

Statutory Guidance to County and  
County Borough Councils, Community  
and Town Councils and National Park  
Authorities in Wales



Llywodraeth Cymru  
Welsh Government

[www.gov.wales](http://www.gov.wales)

# **The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015**

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# **The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015: Statutory Guidance**

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## **1. Introduction**

1.1 Section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010 (“the 2010 Measure” or “Measure”) provides a power for the Welsh Ministers to make provision, by regulations, for the involvement of communities in decisions by Local Authorities about the proposed disposal of land consisting, or forming part, of a playing field.

1.2 The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015 (“the Regulations”) are made by the Welsh Ministers in exercise of those powers.

1.3 This document provides statutory guidance to which Local Authorities must have regard when exercising functions under the Regulations. It is not a substitute for the Regulations themselves, which should be read alongside the guidance in this document.

1.4 In the Regulations and this document, a reference to a ‘Local Authority’ or ‘Authority’ is a reference to a County or County Borough Council, a Community and Town Council and a National Park Authority in Wales, unless the context indicates otherwise.

## PART 1: Policy Context

### 2. Purpose

2.1 The 2010 Measure was introduced into the National Assembly for Wales by the then Assembly Member Dr Dai Lloyd. The Measure was amended significantly during its scrutiny by the National Assembly, before being passed in 2010. The Measure received Royal Approval on 15 December 2010.

2.2 The primary purpose of the Measure and associated Regulations is to:

- i. Require a Local Authority to publish information on the impact of the proposed disposal of a playing field on the health and well-being of the community, by reference to a number of key strategies, plans and assessments for the area in which the playing field is located; and
- ii. Strengthen arrangements for consulting the community, playing field users and relevant national bodies before a Local Authority takes a final decision to proceed with a proposed disposal.

### 3. The Importance of Playing Fields

3.1 Sport and recreation contribute to our quality of life. The Welsh Government supports the development of sport and recreation and the wide range of leisure pursuits which encourage physical activity. These activities are important for the health and well-being of children and adults and for the social and economic life of Wales.

3.2 '**Climbing Higher**'<sup>1</sup>, first launched in 2005, sets out the Welsh Government's long term strategy for an active, healthy and inclusive Wales where sport and physical activity are used to enhance the quality of life nationally and in local communities. Regular physical activity can have a beneficial effect in tackling a range of health issues, such as coronary heart disease, strokes, Type 2 diabetes and obesity. It has a positive impact in reducing the incidence of injuries associated with ageing and helping people to lead independent lives. Physical activity is also associated with a number of positive mental health benefits and with a reduced risk of clinical depression, improvement in mood and reduction in anxiety.

3.3 In 2006, the Welsh Government published the **Play Policy Implementation Plan**<sup>2</sup>. This reaffirmed the Welsh Government's commitment to play and how it relates and contributes towards other UK and Welsh Government policies and strategies.

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<sup>1</sup> <http://wales.gov.uk/topics/cultureandsport/sportandactiver recreation/climbing/?lang=en>

<sup>2</sup> <http://wales.gov.uk/topics/educationandskills/publications/guidance/playpolicy?lang=en>

3.4 The **Children and Families (Wales) Measure 2010** introduced a new duty on Local Authorities in Wales (i.e. a County and County Borough Council) in respect of play opportunities for children. Section 11 of the Measure requires Local Authorities to assess the sufficiency of play opportunities in their area, to secure sufficient play opportunities, so far as reasonably practicable, and to publish up to date information about play opportunities for children in their area.

3.5 Statutory guidance<sup>3</sup> issued by the Welsh Ministers in 2014 states that Local Authorities '*...should recognise the importance of playing fields as areas of community use for organised sporting activities and for play and informal recreational use*'.

3.6 The **Programme for Government**<sup>4</sup>, launched in 2012, restated the Welsh Government's commitments to:

- i. Work with Sport Wales and others to promote physical activity for people of all ages; and
- ii. Ensure that all children and young people are able to access a range of sporting opportunities as part of the formal curriculum, after school and in the community.

3.7 Playing fields are an important resource which allow and encourage physical activities to take place and, as a consequence, they make a positive contribution to maintaining and improving the health and well-being of our citizens.

3.8 **Planning Policy Wales**<sup>5</sup> indicates that all playing fields, whether owned by public, private or voluntary organisations, should be protected from development except where:

- Facilities can best be retained and enhanced through the redevelopment of a small part of the site;
- Alternative provision of equivalent community benefit is made available; or
- There is an excess of such provision in the area.

3.9 The 2010 Measure and Regulations ensure any proposal to dispose of a Local Authority owned playing field is subject to an assessment of the impact disposal would have on the health and well-being of the local community. The proposal will also be subject to meaningful consultation with the community, playing field users and relevant national bodies before a final decision is taken.

