

Explanatory Memorandum to 2007(No. (W.) Substance Misuse (Formulation and implementation of Strategy) (Wales) Regulations 2007

This Explanatory Memorandum has been prepared by The Community Safety Division and is laid before the National Assembly for Wales.

1. Description

1.1. These Regulations set out minimum standards for how Community Safety Partnerships (CSPs) in Wales should function as they formulate and implement strategies to combat substance misuse (drugs, alcohol and other substances) in their communities.

2. Matters of special interest to the Subordinate Legislation Committee

2.1. None.

3. Legislative Background

3.1 The Crime and Disorder Act 1998 (“the 1998 Act”) as amended by the Police Reform Act 2002 (“the 2002 Act”) and the Police and Justice Act 2006 (“the 2006 Act”) established partnerships between police, local authorities, fire and rescue authorities, health authorities and police authorities. The purpose of these partnerships was to ensure that all these agencies work together to tackle local crime and disorder and combat substance misuse. The 1998 Act placed a central duty on these ‘responsible authorities’ to, once every three years, produce audits of the areas local substance misuse problems and implement strategies to combat them.

3.2 The 2006 Act received Royal Assent on 8 November 2006. Paragraph 3 of Schedule 9 to the 2006 Act repealed the duty on CSPs to produce triennial crime and disorder and substance misuse audits and strategies. In place of this duty, is contained the power to introduce regulations for the formulation and implementation of strategies for CSPs to tackle crime and disorder and combat substance misuse, alcohol and other substances in the area. These Regulations specify how CSPs should conduct their business in respect of identifying the levels and patterns of crime and disorder and substance misuse in the area, engaging with communities, sharing information and the priorities they should adopt to address those matters.

4. Purpose and intended effect of the legislation

4.1 The 1998 Act put partnership working to reduce crime and disorder on a statutory footing for the first time. It placed a statutory duty on chief police officers and local authorities to work together with a range of agencies to develop and implement a strategy for reducing crime and disorder. The Act placed a new obligation on local authorities and police authorities to consider the implications of crime and disorder in all their other activities and do all they

can to prevent it. It also gave agencies the power to disclose information to other relevant agencies when exercising their functions under the Act.

4.2 Amendments to the 1998 Act made by the Police Reform Act 2002 introduced new requirements on local authorities, fire authorities and primary care trusts (England), health authorities (Wales) to work with local authorities and the police in the exercise of their duties under section 5-7 of the Act. It also introduced the requirement that the review of the level and patterns of crime in a local area and the development of the strategy should include misuse of drugs or substance abuse in Wales.

4.3 Since the introduction of the legislation there have been improvements in partnership working but the Government thought it timely to review whether the provisions needed updating and to explore how a greater degree of consistency could be achieved. The findings of a review of the partnership provisions of the 1998 Act were published in 2006: <http://www.crimereduction.gov.uk/partnerships60.doc>.

4.4. The overall objective of the review of the partnership provisions of the 1998 Act and the resulting new sections in the 2006 Act was to make CSPs more effective, responsible and visible. In particular, the review considered how CSPs identified and prioritised issues important to local people; how they shared information between partners; how they planned ahead and managed performance, and how they were accountable to local communities.

4.5 The review found that the triennial audits and strategies were seen by many CSPs as no longer relevant to how they conducted their work. Instead of relying on information that was up to three years old, many well performing CSPs were identifying their priorities and re-organising their business through the analysis of information much more frequently throughout the year. The review also identified that it was more important that partnerships were accountable to their local communities than to central government. Further, it was evident that some partnerships were still reluctant to disclose the relevant information.

4.6 As a result of these findings the duty to produce triennial audits and strategies and an annual report has been repealed. Instead the strategy regulations outline the minimum elements for effective partnerships. They require that each CSP shall have an agreed process for sharing information held by partners; produce an annual assessment (using that information) of the issues affecting the local area; make some decisions about what the priorities ought to be based on this assessment; produce a plan which explains how those priorities will be delivered; and have a dialogue with communities to both inform these processes and explain the outcomes.

5. Regulatory Impact Assessment (RIA)

5.1 Options for the introduction of minimum standards for CSPs/CDRPs

The four options listed below set out the different ways in which we can approach the introduction of the powers contained in the Police and Justice Act 2006 and the introduction of minimum standards for CSPs/CDRPs .

