

Constitutional and Legislative Affairs Committee

Meeting Venue:
Committee Room 2 – Senedd

Meeting date:
28 November 2011

Meeting time:
14:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

Steve George
Committee Clerk
029 2089 8242
CLA.Committee@wales.gov.uk

Olga Lewis
Deputy Committee Clerk
029 2089 8154

Agenda

- 1. Introduction, apologies, substitutions and declarations of interest**
- 2. Instruments that raise no reporting issues under Standing Order 21.2 or 21.3**

Negative Resolution Instruments

CLA58 – The Substance Misuse (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011

Negative Procedure. Date made 1 November 2011. Date laid 14 November 2011.
Coming into force date 5 December 2011

Affirmative Resolution Instruments

None

- 3. Instruments that raise issues to be reported to the Assembly under Standing Order 21.2 or 21.3**

Negative Resolution Instruments

CLA57 – The Crime and Disorder (Formulation and Implementation of Strategy)

(Wales) (Amendment) Regulations 2011 (Pages 1 – 9)

Negative Procedure. Date made 6 November 2011. Date laid before Parliament 14 November 2011. Date laid before the National Assembly for Wales 14 November 2011. Coming into force date 5 December 2011

Affirmative Resolution Instruments

CLA59 – The Carers Strategies (Wales) Regulations 2011 (Pages 10 – 35)

Affirmative Procedure. Date made 2011. Date laid not stated. Coming into force date 1 January 2012

CLA60 – The Planning Permission (Withdrawal of Development Order or Local Development Order) (Compensation) (Wales) Order 2012 (Pages 36 – 50)

Affirmative Procedure. Date made not stated. Date laid not stated. Coming into force date 31 January 2012

4. Committee Correspondence (Pages 51 – 53)

Item 4.1 CLA46 – The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

CLA(4)-13-11(p1) – Letter from the Chair to the Minister dated 18 October 2011

CLA(4)-13-11(p2) – The Minister’s response dated 11 November 2011

5. Consideration of Future Committee Inquiries

Committee Inquiries: A Welsh Jurisdiction (Page 54)

CLA(4)-13-11(p3) – Draft Terms of Reference

6. Date of the next meeting (Pages 55 – 59)

Papers to note:

CLA(4)-12-11– Report of the meeting 21 November 2011

Transcript

View the [meeting transcript](#).

Constitutional and Legislative Affairs Committee

(CLA(4)-12-11)

CLA57

Constitutional and Legislative Affairs Committee Draft Report

Title: The Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011

Procedure: Negative

These Regulations provide for the simplification of the provisions relating to strategy groups and the preparation of strategies in the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) Regulations 2007 with effect from 5th December 2011.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. The Order is required to be made jointly by Welsh Ministers and the Secretary of State by section 6(9) of the Crime and Disorder Act 1998. It will therefore be laid before Parliament and has therefore been prepared in English only.

[Standing Order 21.2(ix) – that it has not been made in both English and Welsh]

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Legal Advisers

Constitutional and Legislative Affairs Committee

November 2011

The Government has responded as follows:

The Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011

As indicated in the report, these amending Regulations have been prepared in English only. It is practice to prepare statutory instruments in English only when instruments are joint and are to be laid in Parliament. For that reason

the Regulations to be amended, ie those made in 2007, were also prepared in English only.

2011 No. 2702

CRIMINAL LAW, WALES

The Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011

Made - - - - - *6th November 2011*
Laid before Parliament *14th November 2011*
Laid before the National Assembly for Wales *14th November 2011*
Coming into force - - - *5th December 2011*

The Secretary of State and the Welsh Ministers jointly make the following Regulations in exercise of the powers conferred by section 6(2), (3), (4) and (9)(c) of the Crime and Disorder Act 1998(a) on the Secretary of State and the National Assembly for Wales, the powers conferred on the National Assembly for Wales now being vested in the Welsh Ministers(b):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011 and shall come into force on 5th December 2011.

(2) In these Regulations the “2007 Regulations” means the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) Regulations 2007(c).

Amendment of the 2007 Regulations

2. The 2007 Regulations are amended as follows.
3. For regulation 3 there is substituted—

“Functions in respect of the formulation and implementation of a strategy

3.—(1) For each area there shall be a strategy group whose functions shall be to—

- (a) prepare strategic assessments; and
 - (b) prepare and implement a partnership plan,
- for that area on behalf of the responsible authorities.

(2) Subject to paragraph (3) the strategy group shall consist of two or more persons appointed by one or more of the responsible authorities in the area.

(a) 1998 c. 37; section 6 was substituted by section 22 of, and paragraph 3 of Schedule 9 to, the Police and Justice Act 2006 (c. 48) and was amended by section 108(4) and (5) of the Policing and Crime Act 2009 (c. 26).
(b) The functions 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 (c. 32).
(c) S.I. 2007/3076 as amended by S.I. 2010/648.

(3) Where there is more than one responsible authority of the type specified in section 5(1)(aa) of the 1998 Act in the area, those providers shall jointly appoint one or more persons to the strategy group.

(4) A meeting of a strategy group may be attended by persons who represent co-operating and participating persons and bodies and such other persons as the strategy group invites.

(5) The strategy group shall have in place arrangements governing the review of the expenditure of partnership monies and for assessing the economy, efficiency and effectiveness of such expenditure.”

4. In regulation 9—

- (a) the paragraph number “(1)” is omitted;
- (b) in sub-paragraph (a) the words “in the three year period beginning with the year referred to in regulation 8(2)” are omitted; and
- (c) in sub-paragraph (aa) the words “in the three year period beginning with the year referred to in regulation 8(2)” are omitted.

Home Office
6th November 2011

Nick Herbert
Minister of State

1st November 2011

Carl Sargeant
Minister for Local Government and Communities,
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide in regulation 3 for the substitution of regulation 3 in the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) Regulations 2007 (the “2007 Regulations”) with effect from 5th December 2011. Regulation 3 of the 2007 Regulations relates to the composition and meeting of a strategy group for each local government area, whose function is to prepare strategic assessments in accordance with regulations 5 to 7 and to prepare and implement a partnership plan in accordance with regulations 8 and 9.

Regulation 4 of these Regulations omits the requirements in respect of a three year period in regulation 9(1)(a) and (aa) of the 2007 Regulations in connection with a partnership plan including strategies for the reduction of crime and disorder and the reduction of re-offending.

Explanatory Memorandum to the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011.

This Explanatory Memorandum has been prepared by the Local Government and Communities Department of the Welsh Government 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 Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011.

Carl Sargeant

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

1 November 2011

1. Description

The Home Office have repealed (in England) some of the more prescriptive regulations governing Community Safety Partnerships by making the Crime and Disorder (Formulation and Implementation of Strategy) (Amendment) Regulations 2011 (S.I. 2007/3076). To replicate this in Wales, it is necessary to amend both the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) Regulations 2007 (which were made jointly with the Secretary of State) and the Substance Misuse (Formulation and Implementation of Strategy) (Wales) Regulations 2007.

This memorandum deals solely with the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011 (“the Regulations”).

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

In accordance with the practice for instruments made jointly with the Secretary of State, the Regulations have not been translated.

3. Legislative background

[Section 5](#) of the Crime and Disorder Act 1998 (the 1998 Act) gives certain public authorities (“the responsible authorities”) in local government areas functions relating to the reduction of crime and disorder and the combating of substance misuse. Collectively these authorities are known in Wales as Community Safety Partnerships (CSPs).

The responsible authorities are: county/county borough councils, providers of probation services, chief officers of police, police authorities, fire and rescue authorities and local health boards.

Section 6 of the 1998 Act places obligations on CSPs to formulate and implement a strategy to reduce crime and disorder and combat substance misuse.

Section 6 also empowers the Welsh Ministers and the Secretary of State, acting jointly, to make Regulations to make provision for the formulation and implementation of a strategy for the reduction of re-offending and of crime and disorder in areas in Wales. The functions of the Welsh Ministers were formerly functions of the National Assembly for Wales but were transferred to the Welsh Ministers by Schedule 11 to the Government of Wales Act 2006.

In Wales, the Crime and Disorder (Formulation and Implementation of Strategy) (Wales) Regulations 2007 (SI 2007/3076) (“the 2007 Regulations”) came into force on 19 November 2007. The 2007 Regulations provide that CSPs shall set

up a strategy group, that the strategy group should prepare a strategic assessment and a partnership plan. The strategic assessment is an analysis of the levels and patterns of crime and disorder in the area and identifies the priorities which the CSP should adopt to address those matters. The partnership plan sets out a strategy for meeting those priorities and how that strategy should be implemented by the CSPs.

The 2007 Regulations also include provisions to facilitate information sharing within CSPs and to ensure that when preparing a strategic assessment and partnership plan the CSPs engage with their local communities.

The Regulations will follow the negative resolution procedure. This means that they will be made and laid before the Assembly (and also before Parliament) and will not be brought into force until at least 21 (calendar) days (including recesses) from the date of laying. However, in addition, there is a 40 (calendar) days period, which also commences from the date of laying but which does not include recesses, during which the Assembly or Parliament may resolve that the instrument be annulled.