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<sup>3</sup> 'Wales a Play Friendly Country' – Statutory Guidance to Local Authorities on assessing for and securing sufficient play opportunities for children in their areas (2014)' [Welsh Government | Play and leisure](#)

<sup>4</sup> <http://wales.gov.uk/about/programmeforgov/?lang=en>

<sup>5</sup> <http://wales.gov.uk/topics/planning/policy/ppw/?lang=en>

## **PART 2: The Regulations**

### **4. Content**

4.1 The Regulations have 9 main parts, covering:

- Interpretation
- Application
- Exceptions
- Notice and consultation arrangements
- Impact assessment
- Consideration of representations
- Decision
- Electronic communications
- Guidance

### **5. Commencement and Transitional Arrangements**

5.1 The Regulations come into force on 1 October 2015.

5.2 Regulation 4(1)(e) provides that the regulations do not apply to a proposed disposal of a playing field where a disposal is pending.

5.3 A disposal is pending if it falls within regulation 4(2). The Regulations do not apply where:

- a) a Local Authority has published a notice of a proposed disposal in compliance with section 123(2A) of the Local Government Act 1972 (“the 1972 Act”) before the Regulations have come into force; and
- b) the Local Authority enters into an agreement to dispose, or completes the disposal, of the land within 12 months of publishing the notice under section 123(2A).

5.4 Section 123(2A) of the 1972 Act requires a Local Authority, before disposing of any land consisting or forming part of an open space, to give notice of its intention to do so in two consecutive weeks in a newspaper circulating in the area in which the land is situated and to consider any objections received.

5.5 Examples are set out below to illustrate the application of the Regulations to proposed disposals that may be pending at the time they come into force:

#### *Example 1*

*A Local Authority in November 2014 is minded to sell a playing field. It publishes a notice in December 2014 in accordance with*



*section 123(2A) of the 1972 Act outlining the proposed sale. The Local Authority considers any representations received, but decides to dispose of the land. The Regulations come into force in October 2015. In November 2015, the Local Authority has agreed the contract for sale and exchange contracts with the buyer. Completion of the sale takes place in February 2016.*

*The Regulations would not apply in this case.*

*The Local Authority has entered into an agreement to dispose of the playing field within 12 months of publication of the notice under section 123(2A) of the 1972 Act. The fact that completion does not take place until February 2016 is irrelevant, as regulation 4(2)(b) provides that the Regulations do not apply where the Local Authority has disposed of the land or entered into an agreement to do so within 12 months of issuing a notice under section 123(2A) of the 1972 Act.*

#### *Example 2*

*A Local Authority in November 2014 is minded to sell a playing field. It publishes a notice in December 2014 in accordance with section 123(2A) of the 1972 Act outlining the proposed sale. The Local Authority considers any representations received, but decides to dispose of the land. The Local Authority exchange contracts with the buyer in June 2015. The Regulations come into force in October 2015. Completion of the sale takes place in November 2015.*

*The Regulations would not apply in this case.*

*The Local Authority has entered into an agreement to dispose of the playing field within 12 months of publication of the notice under section 123(2A) of the 1972 Act. The Regulations would not apply to completion of the sale in November 2015.*

#### *Example 3*

*A Local Authority in November 2014 publishes a notice in accordance with section 123(2A) of the 1972 Act outlining a proposed sale of playing fields. The Regulations come into force in October 2015. In February 2016, the Local Authority is progressing towards exchange of contracts.*

*The Regulations would apply to the exchange of contracts in February 2016.*

*The Local Authority has published a notice in accordance with the 1972 Act. However, more than 12 months have elapsed since the publication of that notice and the Local Authority still has not entered into an agreement to dispose of the land. In this scenario, a Local Authority would be required to comply with the requirements contained in the Regulations before deciding to enter into an agreement to dispose of the land.*

## **6. Interpretation**

6.1 Regulation 2 contains the following definitions of terms:

<i>“the 2013 Act”</i>	The School Standards and Organisation (Wales) Act 2013
<i>“the consultation period”</i>	It refers to the period set by a Local Authority in accordance with 5(2)(c) and (5). Regulation 5(2)(c) provides that the notice of proposed disposal issued by a Local Authority under regulation 5(1) must inform the public of their right to make representations to the Authority, and the date by which representations must be received by the Authority. Regulation 5(5) provides that the date specified by the Local Authority, i.e. the deadline for receiving representations, must be more than 6 weeks after the date on which the notice is first published. The “consultation period” refers to the period between the day on which the notice is first published and the date specified by the Local Authority.
<i>“decision to dispose”</i>	Where a Local Authority decides to enter into an agreement to dispose of the land, or in the absence of such an agreement, decides to dispose. This will occur after the Local Authority has complied with the notice and consultation requirements contained in regulations 5 and 6, and considered any representations in accordance with regulation 7.
<i>“dispose”</i>	To grant any estate or interest in land.
<i>“playing field”</i>	The whole of an open space which encompasses at least one playing pitch.
<i>“playing pitch”</i>	A delineated area which, together with any run-off area, is of:

- i. 0.2 hectares or more and which is used for sport including, but not limited to, association football, American football, rugby, cricket, hockey, lacrosse, rounders, baseball, softball, Australian football, Gaelic football, shinty, hurling, polo, cycle polo, athletics or golf; or
- ii. 0.1 hectares or more and which is used for playing bowls; or
- iii. 0.04 hectares or more and which is used for playing basketball, netball or tennis.