Option 1. Legislate to introduce minimum standards for CSPs supported by guidance that helps partners to achieve standards		
Objective	Risks	Mitigate Risk
1.1a. Reduce bureaucratic burden on CSPs by introducing minimum standards and guidance by clarifying expectations of performance	1.1b. Some CSPs may only aim to meet minimum standard and not seek to exceed expectations	1.1c. Produce guidance outlining standards but include examples of good practice and use ongoing monitoring and review to drive up performance.
1.2a. Improve partnership delivery by introduction of standards	1.2b. Could consume additional resources to support implementation of the minimum standards for some CSPs	1.2c. Stakeholder consultation showed that most CSPs are functioning in manner outlined by standards and so many will not need to change their practices. Where changes are necessary, they will lead to more effective practices to drive delivery. This work also takes into account other changes introduced through the Local Government and Involvement in Public Health Bill
1.3a To ensure a common approach to delivery of community safety across England and Wales	1.3b The English delivery landscape differs from Wales due to devolved matters in Wales	1.3c Work in consultation with the Home Office to develop separate regulations and support appropriate implementation
1.4a. Improve information sharing to support effective work in reducing crime and anti-social behaviour.	1.4b. Could consume additional resources to support the implementation of the standard for some CSPs	1.4c. Guidance on how to achieve standard. Represents what many CSPs are doing already. List only minimal sets in regulations which CSPs can choose to

1.5a Improve community consultation and engagement undertaken by CSPs	1.5b CSPs may regard this as increased burden	supplement locally. 1.5c. Standards build on existing work undertaken by responsible authorities and so no additional burdens. Builds on existing good practice work and wider government commitment to increased community involvement
Option 2. Retain provisions outlined in the Crime and Disorder Act 1998 and not commence provisions in Police and Justice Act 2006		
Objective	Risks	Mitigate Risk
2.1a. To avoid changing requirements on CSPs regarding the production of strategies and three-year audits	2.1b. Primary legislation exists and there is a legitimate stakeholder expectation that this will be used to improve delivery amongst CSPs. CSP effectiveness reduces due to lack of improved practice Having identified that the 3 year audits no longer serve a useful purpose, we would be persisting with a flawed approach	2.1c. Utilise good practice groups/knowledge management tools to encourage all CSPs to address the challenges identified in CDA Review
Option 3. Repeal previous duties and do not introduce regulations for CSPs		
Objective	Risks	Mitigate Risk
3.1a. To provide no framework for CSPs in terms of how they discharge their delivery of crime and disorder issues	3.1b. Home Office/Welsh Assembly Government cannot ensure consistency and equality of service provision and CSPs effectively do not exist	3.1c. Issue guidance to current responsible authorities encouraging them to act jointly to tackle local issues
Option 4. No minimum standards but non statutory guidance on improving performance		
Objective	Risks	Mitigate Risk
4.1a. Introduce light touch approach to avoid adding burdens to CSPs.	4.1b. Introduces lack of consistency at local level, creating greater burdens for CSPs as	4.1c. Introduce a more robust central performance management of local delivery, thus increasing

Advise partners on how to improve performance without clear expectation of minimum levels of performance	they respond to national and local expectations. Does not support value for money principles	burdens on CSPs and going against wider government policy.
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6. Benefits

6.1 The work that CSPs do on a daily basis has been a major contributing factor in reducing crime over the last ten years. Crime has reduced by 35% from 1997, as measured by the British Crime Survey. During this time, partnerships have developed and improved their contribution towards the reduction in crime. By clarifying the expectations of the role of CSPs and improving the support offered to them, partnerships have been able to deliver on both local and national expectations concerning community safety. The introduction of minimum standards for CSPs will support the continued development of partnership working as they face new challenges and produce lasting economic, social and environmental benefits.

6.2 The Home Office and the Home Office Crime Team based at the Welsh Assembly Government have worked with underperforming partnerships over the past two years, building on the existing work undertaken with police forces. This programme of work has shown that many of the issues addressed in national standards are the issues facing underperforming partnerships. By introducing these national standards, those areas with poorer performance can be brought up to an acceptable level of performance. This process will make CSPs more responsive to local needs and in a better position to deliver services that are more effective.

6.3 More transparent and visible accountability mechanisms will encourage communities to work together with CSPs. Local communities that understand the role of CSPs in supporting reducing crime, disorder and substance misuses are more likely to engage with them and as such support improved social and environmental conditions.

7. Costs

7.1 In introducing these regulations, the intention is not to increase bureaucracy or to be overly prescriptive about how CSPs should exercise their duties. Rather, the good work that many partnerships are already doing is being formalised and recognised and a duty is being placed on those CSPs who do not meet the standards to re-engineer their processes to drive delivery.

7.2 Furthermore, because the national standards define the minimum expectations of partnerships, compliance with them should be a straightforward process for the majority of CSPs. Where CSPs are not approaching the delivery of their business in such a way, then it is questionable if they are operating effectively or using their resources in a cost

effective manner. The repeal of previous requirements on CSPs should also offset any concern amongst CSPs that the new provisions add to their work.