4. Purpose & intended effect of the legislation

The purpose of the Regulations is to give local partners more freedom to decide how they carry out their functions. These changes recognise that such decisions are best made at a local level to meet the particular needs of each local area. The Regulations will amend the 2007 Regulations in relation to strategy groups. The proposed amendments are as follows -

- (a) not every responsible authority must appoint someone to be a member of the strategy group but the group must consist of at least two persons;
- (b) there would no longer be a requirement that the group should have in place arrangements governing the appointment of a chair, for how long the person may be chair and the grounds on which the chair might be removed;
- (c) there would no longer be a requirement for the group to meet from time to time throughout the year;
- (d) there would no longer be a requirement that the group consider whether it, and the persons in responsible authorities who work with the group, have the requisite knowledge and skills to exercise their functions under the 2007 Regulations.

These are relatively minor changes which will slightly reduce the prescription on local partnerships whilst retaining their overall statutory duties in relation to crime and disorder, substance misuse and reducing re-offending. They will also retain consistency with the regulations in England.

5. Consultation

In recognition of the need for greater local flexibility, the Policing White Paper, 'Policing in the 21st Century: Reconnecting Police and the People' published by the Home Office in July 2010 proposed to remove unnecessary prescription and bureaucracy by repealing some of the regulations for Community Safety Partnerships. A consultation with Community Safety Partnerships in England was carried out by the Home Office between September 2010 and January 2011 to determine which regulations should be amended and a parallel consultation in Wales was undertaken between 2 December 2010 and 24 January 2011. The Welsh Government consulted the Community Safety Partnerships, the Welsh Police Service, Police Authorities in Wales and the Welsh Local Government Association, all of whom responded. Both consultations found that the majority of partners agreed that the statutory duties to produce strategic assessments, partnership plans, consult the community and share information should be retained. However, they also identified that some of the regulations that narrowly prescribe how these duties should be carried out were unnecessary and, in some cases, restricted local flexibility.

6. Regulatory Impact Assessment (RIA)

There is no need for a Regulatory Impact Assessment to be carried out as these are relatively minor changes which will reduce the prescription on how responsible authorities under the Crime and Disorder Act 1998 fulfil their statutory responsibilities.

The Regulations have no impact on –

(a) the statutory duties of the Welsh Ministers concerning equality of opportunity (section 77 of the Government of Wales Act 2006), the Welsh language (section 78) and sustainable development (section 79); and

(b) the local government, voluntary sector and business schemes made under sections 73, 74 and 75 of the Government of Wales Act 2006 respectively.

Agenda Item 3.2

Constitutional and Legislative Affairs Committee

(CLA(4)-13-11)

CLA59

Constitutional and Legislative Affairs Committee Draft Report

Title: The Carers Strategies (Wales) Regulations 2011

Procedure: Affirmative

These Regulations made under the Carers Strategies (Wales) Measure 2010:-

- apply to Local Health Boards and Local Authorities and in part to Velindre NHS Trust and the Welsh Ambulance Services NHS Trust;
- require Local Health Boards in Wales and Local Authorities which fall within their area to work together in preparing and publishing a strategy setting out how they will work together to assist and include carers in arrangements for those they care for; and
- make provision for consultation in preparing strategies, the content of strategies, providing appropriate information and advice, consultation with carers or persons cared for, submission of draft strategies to Welsh Ministers, and the preparation of joint strategies.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

(1) These Regulations are made using powers granted to Welsh Ministers by sections 2(1), 3(2), 4, 5(1),5(2), 6(4) and 10(2) of the Measure in respect of which no commencement order has yet been made. Whilst it is expected that such an order will be made before the plenary debate, the power is not available as this report is being prepared.

[Standing Order 21.2(i) - that there appears to be doubt whether it is intra vires]

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

(1) These Regulations are the first to be made under the Carers Strategies (Wales) Measure 2010.

[Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of a public policy likely to be of interest to the Assembly].

(2) Regulation 9(7) states that the Carers strategy must be published in both Welsh and English “*unless it is not reasonably practicable to do so*”.

Given the detailed provisions in the Regulations regarding the preparation of the strategies, and that such strategies are intended to cover a three year period, there do not appear to be any circumstances in which it would not be reasonably practicable to publish them bilingually.

Furthermore, the qualification in Regulations 9(7) runs counter to the principle set out in section 156(1) of the Government of Wales Act 2006 which states:–

“(1) *The English and Welsh texts of—*

(a) *any Assembly Measure or Act of the Assembly which is in both English and Welsh when it is enacted, or*

(b) *any subordinate legislation which is in both English and Welsh when it is made,*

are to be treated for all purposes as being of equal standing”.

The principle is that the texts are only of equal standing if enacted or made bilingually. Whilst the current regulations relate to strategies rather legislation, unless the draft submitted for approval (under regulation 9(3)) or amendment (under regulation 9(6)) is submitted bilingually, the draft approved will constitute the strategy, and any translation will be exactly that.

[Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of a public policy likely to be of interest to the Assembly.]

**Legal Advisers
Constitutional and Legislative Affairs Committee**

November 2011

The Government has responded as follows:

The Carers Strategies (Wales) Regulations 2011

Merits scrutiny

No response is offered on the observation that these regulations are the first to be made under the Carers Strategies (Wales) Measure 2010.

On the language question, the Committee's draft report highlights that authorities must publish strategies in English and Welsh "*unless not reasonably practicable to do so*".

The report points out that this is not consistent with the requirement for legislation to be made bilingually, to which section 156 of the Government of Wales Act 2006 applies. In the case of legislation, a failure to ensure that a Welsh enactment is passed in both English and Welsh will mean that if the enactment is subsequently translated into a second language, the second language text will not have equal status with the text of the language in which the enactment was passed.

As the strategies to be prepared by "designated authorities" are not legislation, and not one of the enactments mentioned in section 156, they would not stand to benefit from the effect of that section in any event.

Section 156 is the provision which gives effect to the principle that when legislation is passed in both English and Welsh, then both texts have equal standing. It does not establish a principle that legislation requiring publication of documents by public authorities must include a requirement that they are produced in both English and Welsh and through a process which guarantees equal status to both languages.

All the public authorities affected by these regulations are subject to a duty to have a Welsh Language Scheme under section 5 of the Welsh Language Act 1993. They will need to observe the requirements of their own schemes.

The draft report notes that, given the nature of the strategy, there do not appear to be any circumstances in which it would not be reasonably practicable to publish the strategy bilingually. It is agreed that circumstances when it would not be reasonably practicable to publish the strategy bilingually are likely to be very few.

Draft Order laid before the National Assembly for Wales on 15 November 2011 under section 10(5)(b) of the Carers Strategies (Wales) Measure 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

SOCIAL CARE, WALES

**The Carers Strategies (Wales)
Regulations 2011**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Carers Strategies (Wales) Measure 2010.

They apply to Local Health Boards and local authorities and in part to the Velindre NHS Trust and to the Welsh Ambulance Services NHS Trust. These are referred to as “designated authorities”. The regulations require each Local Health Board in Wales and the local authorities which fall within their area to work together in preparing and publishing a strategy setting out how they will work together to assist and include carers in the arrangements made for those they care for.

Regulation 3 provides that Local Health Boards in Wales are the “lead authority” in the preparation and publication of the joint strategy which they must prepare with local authorities. Local authorities must participate in the preparation of the strategy and both Local Health Boards and local authorities must implement the strategy. NHS Trusts must prepare and publish a strategy and they can discharge the duty by

participating in the preparation of the Local Health Boards' strategies.

Regulation 4 makes requirements on those preparing strategies to consult with voluntary organisations.

Regulation 5 makes specific requirements about matters to be contained in a strategy.

Regulation 6 prescribes particular sorts of information as "appropriate information and advice" to be provided to carers.

Regulation 7 makes further provision about the coverage which a strategy needs to give to issues in relation to consultation both with carers and those they care for.

Regulation 8 provides that strategies must be submitted in draft for approval by the Welsh Ministers. If approval is not given then designated authorities must comply with any directions about the content of the strategy or the timing of its re-submission.

Regulation 9 provides that strategies are to be prepared to cover a 3 year period and must be reviewed after 18 months and prior to preparation of the next strategy. Designated authorities must provide an annual report on how they are implementing and monitoring the strategy along with the local authorities. Where the authorities wish to make substantial amendments to the strategy, it must be re-submitted for approval. A strategy must be published in English and in Welsh unless it is not reasonably practicable to do so.

Regulation 10 specifies, in the case of strategies prepared jointly by a Local Health Board and local authorities, that the responsibility for certain duties arising under regulation 9 falls on the Local Health Board.

The Welsh Ministers Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department of Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ

Draft Order laid before the National Assembly for Wales on 15 November 2011 under section 10(5)(b) of the Carers Strategies (Wales) Measure 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

SOCIAL CARE, WALES

**The Carers Strategies (Wales)
Regulations 2011**

Made 2011

Coming into force 1 January 2012

The Welsh Ministers, in exercise of the powers conferred upon them by sections 2(1), 3(2), 4, 5(1) and (2), 6(4) and 10(2) of the Carers Strategies (Wales) Measure 2010⁽¹⁾ make the following regulations.

