

# Legislation Committee No 1

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## Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure

### Written evidence from Fields in Trust (Cymru)

1. Is there a need for an Assembly Measure in relation to community involvement in decisions by local authorities whether to dispose of playing fields?

Yes because it will help to strengthen the protection of playing fields by ensuring a more thorough examination of the playing field's value to the local community and its impact should it be lost. This will allow for better informed decisions to be made on whether or not to proceed with disposal. If it is found to be an important facility, it will discourage disposal or encourage efforts to secure a suitable replacement ensuring that the benefits provided by the playing field will not be lost.

With regard to the general loss of playing fields in Wales and the need to address this issue through improved measures and regulations, some Assembly Ministers have expressed the opinion that it isn't a problem because there is less pressure on land in Wales in comparison to England. FIT does not have accurate figures of losses but knows of cases where playing fields have been lost and is aware of 18 sites used for play, sport or recreation currently under threat in Wales. 12 of these meet the definition of a playing field proposed in the measure. However, regardless of the national situation, each case must be judged individually because the loss of a playing field can have a devastating impact locally. The measures and processes in place must therefore be sufficiently robust to provide adequate protection and prevent the loss of important local facilities unless strict criteria are met e.g. the provision of an alternative site. This measure will help to achieve this.

2. What are your views on the key provisions set out in the proposed Measure, i.e.

- the duty on local authorities to consider the impact that selling off playing fields would have on local communities before deciding whether to dispose;

FIT Cymru welcomes this duty on local authorities because the current process of disposal does not require any assessment of the field's value to the local community.

Local authorities are under obligation to get best value when disposing of land and in order to achieve this; the land will usually be sold for development purposes. This will require planning permission and so this may be sought by the local authority before disposal to guarantee best value. This process will involve - to varying extents depending on the policies in place - consideration to the impact of losing a playing field.

However, whether the matter goes through planning before disposal or not, the depth and detail of the impact statement proposed by the measure will go beyond that usually involved in the planning process e.g. assessing the demand for playing fields and will ensure greater examination of the playing field's importance.

- the principal definitions (Section 2);

FIT is happy with the definitions adopted.

FIT would ideally like to see that all land used for sport, play and recreation is subject to this measure but it appreciates the difficulty in pinning down a definition for legal purposes of land used for informal recreation and play. Whereas playing fields which have pitches marked out and goalposts acting as defining characteristics, other types of featureless recreational land are not easily defined and distinguished from other types of land which has other purposes e.g. farmland.

- the duty on local authorities to prepare and consult on impact statements before deciding whether to dispose (in particular, the method and scale of consultation, and content of impact statements)(Section 3);

FIT Cymru welcomes the method and scale of consultation because it will be wider and more thorough than that offered through the current process of disposal and of that through the planning process (if undertaken before disposal) particularly as a result of direct communication as opposed to notices.

For example, the planning process only requires that immediate neighbours receive letters but the measure proposes sending letters to all households in the electoral division. FIT Cymru knows that people in Ely opposed to the proposed development of Ely Recreation Ground were aggrieved that only those bordering the land received letters informing them of the proposals. Also, with planning, there is only the Sports Council for Wales as statutory consultee. This measure proposes a wider group of organisations including FIT and the Open Spaces Society. More consultees will hopefully discourage authorities from forgetting to consult the Sports Council as has happened on occasion.

Further, the more pro-active method of consultation will avoid cases where local residents miss notices advertised in the paper. FIT Cymru has recently been made aware of an example highlighting this point. The case involves the disposal of land at Bryn Rhodfa,

Treorchy, which although not a playing field is used for informal play and recreation by local residents. The local authority advertised the sale under a London Auctioneers advertisement but no-one had noticed and the land was sold without anyone having the opportunity to make representations. Local residents that would have opposed the sale have set up an action group as a result. The notice was in fact only advertised for one week in the local paper but would anyone have noticed during the second week if again under a London Auctioneers advertisement? The action group are trying to overturn the decision because it was only advertised for one week but it would have to mount legal action where the costs are likely to be prohibitive. Their only realistic recourse is to take the matter up with the Ombudsman.

FIT Cymru is pleased with the contents of the impact statement because of the consideration to the provision, quality, accessibility and demand of playing fields in the locality. This will help to build a clear picture of the suitability of playing fields in the area and make for better informed decisions on proposed disposals.

FIT Cymru is aware that the new TAN 16 is expected to recommend that local authorities carry out Open Space Assessments and that some representations received during the consultation period for this measure feel that the measure will therefore be unnecessary as they will achieve the same thing i.e. determine provision and demand for playing fields. The Explanatory Memorandum states that Open Space Assessments will be a requirement but FIT understands that TAN 16 is planning guidance not legislation and the planning authorities will not be duty bound to conduct open space assessments. In any case, if an open space assessment has been completed the information will be ready for inclusion in the impact statement and not have to be repeated.

Finally and perhaps most importantly, this measure's underlying purpose is aimed at assessing the impact of the sale of playing fields on the health and well being of local communities. The current process of disposal and the planning process do not achieve this. FIT cannot comment however on how to measure the impact on health and well being.

- the duty on local authorities to prepare a decision statement, including its content, and the arrangements for making known its decision (Section 6);

FIT Cymru supports the preparation of a 'decision statement' and the arrangements for making the decision known. This will provide justification for the disposal that is available for scrutiny. This will ensure there has been proper consideration to the relevant issues.

- the statutory consultees as set out in the Schedule to the proposed Measure; and

FIT Cymru is happy with the list of statutory consultees.

- powers of Welsh Ministers to issue stop and remedial directions to local authorities (Section 7).

FIT Cymru supports the powers of the Welsh Ministers to issue directions to local authorities because it will ensure full compliance with the measure. Past experience of the Town and Country Planning (General Development Procedure) Order 1995 which requires planning authorities to consult the Sports Council for Wales on applications affecting playing fields has shown that on occasion, authorities have failed to consult and probably because there is no penalty. Directions will help to address this problem.

FIT Cymru would like to see powers to allow Welsh Ministers to stop a disposal if there is significant evidence that although the authority has complied with the measure, the disposal will have an adverse affect on playing field provision in the locality. Reasons cited justifying a disposal could be addressed. For example, in the case of Ely Recreation Ground, the reasons cited for development were that the land was used for anti-social behaviour, crime and illegal use of motor vehicles. Disposal was being proposed despite a shortage of playing fields in the locality. Action could have been taken, and has been taken, to address the problems helping to take away the reasons cited for disposal and stopping a shortage of playing fields being made worse.

3. What are the practical and financial implications of putting these provisions in place?

FIT will incur costs as a result of this proposal mainly through the staff time spent on reviewing and commenting on proposed playing field disposals. FIT estimates half a day a week will be spent on this work and this equates to roughly £3,866 per annum.

4. Will the proposed Measure achieve its overall purpose and aim?

Yes, the measure will ensure that a full assessment is undertaken of the impact that playing field disposals have on the health and well-being of the local community. The depth and detail included in the impact statement and the wide and thorough nature of consultation will add to the safeguards offered through the current process of disposal and that of the planning process.