7.3 However, it is difficult to make assertions of actual costs of implementation of these new requirements. CSPs are not corporate entities or funded organisations as such. Partnerships in Wales receive funding from the Home Office’s Building Safer Communities Fund to tackle crime, drugs and anti-social behaviour with further funding for specific issues such as the Drug Intervention Programme, domestic violence or criminal damage. They also receive funding from the Welsh Assembly Government’s Safer Communities Fund to support a range of projects aimed at youth crime prevention, anti-social behaviour and domestic abuse. The Assembly’s Substance Misuse Action Fund provides CSPs with resources to tackle the problems of substance misuse through the provision of treatment places. Clearly they also help to brigade resources from partner organisations (such as the police) to conduct their work. These minimum standards put CSPs in a better position to work effectively within an evolving delivery landscape.

7.4 To ascertain whether assumptions that the new minimum standards would not involve additional cost, an exercise was conducted with a cross-section of CDRPs to test whether this was correct. Information was sought on the costs of introducing these changes in five ‘average’ CDRPs in England (those have been performing consistently over a period of a 12 month period and performing in line with their most similar partnerships). During telephone interviews conducted in February-June 2007, and lasting up to one hour each, they were taken through the new requirements and asked if these presented any new costs or might require a realignment of existing costs.

Table 2 CDRPs/CSP responses regarding the costs of implementing the new requirements:

	Strategy Group	Partnership plan	Intelligence led processes	County wide co-ordination	Information sharing protocol and new duty to share certain datasets	Community Engagement
CDRP 1 unitary	No additional cost as process already in place	No additional cost as already meeting needs through current funding	No new costs as already have intelligence led business processes	n/a	No new costs , as already have protocol in place No New Costs for provisions to strengthen	No new costs , as already have many different approaches to engaging community

					information sharing as already have access to the majority of datasets.	
CDRP 2 merged	No impact on costs, as strategy group in place	No new costs, already change plan on a yearly basis	No new costs as already have intelligence led business processes	No new costs, already member of county wide community safety group	No new costs, as protocol in place and other requirements can be met from existing resources. No New Costs for provisions to strengthen information sharing as already have access to the majority of datasets.	Some additional costs for delivering Face the People sessions, but other approaches already in place
CDRP 3 two tier rural	No impact on costs, reflects current structure	No new costs, already carrying out some of new requirements, plan reviewed annually	No new costs, any new requirements met through current spend	No new costs, already member of county wide community safety advisory group	No new costs expected, any new duties subsumed into existing posts. No New Costs for provisions to strengthen information sharing as already have access to the	No new costs. Already programme of community engagement in place

					majority of datasets.	
CDRP 4 two tier urban	No impact on current costs	No new costs , formalise s what already doing	No new costs meeting requirements through current funding	None , as Local Area Agreement structure facilitates this	No impact as have one in place, may be costs with designated liaison officer. No New Costs for provisions to strengthen information sharing as already have access to the majority of datasets.	No new costs , as currently use many different engagement methods
CDRP 5 London	No impact on costs.	None as although some of the requirements are new it is something that can be absorbed into current work.	None as needs will be met through current funding.	n/a	No cost expected - The nomination of a DLO was not expected to incur additional costs and would be subsumed within existing posts. No New Costs for provisions to strengthen information sharing as already have access to the majority of dataset.	No significant additional costs as anything new will mainly incur a time resource cost for those members talking part.

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7.5 The CDRPs interviewed viewed the new requirements as being revised versions of their current and planned processes. The cost of introducing the new requirements would be the same as the costs they incurred in the way in which they approached their work currently. The exception to this was one CDRP who believed that there might be some potential costs in introducing *face the people* meetings.

7.6 The CDRPs sampled for this exercise also highlighted that they believed that the provisions devised to strengthen the information sharing between partners would support more effective working within the CDRP. The CDRPs sampled reported that they accessed the majority of the information outlined in the minimum datasets, and many reported that they collected more detailed information than was specified within the data sharing provisions. The biggest challenge currently facing information sharing provisions was accessing information from health partners. The CDRP members also reported that they felt that strengthened information sharing provisions would increase awareness amongst all partners of the importance of intelligence in supporting delivery.

7.7 This is re-enforced by the repeal of the previous requirements for CSPs/CDRPs to conduct audits and strategies, which will release resources previously committed to those activities. This became an increasingly burdensome and resource intensive task to produce documents that became outdated rapidly. The costs involved in producing them were not justified by the impact that they had on improving effectiveness. Repealing the requirement to produce an annual report to the Home Secretary and the Welsh Assembly Government will also save costs for CSPs, as again this was not a cost that supported effective delivery. By introducing less burdensome processes that reflect the actual operational delivery of CSP business, as undertaken by the majority, we introduce no new costs.