Title, commencement and application

1.—(1) The title of these Regulations is The Carers Strategies (Wales) Regulations 2011.

(2) These Regulations come into force on 1 January 2012.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the Measure” (“*y Mesur*”) means the Carers Strategies (Wales) Measure 2010;

(1) 2010 nawm 5.

“local authority” (“*awdurdod lleol*”) means a county council or a county borough council in Wales;

“the NHS Trusts” (“*Ymddiriedolaethau'r GIG*”) means Velindre National Health Service Trust and the Welsh Ambulance Services National Health Service Trust;

“partner authorities” (“*awdurdodau partner*”) means each of the local authorities which participate, and any NHS Trust which participates, in the preparation of a strategy with a Local Health Board;

“designated authority” (“*awdurdod dynodedig*”) means a public body which is designated under regulation 3(1) as one which is under duty to prepare and publish a strategy;

“strategy” (“*strategaeth*”) means a carers strategy required to be prepared and published under section 2(1) of the Measure.

Production of Strategy

3.—(1) Each Local Health Board, each local authority and the NHS Trusts must, prepare and publish a strategy.

(2) A local authority must discharge its duty to prepare a strategy by participating in the preparation of a single joint strategy with the Local Health Board in whose area its local authority area lies, as shown in the Schedule.

(3) For the purposes of section 6(1) of the Measure (*submission of draft strategy to Welsh Ministers*), the Local Health Board is the lead authority for the strategy which it prepares with a local authority.

(4) A strategy prepared by a Local Health Board, and in whose preparation one or more local authorities participate, must set out how each of those bodies will work together to achieve the aims set out in section 2(1)(a), (b) and (c) of the Measure.

(5) Each of the NHS Trusts may discharge its duty to prepare and publish a strategy by participating in the preparation of the strategies of the Local Health Boards.

Consultation in the course of preparing a strategy

4.—(1) In the course of preparing a strategy, each Local Health Board and its partner authorities must consult with those voluntary organisations which are in its area and with which it considers it appropriate to do so.

(2) Where an NHS Trust is not a “partner authority” it must nevertheless consult with voluntary organisations

as it considers appropriate in the course of preparing a strategy.

Content of strategies

5.—(1) When preparing a single joint strategy, a Local Health Board and its partner authorities must include provision about —

- (a) how they will engage general medical practitioners in the implementation of the strategy;
- (b) training for staff ;
- (c) the means by which, and the languages in which information for carers will be made available.

(2) This regulation does not apply in relation to the Welsh Ambulance Services National Health Service Trust.

(3) In this regulation “general medical practitioner” (“*ymarferydd meddygol cyffredinol*”) means —

- (a) a person with whom a Local Health Board has entered into a general medical services contract under section 42 of the National Health Service (Wales) Act 2006 ; or
- (b) a registered medical practitioner⁽¹⁾ employed by Local Health Board for the purposes of section 41 of that Act ; or
- (c) a person with whom a Local Health Board has made arrangements under section 50 of that Act.

Appropriate information and advice

6.—(1) Only the following parts of this regulation apply in relation to a strategy prepared by Welsh Ambulance Services National Health Service Trust—

- (a) subparagraphs (2)(a) to (c);
- (b) subparagraphs (2)(h) and (2)(k).

(2) For the purposes of section 2(1)(a) of the Measure, the following are prescribed as appropriate information and advice⁽²⁾—

-
- (1) “registered medical practitioner” is defined in Schedule 1 to the Interpretation Act 1978.
 - (2) section 3(2) of the Measure gives the Welsh Ministers power to make further provision about what constitutes “appropriate information and advice” to be contained in a strategy. The phrase “appropriate information and advice” is defined in section 3(1) of the Measure.

- (a) information about carers' rights which includes reference to carers of those whose needs relate to their mental health;
- (b) information about medication and its potential side effects;
- (c) information on the medical condition and course of treatment of persons cared for;
- (d) information to assist children and young people who have a caring role;
- (e) information on the availability, entitlement to and sources of local and national support including—
 - (i) short breaks and respite care,
 - (ii) carer's needs assessment,
 - (iii) the Court of Protection,
 - (iv) direct payments,
 - (v) housing support,
 - (vi) independent advocacy,
 - (vii) counselling including bereavement support,
 - (viii) guardianship,
 - (ix) age appropriate support groups,
 - (x) culturally appropriate support groups,
 - (xi) financial advice and support including advice on welfare benefits,
 - (xii) managing the financial and administrative affairs of persons who are cared for;
- (f) information and advice on employment provisions, including flexible working;
- (g) information on the duties of local authorities to assess the needs of those who may be eligible for community care services and to assess the needs of carers, and, in both cases, provide services **(1)** ;
- (h) information about the availability of concessionary transport schemes and other patient transport arrangements to enable carers to attend NHS appointments with the person cared for;
- (i) information and advice on physical aids, and housing adaptations;
- (j) information on the regulation and inspection of health and care services by the Healthcare Inspectorate Wales and the Care and Social Services Inspectorate Wales;

(1) "community care services" are defined in s.46(3) of the National Health Service and Community Care Act 1990 c.19.

- (k) information on local carer support agencies and appropriate national organisations supporting patients, users and carers;
- (l) information on how to avoid hospital admission;
- (m) information on the availability of crisis support and how to access it;
- (n) information on the availability of re-ablement and intermediate care for the person cared for;
- (o) information that helps promote health and well-being (including information and training on stress management techniques, healthy diet and physical exercise);
- (p) information on the complaints procedures of the Local Health Board and the local authorities;
- (q) information on programmes to assist carers to carry out their caring role safely and effectively, to include but not limited to—
 - (i) safe lifting, moving and handling,
 - (ii) medicines management including the safe administration of medication to the carer or person cared for,
 - (iii) relevant nursing skills,
 - (iv) use of aids and adaptations,
 - (v) continence care,
 - (vi) stress management,
 - (vii) assistance with eating and drinking,
 - (viii) dealing with behavioural issues of the person cared for,
 - (ix) helping carers to look after themselves.

(3) In this regulation, references to “information” should be read to include information which is either provided directly or information which is available from another source, and to which access is provided.

Consultation with carers or persons who are cared for

7. A strategy must set out the steps which a designated authority will take to ensure that consultation with carers or persons cared for is carried out and in particular to ensure—

- (a) that consultation with carers about the arrangements for those they care for is carried out as far as possible before decisions are made;

- (b) that a carers knowledge of the person cared for is respected by staff providing services and will be used appropriately;
- (c) that carers are made aware of the extent of their rights to an assessment of their needs by a local authority and to provision of services;
- (d) that carers have assistance in understanding the decisions being made by those providing treatment or services to persons cared for and are encouraged to contribute to the decision making process;
- (e) that where decisions are taken in the absence of carers, that carers are provided with an explanation of the decision;
- (f) that consultation occurs at regular intervals and includes consideration of when carers need support at short notice;
- (g) that consideration is given to the way in which consultation with carers is carried out having regard to any disability which carers may have and having regard to the age, cultural background and language of carers;
- (h) that carers and those persons cared for are made aware of the assistance and support that may be available to them from voluntary organisations;
- (i) that training on effective consultation is provided to staff.

Submission of draft strategy to the Welsh Ministers

8.—(1) This regulation is subject to regulation 10.

(2) A designated authority must submit its first strategy in draft to the Welsh Ministers by 31 October 2012.

(3) Strategies must be submitted for approval by the Welsh Ministers both electronically and in hard copy.

(4) If the Welsh Ministers do not approve a strategy the designated authority must comply with any directions of the Welsh Ministers about the content of the strategy and the time by which it must be re-submitted.

Further provision about strategies

9.—(1) A strategy must cover a three year period.

(2) Designated authorities must review their strategy after 18 months and before preparing a new strategy.

(3) Designated authorities must prepare a new strategy for submission to the Welsh Ministers for approval no

more than three years after the previous strategy was submitted for approval.

(4) Each subsequent strategy must be published.

(5) Designated authorities must provide an annual report to the Welsh Ministers explaining how they are implementing and monitoring their strategy.

(6) If a designated authority proposes to amend its strategy substantially, it must submit a draft amended version to the Welsh Ministers for approval.

(7) The strategy must be published in both English and Welsh unless it is not reasonably practicable to do so.

Duties of Local Health Boards in relation to joint strategies

10. Where a Local Health Board and its partner authorities prepare a single joint strategy the Local Health Board has responsibility for—

- (a) submitting the strategy in draft to the Welsh Ministers;
- (b) publishing the strategy;
- (c) consulting with the partner authorities before providing an annual report to the Welsh Ministers on the implementation and monitoring of the strategy;
- (d) submitting a draft of any amended strategy to the Welsh Ministers.

