

Report

Newport City Council

Part 1

Date: 16 May 2017

Subject Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017

Purpose To amend the Council's Standing Orders and the terms of reference of Planning Committee as set out in the Constitution, in accordance with the requirements of the Local Authorities(Standing Orders) (Wales) (Amendment) Regulation 2017 and the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017.

Author Head of Law and Regulation

Ward General

Summary The Local Authorities(Standing Orders) (Wales) (Amendment) Regulation 2017 and the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 (SI 2017/459) have been made by the Welsh Ministers and came into force on 5th May 2017. The Council must formally adopt and implement the changes to Standing Orders and the Constitution required by these Regulations at the first ordinary meeting after 5th May.

The Regulations impose the following restrictions on the size and composition of local planning authority (LPA) committees and sub-committees when the LPA is exercising any function in relation to an application under the Town and Country Planning Act 1990:

- Planning committees and sub-committees must comprise no fewer than 11, and no more than 21, members of the LPA (*regulation 4*).
- Planning Committees and Sub Committees may only carry out business when at least half of the total number of members of the committee, rounded to the nearest whole number, is present. Substitute members are not permitted in the absence of appointed members (Schedule 2A).
- The number of members appointed to a committee or sub-committee must not exceed half of the total number of members of the LPA, rounded up to the nearest whole number (*regulation 5*).
- In the case of multiple member wards, only one of the local authority members of that ward is eligible for appointment to a committee or sub-committee of a relevant LPA. (*regulation 6*).

In order to comply with the requirements of the new Regulations, it is proposed that:-

- (a) The composition of Planning Committee remains at 11 members;
- (b) The quorum for Planning Committee should be 6 members;
- (c) No substitutes shall be allowed;
- (d) In multiple wards, only one ward member shall be appointed to Planning Committee;

- (e) Site inspections shall continue to be decision-making meetings rather than fact-finding and should be carried out by full Committee, with a minimum quorum requirement of 6 members.

Proposal To amend the Council's Standing Orders and Constitution to comply with these regulatory changes.

Action by Head of Law and Regulation and Head of Regeneration, Investment and Housing

Timetable Immediate

This report was prepared after consultation with:

- Head of Law and Regulation
- Head of People and Business Change
- Head of Finance
- Head of Regeneration, Investment and Housing

Background

1. The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017 and the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 came into force on 5th May 2017.
2. The 2017 Regulations amend the Local Authorities (Standing Orders) (Wales) Regulations 2006 and require Local Planning Authorities (“LPA’s”) in Wales to operate Planning Committees in accordance with the provisions of the Regulations. There are prescriptive rules relating to the size and composition of Planning Committees and specific quorum requirements. The Council has no discretion regarding the adoption of these changes, which are intended to provide a consistent and standardised basis for the operation of Planning Committees across all LPA’s in Wales.
3. The Regulations provide that all Planning Committees must contain no fewer than 11 members and no more than 21 members, but no more than 50% of the authority members (rounded up to the nearest whole number). This is intended to ensure that Planning Committees are not so small in numbers as to be undemocratic but not so large as to be too unwieldy, given that some LPA’s in the past have operated full Council Planning Committees of 50-70 Members.
4. In Newport, the Planning Committee already comprises 11 members and, therefore, no adjustment is required as this meets the minimum requirements of the Regulations. It is recommended that the size of Planning Committee remains as 11 members.
5. However, the Regulations change the quorum requirements for Planning Committee decisions. They provide that business can only be transacted and valid decisions taken when at least half of the total number of members of the Committee, rounded to the nearest whole number, is present. At present, the current quorum for Planning Committee is only 3 members. However, if the size of the Planning Committee remains as 11 members, then the minimum quorum requirement will in future increase from 3 to 6 members. This means that, unless there are at least 6 Members present at all times, the meeting will become inquorate and no further business can be transacted.
6. The Regulations also provide that substitute members are not permitted in the absence of appointed members. However, the Council does not permit substitutes on Planning Committee and, therefore, no change is required in this respect.
7. These provisions must be implemented by LPA’s by making or amending their standing orders no later than the first ordinary Council meeting after 5th May 2017. Therefore, it will be necessary to make these amendments as from the date of this Annual General meeting
8. The Size and Composition Regulations also provide that, where wards have more than one elected member, only one ward member may sit on the Planning Committee, in order to allow other ward members to perform the representative role for local community interests. This would not affect single member wards but, in multiple wards, the Council’s rules and procedures will need to be amended to ensure that only one member from those wards can sit on Planning Committee. The relevant Business Managers of the political groups on the Council will also need to bear this in mind when nominating Councillors to take up the allocated seats on Planning Committee, in accordance with political balance rules. For example, where there is a “split” ward with representatives from different political groups, then only one member from that particular ward can be appointed to Planning Committee.
9. The Regulations also apply to Planning Sub-committees and, therefore, if the current site inspection sub-committees are to be decision-making committees rather than just fact-finding, then the same rules about numbers and quorum requirements would also apply. Therefore, the Council could not continue with the current membership of 6 and, in future, site-inspections would

have to be carried out by the full Committee of 11 members, with at least 6 being present at all times in order to be quorate.

10. The Council's constitution and Standing Orders will need to be amended to reflect these new arrangements

Financial Summary

There are no financial implications in implementing these changes

Risks

The Council is required to amend its Standing Orders comply with these Regulations. Failure to do so will mean that the Council is not complying with the Regulations and it would leave all planning decisions open to legal challenge.

Links to Council Policies and Priorities

The Council's planning arrangements will need to reflect the existing legislation and agreed best practice.

Options Available and considered

The Council will need to change its constitution and standing orders to meet these requirements

Preferred Option and Why

The Council has no option but to implement these legislative changes. However, there is discretion to increase the number on members on Planning Committee up to a maximum of 21 and/or change the site-inspection arrangements to fact-finding rather than decision-making, to avoid the need for full Committee inspections.

Comments of Chief Financial Officer

There are no financial implications

Comments of Monitoring Officer

Set out in the Report.

Comments of Head of People and Business Change

There are no staffing or policy issues..

Scrutiny Committees

This is not a matter for Scrutiny

Equalities Impact Assessment and the Equalities Act 2010

There are no equality issues arising from the adoption of these new procedural requirements.

Children and Families (Wales) Measure

There is nothing in this report that relates specifically to children and young people.

Wellbeing of Future Generations (Wales) Act 2015

The changes to the size and composition of Planning Committees are intended to make the process more democratic and accountable, in accordance with the sustainability objectives of the Well-being of Future Generations (Wales) Act.

Crime and Disorder Act 1998

There are no specific crime and disorder implication.

Consultation

Statutory officers and Planning Officers are consultees on this report

Background Papers

Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017

The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 (SI 2017/459)

Dated: May 2017