

REGULATORY APPRAISAL

THE CHILDREN'S COMMISSIONER FOR WALES

THE CHILDREN'S COMMISSIONER FOR WALES (APPOINTMENT) (AMENDMENT) REGULATIONS 2007

Background

1. The Children's Commissioner for Wales (Appointment) Regulations 2000 stipulate that the Children's Commissioner shall be appointed by the First Secretary after taking account of:
 - the advice of a relevant committee. This is defined by section 54(1)(b) of the Government of Wales Act 1998 as a committee established by the National Assembly for Wales to provide advice and determine matters relating to the appointment of the Commissioner;
 - the views of relevant children as to any candidates interviewed for the appointment. Relevant children are defined as those selected in accordance with the committee's terms of reference, for the purpose of advising on this appointment. They have to be resident in Wales; and
 - the advice of a selection panel established for the purpose of interviewing candidates. In 2000, the selection panel included children and young people as well as adults.
2. After the implementation of The Government of Wales Act 2006, in May 2007, there is no longer a provision for a relevant committee to be involved in any appointment process. Therefore, the existing Regulations need to be amended, in light of this change, before the next Children's Commissioner is appointed. The other parts of the recruitment process will not change.

Purpose and intended effect of the measure

3. These Regulations amend the Children's Commissioner for Wales (Appointment) Regulations 2000, to take account of the Government of Wales Act 2006.
4. They specify that, post May 2007, and following the appointment of a new First Minister for Wales, under section 46(1) of the Government of Wales Act 2006, the Commissioner is to be appointed by the First Minister, without the advice of a relevant committee. However, the First Minister must have taken into account the views of the children in Wales as it remains the intention to include children and young people on the selection panel.
5. The Children's Commissioner is appointed for a seven year term. However, following the death of the previous Commissioner in January 2007, the post is currently being

filled by the Deputy Commissioner until a new Commissioner can be appointed. It is expected that a new Commissioner will be appointed by autumn 2007.

Risk Assessment

6. These Regulations will remove the role of the National Assembly for Wales in the appointment of future Children's Commissioners for Wales. It is no longer possible, as a result of the Government of Wales Act 2006, for there to be a relevant committee of the National Assembly to be involved in public appointments. If these Regulations are not made the appointment of the Children's Commissioner for Wales would not be in line with the provisions of the Government of Wales Act 2006. These Regulations are required to be made before commencement of the process for appointing the next Commissioner. It is proposed to advertise the post in March 2007, and appoint the new Commissioner by autumn 2007.

Options

Option 1: Do Nothing

7. If these Regulations were not made there would be legal confusion surrounding the appointment of the Children's Commissioner for Wales as the appointment process would not be in line with the provisions of the Government of Wales Act 2006.

Option 2: Make the Legislation

8. These Regulations amend the Children's Commissioner for Wales (Appointment) Regulations 2000, to take account of the Government of Wales Act 2006.

Benefits

9. The Regulations will enable the Welsh Assembly Government to proceed with the process for recruiting the next Children's Commissioner for Wales, to take up appointment on 1 March 2008. They will also govern the appointment of future Commissioners, appointed for a seven year non-renewable term.

Costs

10. There are no financial implications for the Assembly or others resulting from these Regulations as they simply remove one element of the process for appointing a Children's Commissioner.

Consultation

With Stakeholders

11. No consultation in relation to these Regulations was considered necessary as the Regulations are required as a consequence of the Government of Wales Act 2006. A letter was sent to the Commissioner's Office in December 2006, informing them of the need to make these Regulations. No comments have been received.

With Subject Committee

12. These Regulations were notified to the Education, Lifelong Learning and Skills Committee, via their list of forthcoming legislation, on 7 December 2006 (ELLS(2)-16-06(p.6), item no. ELLS 39-06) and have remained on the list ever since. The Regulations were not identified for detailed scrutiny.

Review

13. These Regulations are not expected to be subject to amendment for the foreseeable future.

Summary

14. The making of this Instrument will have no cost implications for the Assembly and will enable the Welsh Assembly Government to proceed with recruiting the next and subsequent Children's Commissioners for Wales, removing the role of the National Assembly for Wales in the process, in accordance with the Government of Wales Act 2006.