Deputy Minister for Children and Social Services
under authority of the Minister for Health and Social
Services, one of the Welsh Ministers

Date

SCHEDULE

Local Authorities with which each Local Health Board must prepare strategy

<i>Local Health Board</i>	<i>Local Authorities</i>
Abertawe Bro Morgannwg University Health Board	Bridgend, Neath Port Talbot and Swansea
Aneurin Bevan Health Board	Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen
Betsi Cadwaladr University Health Board	Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham
Cardiff and Vale University Health Board	Cardiff and the Vale of Glamorgan
Cwm Taf Health Board	Merthyr Tydfil and Rhondda Cynon Taf
Hywel Dda Health Board	Carmarthenshire, Ceredigion and Pembrokeshire
Powys Teaching Health Board	Powys

Explanatory Memorandum to the Carers Strategies (Wales) Regulations 2011

This Explanatory Memorandum has been prepared by the Department for Health, Social Services and Children 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 Carers Strategies (Wales) Measure 2010 Regulations and I am satisfied that the benefits outweigh any costs.

Gwenda Thomas AM

Deputy Minister for Children and Social Services under authority of the Minister for Health and Social Services, one of the Welsh Ministers

14 November 2011

1. Description

1.1 The Carers Strategies (Wales) Regulations 2011 are derived from the Carers Strategies (Wales) Measure 2010. The Measure was granted Royal Assent on 10 November 2010. The Measure provides for strategies to be prepared and published by certain public bodies about arrangements for the benefit of unpaid carers. These are carers that do not receive payment for their caring work. Throughout this Explanatory Memorandum these carers are referred to as 'carers' and 'unpaid carers'.

1.2 The Measure places a duty on a 'designated authority' or two or more 'designated authorities' to work together to prepare, publish and implement local information and consultation strategies for the benefit of carers. In this initial roll out of the Measure, the first 'designated authorities' are the seven Local Health Boards, Velindre NHS Trust, the Welsh Ambulance Service NHS Trust and local authorities. Local Health Boards are the 'lead authorities' charged with coordinating the development of the local strategies.

1.3 The strategies will set out arrangements for the provision of information and guidance for carers to enable them to carry out their caring role effectively and set out arrangements for the full involvement of carers in decisions regarding the provision of services to them and the person(s) they care for.

1.4 The Measure has Regulation making powers in respect of:

- the requirement to develop local strategies by a 'designated authority' or 'designated authorities';
- the provision of a description of appropriate information and advice that will be of benefit to carers;
- consulting carers before decisions are made regarding services for the person(s) cared for;
- consulting carers before decisions are made regarding services for them;
- the content of strategies in relation to the provision of information to carers;
- the content of strategies in relation to consultation with carers;
- how and when strategies should be published;
- the submission of draft strategies to Welsh Ministers; and
- arrangements for reviewing, monitoring, evaluating and implementing local strategies.

1.5 Amendments have been made to the version of the Regulations which went out to public consultation referred to in the Regulatory Impact Assessment at paragraph 3.1 and are provided for under the Measure. These relate to the involvement of the voluntary sector in the preparation of local strategies, the involvement of General Practitioners in the development of local strategies and the ways in which designated authorities must consult with carers.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

3.1 The powers to make these Regulations are contained within the Carers Strategies (Wales) Measure 2010. Further information about the Measure and its associated scrutiny process can be found at:

http://www.assemblywales.org/bus-home/bus-third-assembly/bus-legislation-third-assembly/bus-leg-measures/bus_legislation_meas-cs.htm

The Regulation making powers within the Measure are contained in Sections 2(1), 3(2), 4, 5(1) and 6(4),

3.2 These Regulations are subject to the affirmative procedure and will be laid before the National Assembly for Wales on 15 November 2011. The affirmative procedure means that there will be a plenary debate. This is scheduled for 6 December 2011. This is in line with Section 10 (5)(b) which states that “A statutory instrument containing the first regulations made by the Welsh Ministers under each of sections 2(1), 3(2), 4, 5(1) and 6(4), ... must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales”.

3.3 The previous Government’s commitment to carers via the ‘One Wales’ agreement is carried forward by the current administration in the Welsh Labour Manifesto and Programme for Government. Carers and the Measure also feature prominently within the Welsh Government’s Social Services Strategy ‘Sustainable Social Services for Wales: A Framework for Action’.

4. Purpose & intended effect of the legislation

4.1 The 2001 Census across England and Wales revealed that Wales has a higher proportion of carers than any English region (11.7 per cent or 341,000 carers) and the highest proportion of people with limiting long-term illness (23.3 per cent). The Census also showed that the economically inactive population aged 16-74 who are permanently sick or disabled in Wales is 9.2 per cent, higher than any region of England. Further research published in May 2011 by Carers UK estimates that the number of unpaid carers in Wales has increased by 8% to approximately 370,000.

4.2 Welsh Government figures show that unpaid carers provide around 70% of care in the community. The 'Care at Home' research published in 2010 by the Care Council for Wales however, reports that 96% of annual care hours in Wales are provided by unpaid carers, with the remaining 4% provided by local authorities and independent providers. Carers are of all ages and come from all social and economic backgrounds. It is clear then that unpaid carers are a significant presence in society providing vital assistance to families and friends.

4.3 Research has highlighted the need for Carers to have the right information at the right time to support them in their caring role. In particular, information for carers needs to be easily accessible, relevant and factually correct. The kind of information carers are likely to need will vary and may include prognosis and care planning for the person cared for, medicines management, safe lifting and handling, rights, including the right to a carers assessment, what social services or NHS support could be available, what financial support could be available, employment provisions, including flexible working and support groups. The Regulations list these and a range of other provisions in relation to information and guidance. Consulting with carers in relation to decisions regarding services for them and the person(s) they care for is the other key issue addressed by these Regulations and Guidance.

4.4 The current framework of legislation in relation to carers focuses mainly on statutory authorities' powers and duties. It includes:

- **Carers (Recognition and Services) Act 1995**

This was the first piece of legislation that gave rights to Carers of all ages who provide regular and substantial care. This contains the core statutory responsibilities and requires local authorities to carry out an assessment of a carer's ability to provide and to continue to provide care, if the carer requests this, at the time of the assessment of the person they care for.

<http://www.legislation.gov.uk/ukpga/1995/12/contents>

- **Carers and Disabled Children's Act 2000**

This Act gave Carers a right to ask for an assessment even when the person they were caring for refused an assessment. It also gave Local Authorities the power to provide services directly to Carers and to provide Direct Payments to Carers.

<http://www.legislation.gov.uk/ukpga/2000/16/contents>

- **Carers (Equal Opportunities) Act 2004**

This places a duty on Local Authorities to inform Carers of their right to a Carers assessment. It also ensures that Carers leisure, lifelong learning and employment opportunities must be taken into account when carrying out an assessment. It gives Local Authorities the power to enlist the help of Housing, Education and Health in providing support to Carers.

<http://www.legislation.gov.uk/ukpga/2004/15/contents>

- **Community Care (Delayed Discharges) Act 2000**

It states that when a Carers asks for an assessment, Social Services in consultation with their partners in the NHS, must determine what service it will provide for the Carer when the cared for is ready for discharge.

<http://www.legislation.gov.uk/ukpga/2003/5/contents>

- **Disabled Persons (Services, Consultation and Representation) Act 1986**

This requires local authorities to have regard to the ability of the carer to provide or continue to provide care when deciding what services to provide to the disabled person.

<http://www.legislation.gov.uk/ukpga/1986/33>

- **Work and Families Act 2006**

This came into force in Wales in April 2007. It requires employers to consider requests from people with caring responsibilities to work flexibly.

<http://www.legislation.gov.uk/ukpga/2006/18/contents>

- **Children and Young Persons Act 2008**

This requires local authorities to make adequate arrangements for short break provision for Disabled Children.

<http://www.legislation.gov.uk/ukpga/2008/23/contents>

- **Children Act 1989**

Young Carers can be identified as a 'child in need'.

<http://www.legislation.gov.uk/ukpga/1989/41/contents>

- **Education Act 2002, Section 175**

Section 175 concerns the duties of Local Education Authorities and governing bodies in relation to the welfare of children.

<http://www.legislation.gov.uk/ukpga/2002/32/contents>

4.5 In addition the Welsh Government has a range of powers to inspect, regulate and issue statutory guidance in respect of local authority services under the Local Authority Social Services Act 1970, the Care Standards Act 2000 and the Health and Social Care (Community Health and Standards) Act 2003. It also has powers to direct the NHS under the National Health Services (Wales) Act 2006.

4.6 Despite this existing framework of legislation and guidance, consultations with carers, carers' organisations and others identified gaps in provision that

are addressed via this Measure, associated Regulations and Guidance. The gaps were mainly concerned with the contribution of health services to improving provision for carers. Thus this Measure for the first time places a duty on the NHS to carry out functions for their benefit.

4.7 As can be seen from paragraph 3.1, there are significant number of carers providing care to families and friends. Many of these carers provide care for more than 40 hours a week but even those that care for fewer hours find that their lives are impacted upon in a range of ways. These include a reduced or removed ability to work, less time for leisure and recreational activities and poorer health. Thus, carers can be considered as excluded from full participation in society. The Welsh Government's legislative intention for carers via this Measure and associated Regulations and Guidance is clear: by providing the right information and guidance at the right time and by involving carers in decisions regarding services for them and the person(s) they care for, carers will be better equipped and prepared to care.