7.8 CSPs were asked if they considered whether there are likely to be any costs in respect of Wales that would not be incurred by CDRPs in England, but although some expressed concerns about additional costs that may be incurred no costings were provided. The conclusion that we have drawn from this work is that the combination of repealing existing provisions and introducing others should not introduce new costs for CSPs

8 Competition Assessment

8.1 A Competition Assessment is not required in this RIA because the proposal impacts only on the public services.

9. Consultation

9.1 Stakeholders were engaged throughout the review of the CSPs/CDRP provisions in the 1998 Act and have been consulted about the development of

regulations thereafter. This included supporting the setting of the CDA remit and final draft reviewing process.

9.2 The Home Office, the Local Government Association, the Association of Chief Police Officers and the Association of Police Authorities worked together on the review between November 2004 and January 2005. Over 450 key stakeholders and practitioners were consulted through four regional seminars and many contributed through e-questionnaires and submissions.

9.3 Since the review findings were published, stakeholders have continued to be engaged in the development of these regulations. The Home Office, Government Offices for the Regions, the Crime Team for Wales and the Welsh Assembly Government jointly undertook a large-scale consultation exercise on the prospect of minimum standards over the summer of 2006. In addition to written consultation, over 1,000 stakeholders in 12 locations attended workshops to help the Home Office to decide what the legislation should contain. Two workshops were held in Wales to reflect their different policy issues. These events and the resulting work by stakeholder representatives in project groups drove the development of the national standards. Details for the Wales workshops can be found at <http://www.crimereduction.gov.uk/regions/regions00.htm>.

9.4 The Welsh Assembly Government consulted over 140 organisations about the draft Substance Misuse (Formulation and Implementation of Strategy) (Wales) Regulations 2007 and the Regulatory Impact Assessment and 14 responses were received.

9.5 Overall ten of the 14 responses welcomed the Regulations but the main areas of concern were:

- i. The Range and accuracy of the data held;
- ii. The need for a Strategy Group
- iii. Clarity on the role of the Strategy Group
- iv. Definition of responsible bodies
- v. Need for public meetings
- vi. Need to reflect the views of all agencies eg prisons, health
- vii. Need to consider local policing targets
- viii. Confusion about Strategic Assessments and the Partnership Plan
- ix. Need for bi-lingualism and
- x. Concerns about additional costs that the changes would incur.

9.6 The concerns raised by the consultees have been addressed by the Home Office's Guide to effective partnership working. The guidance fully explains what is required within the governance structure of each partnership and its roles and responsibilities; it sets out best practice for community engagement and information sharing arrangements.

9.7 One CSP was concerned about translation costs; the Regulations do not impose any new requirements in terms of translation that do not already apply to existing plans and strategies.

10. Monitoring and Review

10.1 Much of the current formal monitoring and review of CSPs centres on performance data and their performance in reducing crime. The Home Office Crime Team based at the Welsh Assembly Government have the lead role in supporting CSP performance and in supporting improvements in that performance. They, on behalf of the Home Office, currently review CSP performance in reducing crime and in supporting delivery of Home Office policies. There are regular meetings between Home Office and the Crime Team based at the Welsh Assembly Government to discuss and review performance issues and these are informed by the regular contact between the Home Office Crime Team based at the Welsh Assembly Government and CSPs.

10.2 This role will continue through their monitoring of CSP performance against the national standards. There is also a specific programme of work undertaken by the Home Office and the Home Office Crime team based at the Welsh Assembly Government to improve the capacity and capability of CSPs and this will support the implementation of the national standards.

11. Summary

11.1 The Assembly's proposed approach is Option 1, which is to legislate to introduce minimum standards for CSPs/CDRPs supported by guidance that helps partners to achieve those standards. This approach enables the Home Office/Welsh Assembly Government to set out clear expectations of CSPs/CDRPs as they deliver safer communities, whilst avoiding the prescription that would increase burdens and bureaucracy that would follow from too much detail in the regulations. Work done to clarify the costs of implementing Option 1 shows that, although it is difficult to quantify accurately the costs of implementing these measures, CSPs/CDRPs should be able to meet the new requirements through existing means and in the saving they make through the repeal of the previous requirements.

11.2 There has been significant stakeholder involvement in the CDA review and the development of these national standards. Failing to introduce regulations and national standards may be seen as renegeing on previous commitments to respond to stakeholder needs. Furthermore, it would place greater burdens on CSPs/CDRPs as they sought to respond to community and government expectations with no clear idea of what is an acceptable and consistent level of performance. For these reasons, Options 2, 3 and 4 are not seen as acceptable options.