one off cost, if required. The costs for this could range from a minimum cost of £260 to £3,700 and would vary on the amount of work required; therefore further detailed costings would depend on the situation and the reason for the use of the intervention powers.

Local Planning Authorities

9. Training will be provided by the Welsh Government and there are ongoing training processes within local government for members on planning matters.
10. If a vacancy occurs on the Panel and a new appointment is required local authority procedures would already account for this as it would for any other appointment to an external body and replacing a member.

Benefits

Welsh Government

11. This option would deliver the Welsh Government agenda to increase equality and diversity on public bodies; which would lead to more representative decision making.

Local Planning Authorities

12. This option would require the local planning authorities to appoint a minimum of 40% women and 40% men on the Panel; increasing female representation on Panels.

Stakeholders and the Development Industry

13. This option would lead to an increase in equality and diversity on public bodies; which would lead to more representative decision making.

Preferred Option

14. Option two is the preferred option as it will achieve the policy objective to increase female representation on public bodies and brings diversity and lead to more representative decision making. This is reflected in the responses to the consultation.

2. Financial Matters for Strategic Planning Panels

Options

- Option one – Do nothing i.e. qualifying expenditure is not defined
- Option two – Define qualifying expenditure in Regulations

Option one – Do nothing

Description

15. The definition of qualifying expenditure is required to ensure Strategic Planning Panels can be established and funded appropriately.

Costs

16. There are no costs associated with this option.

Benefits

Local Planning Authorities

17. Without the qualifying expenditure being defined local planning authorities will not be able to progress funding the Panel and hence progressing the SDP.

Voluntary Sector and the Development Industry

18. Without qualifying expenditure being defined there will be a delay in the delivery of Strategic Planning.

Option two – Define qualifying expenditure

Description

19. Qualifying expenditure is the expenditure required to fund a Panel which is to be met by the constituent local planning authorities. Defining this enables all aspects of the production of a Strategic Development Plan and to ensure that the Panel can run efficiently and effectively.

Costs

20. There are no additional costs associated with this option. The costs associated with the Panels and the production of Strategic Development Plans is set out in the Explanatory Memorandum and Regulatory Impact Assessment that accompanied the Planning (Wales) Act 2015 which can be found here:

<http://gov.wales/topics/planning/legislation/planning-wales-act-2015/explanatory-memorandum/?lang=en>

Benefits

Local Planning Authorities

21. The definition of qualifying expenditure will enable local planning authorities to progress Strategic Development Plans and ensure Panels are funded appropriately.

Voluntary Sector and the Development Industry

22. There are no impacts on these sectors from this option.

Preferred Option

23. Option two is the preferred option as it will achieve the policy objective and ensure Strategic Planning Panels can be funded effectively, as without qualifying expenditure being defined in regulations the Panels would be unable to be funded by the constituent local planning authorities.

Consultation

24. Following the 2015 Act gaining Royal Assent in June 2015, a consultation on proposals relating to Strategic Planning Panel Regulations: Composition and Financial Matters was undertaken between 10 August and 2 November 2015. There were 25 responses received on the consultation proposals.

25. The consultees were drawn from the core stakeholder consultation list held by the Planning Directorate of the Welsh Government and stakeholders from Fairer Futures and Natural Resources Equalities Unit.

26. The majority of respondents support the inclusion of a 40% minimum percentage for both women and men on Panels and indicated the benefits to decision making that this could bring. Those that did not agree felt that targets should be identified in guidance rather than the use of a quota system which could be seen as placing a greater emphasis on achieving a gender balance rather than having the right members with the right knowledge, experience and ability on the Panel.

27. Many recognised that in order to deliver this change in a timely manner a quota is required. Respondents recognised the work across the Welsh Government and the need to increase the number of women in local government. More details are set out in the composition report.

Competition Assessment

28. A competition filter test has been completed for the legislation, this is presented below:

The competition filter test	
Question	Answer Yes or No
Q1: in the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the cost of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up-costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their product?	No

29. The regulations are not expected to have an impact on competition within the development plans sector. The public sector, in the form of the Welsh Ministers, local planning authorities and Strategic Planning Panels, will be responsible for implementing these changes rather than the private sector. These regulations are not designed to impact on the competition of firms within the private sector.

Equalities Impact Assessment

30. The regulations are accompanied by an Equalities Impact Assessment which can be found at Annex 1.

Post Implementation Review

31. The effect of the regulations will be evaluated through delivery of an up to date strategic planning system throughout Wales. The Welsh Government intends to commission research into the effectiveness of implementation of these regulations after an appropriate period, expected to be following adoption of Strategic Development Plans.