5. The Regulations

The Regulations clearly define and prescribe the range of duties placed on 'designated authorities'. These are:

Regulations 1 and 2 – concern the title of the Regulations and a description of the terminology used in the Regulations.

Regulation 3 – concerns the duty placed on 'designated authorities' to produce, publish and implement local strategies.

Regulation 4 – sets out the requirement for 'designated authorities' to consult with voluntary organisations in the development of local strategies.

Regulation 5 – sets out the requirement for the Local Health Board to engage with General Practitioners in the implementation of local strategies; how staff will be trained in delivering the requirements of local strategies and the languages and format by which local strategies will be made available to carers.

Regulation 6 – prescribes the appropriate information and advice which 'designated authorities' are required to provide to carers. The list is self explanatory.

Regulation 7 – concerns the steps which 'designated authorities' must take to ensure that carers are consulted with in a timely fashion, that their knowledge of the cared for person is treated with respect, that they are made aware of their rights to a needs assessment by the local authority, that assistance is provided to help carers understand decisions taken if required, that where decisions are taken in the absence of carers, that those decisions are promptly explained, that consultation occurs at regular intervals and includes

consideration of support needed at short notice, that due regard is taken of their age and any disability and cultural needs, that carers are made aware of support available from voluntary organisations and that training on consulting with carers is provided to staff.

Regulation 8 – concerns arrangements for the submission of draft local strategies to Welsh Ministers and the requirement for local strategies to be re-drafted if not approved.

Regulation 9 – sets out the requirement for local strategies to cover a three year period, for local strategies to be reviewed after 18 months, for local strategies that are substantially altered to be re-submitted to Welsh Ministers for approval, for annual reports to be submitted and for publication to be made in English and Welsh.

Regulation 10 – concerns the duty placed on Local Health Boards to lead and coordinate the work of preparing, publishing and implementing local strategies.

The Regulations only apply in part to the Welsh Ambulance Services NHS Trust. The Measure applies in some but not all respects to the work of this emergency service.

6. The Guidance

A comprehensive guidance document has been prepared for use by the 'designated authorities'. The Guidance is clearly sets out the expected content of local strategies and includes the following headings:

- Section 1 Purpose
 - Who are Carers?
 - Carer Statistics
 - Demographic Trends
 - Impact of Caring
- Section 2 Policy Context
 - Aims and Objectives
- Section 3 Format and Content
 - NHS Role in Supporting Carers
 - Local Authority Role in Supporting Carers
 - Joint Working and Strategy Development
 - Engaging Carers, Partners and Communities
 - Scope of Information and Consultation Strategies for Carers
 - Objectives of Information and Consultation Strategies for Carers

	General Principles of Information and Consultation Strategies for Carers
	Content of Information and Consultation Strategies for Carers
	Information - Suggested Content
	Communication and Consultation – Suggested Content
Section 4	Delivery
	Delivery of Information and Consultation Strategies for Carers
	Community Health Services and Social Care Services
	Acute/Hospital Services
	Training and Development for Health and Social Care Staff
	Training for Carers
Section 5	Reviewing, Monitoring and Submission
	Reviewing Information and Consultation Strategies for Carers
	Monitoring Information and Consultation Strategies for Carers
	Submission of Information and Consultation Strategies for Carers
Annex 1	Key Legislation, Strategy and Policy
Annex 2	Interpretation of Regular and Substantial Care
Annex 3	Examples of notable practice in the provision of services to Carers

The Guidance is not statutory.

7. Territorial Extent

The Measure and associated Regulations and Guidance apply only in relation to Wales. The limitation relating to functions other than in relation to Wales means that this Measure would not enable the Assembly to confer on the Welsh Ministers, Welsh local authorities or any other public authority any functions which did not relate to Wales.

PART 2 – REGULATORY IMPACT ASSESSMENT

1. Options

Option 1 - Do nothing

1.1 Not introducing the Regulations will mean that the policy intention of the National Assembly for Wales in passing the Measure will not be given effect and carers will not benefit from having the duty placed upon the 'designated authorities' to meet their information and consultation needs. During the scrutiny process associated with the Measure, it was agreed that the detail of work to be taken forward would be provided for in the Regulations. The Measure simply describes the duties to be placed on 'relevant authorities' in relation to the development of local strategies and sets out the Regulation making powers under sections 2(1), 3(2), 4, 5(1) and 6(4).

Option 2 – Bring all of the Regulations into force

1.2 Introducing all of the Regulations will mean that the policy intention of the National Assembly for Wales in passing the Measure is given effect. It will mean that the seven Local Health Boards, Velindre NHS Trust, the Welsh Ambulance Service NHS Trust and local authorities will have clear, detailed requirements placed on them to prepare, publish and implement a local strategy that will meet the information and consultation needs of carers.

2. Costs and Benefits

Option 1 - Do nothing

2.1 Not introducing the Regulations will mean that no additional financial costs are incurred by the 'designated authorities' but that no benefit will be brought to carers in relation to meeting their information and consultation needs. Another significant cost arising from not supporting carers in these ways include the possibility of increased numbers of admissions to hospital of cared for persons.

Option 2 – Bring all of the Regulations into force

2.2 Introducing all of the Regulations will mean that financial costs will be borne by the 'designated authorities'. The costs will be met by funding from the Welsh Government. The level of funding was agreed during the Measure's scrutiny process (£900,000 in 2012-13; £1.7m in 2013-14; £3.2m in 2014-15) and the formula for its allocation has been agreed by the Deputy Minister for Social Services and Children and Minister for Health and Social Services. The drafting of a specific Chapter that dealt with the information and consultation needs of young carers was also agreed during the scrutiny process and funding for that purpose is also provided: £80,000 in 2012-13; £150,000 in 2013-14 and £200,000 in 2014-15.

2.3 The funding is being allocated to LHBs in recognition of their role as 'lead authorities' and the Deputy Minister for Social Services and Children's clear

wish is for the NHS to be in the lead in taking forward this legislation. The formula for allocation is the standard LHB Hospital, Community and Health Services formula and the allocation for 2012-13 is set out below:

<u>LHB</u>	<u>Allocation</u>
Abertawe Bro Morgannwg	72,064
Aneurin Bevan	81,944
Betsi Cadwaladr	97,436
Cardiff and Vale	55,428
Cwm Taf	43,451
Hywel Dda	53,493
Powys	16,184
Velindre NHS Trust	20,000
Welsh Ambulance Service NHS Trust	10,000

This funding will be distributed in the first week of April 2012. Ministers will require a short joint Local Health Board/Social Services report by 1 September 2012 confirming how this funding has been spent and the good practice generated.

The second allocation will be made available to support the implementation of the Measure. The distribution for the second allocation will also include dedicated funding for delivering the Young Carers Chapter of local strategies and is detailed below:

<u>LHB</u>	<u>Main Allocation</u>	<u>Young Carers</u>
Abertawe Bro Morgannwg	72,064	13,726
Aneurin Bevan	81,944	15,608
Betsi Cadwaladr	97,436	18,559
Cardiff and Vale	55,428	10,558
Cwm Taf	43,451	8,276
Hywel Dda	53,493	10,189
Powys	16,184	3,083
Velindre NHS Trust	20,000	
Welsh Ambulance Service NHS Trust	10,000	

This funding will be allocated to organisations following Ministerial sign-off of the local strategies towards the close of 2012, as provided for in Regulation 8. Funding for subsequent financial years will be confirmed in due course.

3. Consultation

3.1 A public consultation on the draft Regulations and Guidance was held between 31 March 2011 and 30 June 2011. The documents can be found at this location and are available in English, Welsh, Everyday English and Easy Read English:

<http://wales.gov.uk/consultations/healthsocialcare/carers/?lang=en&status=closed>

64 responses were received from the following types of organisations:

Individual (including groups of individuals)	11
LHB/NHS Trust	8
Professional/Representative organisation	3
Social Services	12
Third sector organisation	27
Other organisation	3

3.2 A report of the consultation that sets out the main issues raised and whether they have been accepted or rejected for inclusion in the final Regulations and Guidance can be found through the above link.

3.3 A Carers Measure Stakeholder Advisory Group was established at the commencement of the legislative process to develop the Measure and have contributed advice throughout. The Group's membership included representation from the NHS, Social Services and the Third Sector.

4. Post implementation review

4.1 The Regulations commit LHBs and Social Services to monitor the implementation of Strategies and set out what those arrangements will be. Paragraphs 5.1 to 5.6 of the Guidance provide further information in this regard.

4.2 The Regulations also commit LHBs and Social Services to review the implementation of the Strategies after an 18 month period and for them to be replaced every three years.

4.3 Welsh Ministers are also considering establishing a group which will be led by officials to oversee the implementation of the Measure. The group would include senior representatives from the NHS, Social Services and the Carers Third Sector.

