

Explanatory Memorandum to the Substance Misuse (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 Substance Misuse (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The Home Office have repealed (in England) some of the more prescriptive regulations governing Community Safety Partnerships by making the Crime and Disorder (Formulation and Implementation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 Substance Misuse (Formulation and Implementation of Strategy) (Wales) (Amendment) Regulations 2011 (“the Regulations”).

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

There are no matters of special interest.

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 to make Regulations to make provision for the formulation and implementation of a strategy for the reduction of substance misuse 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 Substance Misuse (Formulation and Implementation of Strategy) (Wales) Regulations 2007 (SI 2007/3078) (“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 substance misuse 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 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 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 whose purpose is to prepare strategic assessments and prepare and implement partnership plans for the relevant area on behalf of the responsible authorities. 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.