CLA60

Constitutional and Legislative Affairs Committee Report

Title: The Planning Permission (Withdrawal of Development Order or Local Development Order (Compensation) (Wales) Order 2012

Procedure: Affirmative

This draft Order amends Section 108 of the Town and Country Planning Act 1990 (“TCPA”) as it applies in Wales. The Welsh Government intends to commence sections 61A to 61D of the TCPA (inserted by sections 40 and 41 of the Planning and Compulsory Purchase Act 2004) to enable local planning authorities to introduce, after consultation, local development orders which would remove the requirement for planning permission for developments as specified in a local development order. Section 107 of the TCPA provides for compensation to be payable where planning permission granted by a local planning authority is subsequently revoked or modified. Section 108 of that Act extends the entitlement to compensation to circumstances where planning permission granted by a development order is withdrawn. This draft order extends the entitlement to compensation to certain circumstances where planning permission granted by a local development order is withdrawn and restricts in other circumstances the entitlement to compensation on withdrawal of planning permission granted by a development order or local development order. A further amendment confers power on the Welsh Ministers to prescribe certain matters in relation to the entitlement to compensation.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this draft instrument.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 (ii) in respect of this draft instrument – that it gives rise to issues of public policy likely to be of interest to the Assembly.

This draft order forms part of a suite of instruments. Paragraph 3.3 of the explanatory memorandum provides that:-

Further instruments subject to negative procedure will be made in due course and laid before the National Assembly for Wales

giving full effect to provisions relating to local development orders and in exercise of powers conferred by section 108 of the 1990 Act, as amended by this instrument.

Whilst this instrument only provides for compensation arrangements where planning permission granted by a local development order is withdrawn, local development orders are a new addition to the current development management system. A local development order is an order made by a local planning authority through which permitted development rights (i.e. reducing the need to seek planning permission), additional to those granted nationally by the Welsh Government, are granted to certain types of development (specified in the order) within a certain area (also specified in the order).

**Legal Advisers
Constitutional and Legislative Affairs Committee**

November 2011

Draft Order laid before the National Assembly for Wales under section 203(9) of the Planning Act 2008, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2012 No. (W.)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Planning Permission
(Withdrawal of Development Order
or Local Development Order)
(Compensation) (Wales) Order
2012**

EXPLANATORY NOTE

(This note is not part of the Order)

Section 107 of the Town and Country Planning Act 1990 (“the Act”) provides for compensation to be payable where planning permission granted by a local planning authority is subsequently revoked or modified. Section 108 of the Act extends this entitlement to compensation to circumstances where planning permission granted by a development order or a local development order is withdrawn.

This Order amends section 108 as it applies to Wales.

An amendment to subsection (2A) of section 108 provides for the situation where planning permission of a prescribed description granted by a development order or local development order is withdrawn by the issue of directions under powers conferred by that order. The result of the amendment is that compensation is payable only if an application for planning permission for development formerly permitted by that order is made within 12 months of the directions taking effect.

Amendments to subsections (3B) and (3C) provide that where planning permission granted by a development order is withdrawn, there will be no entitlement to compensation where:

- (i) permission was granted for development of a prescribed description;
- (ii) the permission is withdrawn in the prescribed manner; and
- (iii) notice of the withdrawal is published not less than 12 months, and not more than the prescribed period, before the withdrawal takes effect.

The prescribed period is 24 months (see below).

If development is started before the notice is published, compensation will be available unless the order in question contains provision permitting the completion of development after permission is withdrawn.

Similarly, where planning permission granted by a local development order is withdrawn, amendments to subsections (3B) and (3D) provide that there will be no entitlement to compensation where notice of the withdrawal is published not less than 12 months, and not more than the prescribed period, before the withdrawal takes effect. If development is started before the notice is published, compensation will again be available unless the order in question contains provision permitting the completion of development after permission is withdrawn.

This Order also amends section 108(6) so as to confer power on the Welsh Ministers to prescribe by regulations in relation to Wales:

- (i) types of development to which section 108 applies;
- (ii) the manner in which planning permission is to be withdrawn;
- (iii) the manner in which notice of withdrawal is to be published; and
- (iv) the manner and maximum period in which notice of withdrawal, revocation, amendment or direction are to be given after permission is withdrawn.

The Welsh Ministers have exercised these powers and have prescribed all of the above matters in the Town and Country Planning (Compensation) (Wales) Regulations 2012 (S.I. 2012/***(W.***)). The prescribed period for subsections (3C) and (3D), referred to above, is 24 months.

Section 189 of the Planning Act 2008 amended section 108 in relation to England. This Order makes provision in relation to Wales which corresponds to section 189. The effect of this Order, therefore, is that entitlement to compensation where development orders or local development orders are withdrawn will be the same in Wales as it already is in England. This change is effected by omitting the specific provisions that related

to England from section 108 so that the section applies in the same way to both England and Wales.

The Regulatory Impact Assessment applicable to this Order is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government's web site at www.wales.org.uk.

Draft Order laid before the National Assembly for Wales under section 203(9) of the Planning Act 2008, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2012 No. (W.)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Planning Permission
(Withdrawal of Development Order
or Local Development Order)
(Compensation) (Wales) Order
2012**

Made

Coming into force

31 January 2012

The Welsh Ministers, in exercise of the powers conferred by section 203(1) and (6) of the Planning Act 2008(1), make the following Order.

In accordance with section 203(9) of that Act a draft of this Order was laid before and approved by a resolution of the National Assembly for Wales.

Title, commencement and interpretation

1.—(1) The title of this Order is the Planning Permission (Withdrawal of Development Order or Local Development Order) (Compensation) (Wales) Order 2012.

(2) It comes into force on 31 January 2012.

(3) In this Order “the Act” (“*y Ddeddf*”) means the Town and Country Planning Act 1990(2).

(1) 2008 c. 29.
(2) 1990 c. 8.

Provisions in relation to Wales

2. In section 108(1) of the Act (compensation for refusal or conditional grant of planning permission formerly granted by development order or local development order)—

- (a) in subsection (2A)(a) omit “in England”;
- (b) in subsection (2A)(b) omit “in England”;
- (c) in subsection (3C)(a) omit “in England”;
- (d) in subsection (3D) omit paragraph (a);
- (e) in subsection (6) after “Secretary of State” insert “in relation to England and the Welsh Ministers in relation to Wales,”.

Minister for Environment and Sustainable
Development, one of the Welsh Ministers

Date

(1) Section 108 was amended by section 40 of the Planning and Compulsory Purchase Act 2004 (c. 5) and by section 189 of the Planning Act 2008 (c. 29). There are other amendments not relevant to this Order.

Explanatory Memorandum to The Planning Permission (Withdrawal of Development Order or Local Development Order) (Compensation) (Wales) Order 2012

This Explanatory Memorandum has been prepared by the Department for Environment and Sustainable Development 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 Planning Permission (Withdrawal of Development Order or Local Development Order) (Compensation) (Wales) Order 2012. I am satisfied that the benefits outweigh any costs.

John Griffiths AM

Minister for Environment and Sustainable Development

9 November 2011

1. Description

1.1 The Welsh Government is seeking to commence sections 61A to 61D of the Town and Country Planning Act 1990 (inserted by sections 40 and 41 of the Planning & Compulsory Purchase Act 2004) to enable local planning authorities to introduce, after consultation, local development orders which would remove the requirement for planning permission for developments as specified in a local development order.

1.2 Section 107 of the Town and Country Planning Act 1990 provides for compensation to be payable where planning permission granted by a local planning authority is subsequently revoked or modified. Section 108 of that Act extends the entitlement to compensation to circumstances where planning permission granted by a development order is withdrawn.

1.3 This Order amends section 108 as it applies in Wales, extending the entitlement to compensation to certain circumstances where planning permission granted by a local development order is withdrawn and restricting in other circumstances the entitlement to compensation on withdrawal of planning permission granted by a development order or local development order. A further amendment confers power on the Welsh Ministers to prescribe certain matters in relation to the entitlement to compensation.

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

2.1 There are no matters of special interest

3. Legislative Background

3.1 Section 108 of the Town and Country Planning Act 1990 (“the 1990 Act”) extends the entitlement to compensation under section 107 of that Act to circumstances where planning permission granted by a local development order is withdrawn. Section 189 of the Planning Act 2008 amends section 108 of the 1990 Act. Section 189 applies to England only but section 203(1) of the Planning Act 2008 gives the Welsh Ministers power to make provision which has an effect in relation to Wales that corresponds to the effect section 189 has in relation to England. This instrument makes such provision and is made under enabling powers conferred by section 203.

3.2 The instrument is subject to the affirmative resolution procedure.

3.3 Further instruments subject to negative procedure will be made in due course and laid before the National Assembly for Wales giving full effect to provisions relating to local development orders and in exercise of powers conferred by section 108 of the 1990 Act, as amended by this instrument.

4. Purpose and intended effect of the legislation

4.1 An earlier consultation on the ‘Changes to the Development Control System in Wales’ (July 2006), introduced a number of proposals for change to the development management system, one of which was the proposed introduction of Local Development Orders.

4.2 A Local Development Order (LDO) is an order made by a local planning authority (LPA), through which permitted development rights (i.e. reducing the need to seek planning permission), additional to those granted nationally by the Welsh Government, are granted to certain types of development (specified in the order) within a certain area (also specified in the order).

4.3 There was little interest for this particular proposal in the responses received in 2006 but the issue was reviewed by the previous UK Government and legislation introduced in the Planning Act 2008 which removed the requirement that local development orders should be linked to adopted local development plans.

4.4 Subsequently the then Welsh Assembly Government issued a further detailed consultation (in July 2010) setting out proposed detailed provisions to enable local planning authorities to establish local development orders.

4.5 The Welsh Government commitment to improve the planning application process includes changes bringing about both process improvements and removal of the need for planning permission, where appropriate, and proportionate. The use of local development orders would also be a vehicle to assist local economic and community development that reflect local circumstances, and could additionally potentially support the use of Enterprise Zones to assist economic development.

4.6 This particular instrument amends the 1990 Act so as to make provision in relation to Wales similar to provisions in England, relating to compensation provisions relating to revocation, modification, or withdrawal of a development order or local development order.

5. Implementation

5.1 It is intended that the proposed Instrument will be made on 10 January 2012 and come into force on 31 January 2012.

6. Consultation

6.1 A public consultation took place from 26 July 2011 to 29 October 2010, and the consultation document was available on the Welsh Government website at

<http://wales.gov.uk/consultations/planning/localdevorders/?lang=en&status=closed>

Local Development Orders - Regulatory Impact Assessment

1. Purpose and intended effect

1.1 To support improvements in the planning application process through the use of local development orders (LDOs), with a local planning authority (LPA) being able to encourage particular developments to meet local needs (and reduce costs for applicants), supporting sustainable development and facilitating economic recovery. A local development order would mean that certain developments, as specified in the order, would not require planning permission.

1.2 This Order is part of a suite of regulation changes that are needed to enable the introduction of powers for local planning authorities to introduce local development orders. This particular order amends existing provisions so that they are applicable to Wales, providing for the situation where planning permission of a prescribed description granted by a development order or local development order is withdrawn. The result of the amendment is that compensation would be payable only if an application for planning permission for development formerly permitted by that order is made within 12 months of the withdrawal taking effect. While this is theoretically possible, it is unlikely to happen in reality. However, it is necessary to cater for this possibility.

2. Background

2.1 LPAs in Wales in 2010 received over 23,300 planning applications. These ranged from relatively small works on an individual householder's property to major housing and commercial development. A key objective of the Planning & Compulsory Purchase Act 2004 and the Planning Act 2008 has been to enable improvements in the planning application process. The discretionary power for an LPA to make an LDO is intended to assist in the delivery of the planning application process. LDOs will, in effect, grant permission for the type of development specified in that Order and by so doing negate the need for a planning application to be made by the developer.

2.2 Town and country planning legislation grants a general permission for various types of relatively small-scale and normally uncontentious development without the need to make a planning application. These provisions, known as permitted development rights, are designed to ensure that people have a reasonable degree of freedom to improve their properties. They also relieve local planning authorities of the need to determine numerous, routine planning applications. Local development orders can therefore be seen as an extension of permitted development, but decided upon locally in response to local circumstances within an overall framework provided by the LPA.

2.3 The LDO can relate to the whole of the LPA area, parts of the area or apply to a specific site, or type of development. The scope of the LDO would reflect local circumstances and can be used to achieve a wide variety of objectives, and promote a wide range of behaviours by developers to serve communities, planning, environmental or regeneration objectives.

3. Options

- (i) Do nothing – continue with the existing system with no full commencement of the relevant provisions of the Planning & Compulsory Purchase Act 2004 and the Planning Act 2008 or amendments to related planning regulations.
- (ii) Enable local planning authorities to have the powers to establish local development orders.

Option (ii) is the Welsh Government's preferred option.

4. Costs and Benefits

4.1 As the use of Local Development Orders is a discretionary power for local planning authorities, it is not possible at this stage to estimate benefits or costs as it is not known to what extent the power might be used, as the form of the local development order is likely to vary from one authority to another, and would be prepared to suit specific local needs and requirements type.

4.2 There would be no additional economic benefit from option (i). Developers would benefit from option (ii) by not having to apply for a specific planning permission and pay the associated fee. Fees vary by type and size of development. The certainty provided and the ability to deliver development more quickly should benefit developers as well as the removal of the administrative burden of making applications. For 2010, 68% of all applications were processed within 8 weeks, with the best performing local planning authorities determining over 80% of applications within 8 weeks. This shows that there is scope for LDOs to reduce the time it takes to progress a development especially in the weaker performing authorities. Delays of more than 8 weeks can be costly particularly for small businesses adding to uncertainties.

4.3 There could also be benefits for communities generally if LPAs decide to use LDOs to assist in the regeneration of particular areas. Householders could also benefit from not having to apply for planning permission.

4.4 Although LPAs will entail costs in producing an LDO, it could be possible that in the longer term it may be more resource efficient to do so by reducing the number of applications for planning permission having to be decided and reducing the number of appeals to be processed.

4.5 Neither option would necessarily impact on one particular group. There are no specific race, health or spatial impacts.

5. Costs

5.1 LPAs wishing to prepare LDOs to assist in encouraging specific local developments will incur costs. Much of this cost is likely to be related to the upfront costs associated with preparation of an LDO prior to it being made although this may be minimised by running the LDO process concurrently with other consultations, such as supplementary planning guidance. It is possible that a LPA may choose to make a LDO even where the resource costs exceed any savings in the longer term. However as this is a discretionary power and in such circumstances LPAs would only be doing so where they believe that the cost is worthwhile in that it is proportionate to the benefit delivered through the implementation of local planning policy.

5.2 LPAs will lose the fee income where development can be carried out without the need to apply for planning permission. Total fee income for Wales in 2009/2010 is estimated at approximately £9.5m. If for example it is assumed that 5% of the fee income is lost because of LDOs the lost revenue would be about £475,000. However it is not possible to assess how much fee income could be lost, although the reduction in costs incurred by LPAs in processing applications could possibly cancel out any lost fee income. In addition it is highly unlikely that all 25 LPAs will introduce LDOs.

5.3 On the issue of claims for compensation, should a LPA introduce an LDO and then subsequently decide to remove or revoke the development rights so granted, the 12 months time limit will ensure that such claims will be minimal, safeguarding public finances.

6. Consultation with Small Businesses

6.1 Notification of the consultation document was sent to the Confederation of British Industry Wales and the Federation of Small Businesses in Wales, as well as being posted onto the Welsh Government website.

7. Competition Assessment

7.1 It is not considered that the proposed changes would have a disproportionate impact on any particular sector. Therefore it is considered unlikely that there would be appreciable competition impact arising from the introduction of LDOs.

8. Consultation

8.1 The draft Regulatory Impact Assessment formed part of the formal consultation with stakeholders of the planning system when the consultation was published in July 2010.

Welsh Government
November 2011

Agenda Item 4

**Y Pwyllgor Materion
Cyfansoddiadol a
Deddfwriaethol**



**Cynulliad National
Cenedlaethol Assembly for
Cymru Wales**

Constitutional and Legislative Affairs Committee

John Griffiths AM
Minister for Environment and
Sustainable Development
Welsh Government
5th Floor, Tŷ Hywel
Cardiff Bay, CF99 1NA

Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

18 October 2011

Dear Minister

CLA46 - The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

The Constitutional and Legislative Affairs Committee considered the above Statutory Instrument at its meeting on 17 October 2011 and agreed that I should bring to your attention the Committee's report made under Standing Order 21.3 on the merits of the Instrument.

The Committee agreed to invite the Assembly to pay special attention to this Instrument on the grounds "that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly" (Standing Order 21.3(ii)).

The Committee's report was laid in the Table Office on 18 October 2011 and is attached for information. I would be grateful if you could consider the report and let the Committee have your response in due course.

I am copying this report to the First Minister for information and have also arranged for the report and this letter to be drawn to the attention of Assembly Members.

Yours sincerely

David Melding AM
Chair, Constitutional and Legislative Affairs Committee

John Griffiths AC /AM
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
Minister for Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref JG/06633/11

David Melding AM
Chair - Constitutional & Legislative Affairs Committee
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA
committeebusiness@Wales.gsi.gov.uk

11 November 2011

Dear David,

CLA46 – The Local Inquiries, Qualifying Inquiries and Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2011

Thank you for your letter of 18 October 2011 enclosing a copy of the Constitutional and Legislative Affairs Committee report on the merits of the instrument and requesting a response to it.

The merits scrutiny raises two issues:

- i) 'The Explanatory Memorandum says that a Regulatory Impact Assessment (RIA) is "Not required as the revision of the Regulation is to make increases in statutory fees." However, when these fees were uprated last (in 2007) an RIA was provided.'; and
- ii) 'There is no information in the Explanatory Memorandum to explain how the increases in fees have been calculated, the total amount of extra income that it is estimated will be raised as a result and the impact this will have on local authority and Welsh Government budgets and funding as a result.'

I am able to provide the following information in respect of the issues raised. In response to the query concerning the RIA, the 2007 Regulations not only updated existing statutory fees but also introduced a new statutory fee in relation to Local Development Plan examinations. An RIA was prepared at that time to provide for this new type of fee introduced by the Regulations.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)

English Enquiry Line 0845 010 3300
Llinell Ymholiadau Cymraeg 0845 010 4400
Correspondence: John.Griffiths@wales.gsi.gov.uk
Printed on 100% recycled paper


Regarding the request for an explanation of the fees increases, most of the work undertaken by the Planning Inspectorate on behalf of the Welsh Ministers, including determining planning appeals and other case work, is currently funded by the Welsh Government. Certain work undertaken by the Planning Inspectorate on behalf of local planning authorities, however, is provided on a rechargeable basis. The cost of this work is recovered by charging a daily rate, which is set by the Welsh Ministers. The chargeable work includes Unitary Development Plan (UDP) inquiries, Local Development Plan (LDP) examinations and Compulsory Purchase Orders (CPO) and other inquiries. These daily rates were last revised on 1 April 2007 through the Local Inquiries Qualifying Procedures (Standard Daily Amount) (Wales) Regulations 2007.

The rates set out in the 2007 Regulations are £679 for UDP inquiries, £640 for LDP examinations and £729 for CPO and other inquiries. The different rates reflect the different requirements of the work. The rates are usually revised every two years. The fees were recalculated in 2009 by the Inspectorate based on actual costs including total salary costs and business overhead costs. The figures were used to calculate the cost to the Inspectorate of all rechargeable work in England and Wales. The cost of UDP work has not been recalculated as preparation of these plans has been superseded by local development plans.

The Welsh Government consulted on proposals for an increase in the existing daily rates for CPO inquiries and LDP examinations in May 2009. On the basis of the consultation responses the then Minister for Environment Sustainability and Housing agreed that the standard daily amount for Local Development Plans should be increased by £39 to £679 and other rechargeable work, including Compulsory Purchase Orders from £722 to £742.

The figure of £742 for rechargeable work other than LDP examinations represented a below inflation rise of 2.7%, which provided full cost recovery at 2009 rates. The rate of £679 for LDPs is the same as the current Unitary Development Plan (UDP), which is familiar to local authorities. The increase was roughly in line with inflation at the time and represents a 4.5% increase. The increase does not represent full cost recovery. However, it can be balanced against the Welsh Government's policy imperative for local planning authorities to have in place up-to-date LDPs, which will facilitate the more efficient and effective determination of planning applications. In addition the Committee may wish to note that the Welsh Government provides financial support to those local planning authorities who adhere to their LDP delivery timetable.

Although no formal published data is available, officials estimate that for an average authority which adheres to its LDP preparation timetable, taking a total of 5 years from commencement to adoption, the total cost of the process will be around £2m, of which the Inspectorate costs will be around £100,000 – representing around 5% of the total cost. A 4.5% increase in the Inspectorates' costs would represent an increase of less than £5,000 or around 0.2% of the total cost. These costs will vary between authorities, depending upon the complexity of the plan and the time taken to complete it.

Best wishes,


John Griffiths AC / AM

Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
Minister for Environment and Sustainable Development

To: Constitutional and Legislative Affairs Committee

Proposed Committee Inquiry - A Separate Welsh Jurisdiction?

Purpose

1. This paper asks Members to confirm that the Committee's next Inquiry should be on the question of whether there should be a separate Welsh jurisdiction and to consider and agree terms of reference for the Inquiry.

Background

2. At its meeting on 14 July, the Committee agreed that it would undertake an inquiry on a separate Welsh jurisdiction subsequent to the current Inquiry on the powers given to Welsh Ministers in UK Acts. The Committee has finished taking evidence for the current Inquiry and it would now be opportune for Members to agree terms of reference for the Inquiry on a separate Welsh jurisdiction.

3. The Research Service has provided Members separately with a briefing paper setting out in more detail the background to the issue along with draft terms of reference and possible witnesses. If Members are content, a call for evidence will be issued before the Christmas recess with a view to starting taking oral evidence early in the New Year.

4. The suggested terms of reference are to:

“Contribute to the public debate on the need for a separate Welsh jurisdiction by taking expert evidence on:

- *what is meant by the term “separate Welsh jurisdiction”*
- *the arguments for and against a separate Welsh jurisdiction;*
- *the practical implications of a separate jurisdiction for the legal profession and the public;*
- *the operation of a separate jurisdiction, using common law, in Northern Ireland; and*
- *to report to the Assembly with recommendations.”*

Recommendation

5. Members are invited to agree:

- that the Committee's next Inquiry should be on the question of a separate Welsh Jurisdiction; and
- the draft terms of reference set out above.

Agenda Item 6

Cynulliad
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Constitutional and Legislative Affairs Committee

Report: CLA(4)-12-11 : 21 November 2011

The Committee reports to the Assembly as follows:

Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

CLA55 – The Right to Manage (Prescribed Particulars and Forms) (Wales) Regulations 2011

Procedure: Negative.

Date made: 5 November 2011

Date laid: 8 November 2011

Coming into force date: 30 November 2011

CLA56 – The Private Dentistry (Wales) (Amendment) Regulations 2011

Procedure: Negative.

Date made: 6 November 2011.

Date laid: 9 November 2011.

Coming into force date: 1 January 2012

Affirmative Resolution Instruments

None

Instruments that raise reporting issues under Standing Order 21.2 or 21.3

Negative Resolution Instruments

None

Affirmative Resolution Instruments

CLA52 – The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011

Procedure: Affirmative.

Date made: 2011.

Date laid: Not stated.

Coming into force date: 6 June 2012

**CLA53 – The Red Meat Industry (Wales) Measure 2010
(Amendment) Order 2011**

Procedure: Affirmative.

Date made: Not stated.

Date laid: Not stated.

Coming into force date: 1 April 2012

The Committee agreed the Reports under S.O.21.2 and S.O.21.3 on these statutory instruments, which are attached as Annexes 1 – 2.

Other Business

Committee Inquiries: Inquiry into the Granting of Powers to Welsh Ministers in UK Laws

The Committee took oral evidence from the Farmers' Union of Wales, represented by Mr Andrew Gurney, Policy Officer (Land Use) and Mr Gavin Williams, Chairman of the Union's Land Use and Parliamentary Committee and from the First Minister the Rt. Hon Carwyn Jones AM, who was accompanied by Dr Hugh Rawlings, Director, Constitutional Affairs and Inter-Governmental Relations, Welsh Government.

Resolution to Meet in Private

In accordance with Standing Order 17.42(vi) the Committee resolved to exclude the public from the remainder of the meeting to discuss the evidence submitted thus far on the Inquiry into the Granting of Powers to Welsh Ministers in UK Laws.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

21 November 2011

Annex 1

Constitutional and Legislative Affairs Committee

(CLA(4)-12-11)

CLA52

Constitutional and Legislative Affairs Committee Report

Title: The Mental Health (Care Co-ordination and Care and Treatment Planning) (Wales) Regulations 2011

Procedure: Affirmative

These Regulations make provision about care co-ordination and care and treatment planning for patients using secondary mental health services.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this draft instrument:

Merits Scrutiny

Under Standing Order 21.3(ii) (gives rise to issues of public policy likely to be of interest to the Assembly) the Assembly is invited to pay special attention to the following instrument.

These Regulations are part of a suite of regulations made by the Welsh Ministers under powers conferred on them by provisions of the Mental Health (Wales) Measure 2010 ("the Measure") designed to develop and enhance mental health services in Wales.

Under Part 2 of the Measure patients accepted into secondary mental health services in Wales will have a dedicated care co-ordinator. Provision is made by the Regulations relating to the criteria which must be satisfied before a person can be appointed as a care co-ordinator.

The Measure also provides that service providers (Local Health Boards and local authorities) will act in a co-ordinated manner to improve the effectiveness of the mental health services provided to the patient.

The Measure ensures that each individual patient will have a tailored care and treatment plan developed by the care co-ordinator in consultation with the patient and overseen by the co-ordinator with a view to achieving the outcomes which the services provided to the patient are designed to achieve.

These provisions are unique to Wales.

As these Regulations are subject to the affirmative procedure they will be debated by the Assembly in Plenary.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

21 November 2011

Annex 2

Constitutional and Legislative Affairs Committee

(CLA(4)-12-11)

CLA53

Constitutional and Legislative Affairs Committee Report

**Title: The Red Meat Industry (Wales) Measure 2010 (Amendment)
Order 2011**

Procedure: Affirmative

This Order amends Part 1 of Schedule 2 to the Red Meat Industry (Wales) Measure 2010 ('the Measure') by replacing the component tables in paragraphs 5 and 6 to increase the maximum rate of levy that may be charged for the production and slaughter/ export components of the red meat levy.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. The Order is to be made using powers granted to Welsh Ministers by section 5(4) of the Measure in respect of which no commencement order has yet been made. Whilst it is expected that such an order will be made before the plenary debate, the power is not available as this report is being prepared. [Standing Order 21.2(i) – that there appears to be doubt whether it is intra vires]

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

David Melding AM

Chair, Constitutional and Legislative Affairs Committee

21 November 2011