*“proposed decision to dispose”*

Where a Local Authority is considering, or is minded, to make a decision to enter into an agreement to dispose, or in the absence of such agreement, to dispose of a playing field. This relates to the period before the Local Authority has complied with the requirements in regulation 5 and 6. It is therefore at an early stage where a Local Authority is considering the possible sale of land. The notice and consultation requirements contained in regulation 5 and 6 will apply at this stage and ensure that all relevant persons, including the local community have had an opportunity to put forward their views regarding the proposed disposal. The representations received, along with all other relevant matters, will assist the Local Authority to decide whether or not to proceed with the disposal.

6.2 It should be noted that the definition of playing pitch is not limited to land set aside for the sports prescribed on the face of the regulations. Local Authorities should apply a broad interpretation in considering whether land set aside for a particular sport or recreational activity is covered by the Regulations. If there is any doubt, the presumption should be in favour of the land falling within the definition of a playing pitch.

## 7. Application and Exemptions

7.1 A playing field may fall within the definition of a playing field contained in regulation 2 but the proposed decision to dispose of the field may not necessarily be subject to the requirements contained in regulations 5 to 10. Regulation 3 outlines the circumstances where a Local Authority **must** comply with the requirements in regulations 5 to 10. Regulation 4 provides where the requirements in regulations 5 to 10 **would not** apply. These are further described below.

7.2 Regulations 5 to 10 apply in relation to a proposed decision to dispose, of a playing field, or any part of a playing field. Regulation 2 defines a “proposed decision to dispose” as outlined above. The definition ensures that a Local Authority complies with the notice and consultation requirements contained in regulations 5 to 7 at a formative stage of the proposed disposal. A Local Authority that decides to dispose of a playing field will then have to comply with regulation 8

prior to entering any agreement to dispose of a playing field, such as exchanging contracts. Where no such exchange or any agreement takes place prior to the completion of the disposal, a Local Authority will need to comply with regulation 8 in advance of disposing the playing field. The definitions of “decision to dispose” and “proposed decision to dispose” mean that the requirements contained in regulations 5 to 10 would not need to be followed prior to completion of a disposal, where a Local Authority has already complied with the Regulations before entering into an agreement to dispose of a playing field

7.3 If the playing field has not been used as a sports or recreational facility by the public at any time in the five years before the Local Authority is considering making a decision to dispose of the land, regulation 3(b) provides that the requirements contained in regulation 5 to 10 would not apply (note application of section 123(2A) of the Local Government Act 1972 – see paragraph 7.10 below).

7.4 Regulation 4 specifies where a proposed decision to dispose of a playing field is not subject to the requirements in regulations 5 to 10. The Regulations are primarily concerned with the disposal of a playing field which would cease to be a public amenity. There may be circumstances in which a Local Authority proposes to relinquish ownership of a playing field, or to grant an interest in the land, but it is to remain available for public use as a sports or recreational facility. Consequently, Regulations 3(c) and 4(1) combine to provide that the requirements in regulations 5 to 10 do not apply to a proposed decision to dispose if:

- a) The proposed decision to dispose relates to the grant of an interest in the playing field which does not have an adverse impact on the use of the playing field as a sports or recreational facility by the public;
- b) The playing field is to be retained as a sports or recreational facility for use by the public, whether or not such use is subject to a payment, and the proposed disposal is to be made to:
  - i. a Local Authority; or
  - ii. a body whose aims or objectives include the promotion of sporting or recreational activities.

7.5 In relation to a) above, the expressions “grant of an interest” and “adverse impact” have their ordinary meanings. For example, the “grant of an interest” includes the grant of easements, rights and legal charges over land. Whilst the grant of an interest does not change the ownership of the land, it is possible it could affect the use of the land. An “adverse impact” will result from the grant of an interest which has, or may have, an unfavourable or harmful impact on the ability of playing field users to participate in the sporting or recreational activities for which the playing field has been used within the previous 5 years.

7.6 In the case of b) above, it should be noted it is not a requirement for the playing field to be retained for the same sport or recreational activity for which it is set aside, or had been set aside in the previous five years, prior to disposal.

7.7 Regulations 3(c) and 4 also combine to provide that proposed decisions to dispose of playing fields which have already been consulted upon would not be subject to the requirements contained in regulations 5 to 10. The requirements would not apply where:

- a) A County or County Borough Council has consulted on the proposed decision to dispose under section 48(2) of the School Standards and Organisation (Wales) Act 2013; and
- b) The Welsh Minister's have consulted on the proposed decision to dispose under section 72(1) of the School Standards and Organisation (Wales) Act 2013.

7.8 The School Organisation Code ("the Code") was issued by Welsh Ministers in July 2013 as required by the School Standards and Organisation (Wales) Act 2013 ("the 2013 Act"). Proposals under Chapter 2 of Part 3, and section 71, of the 2013 Act must be published, and consulted upon, in accordance with the Code. The exclusions above avoid the need for two separate consultation exercises being undertaken when disposing of school playing fields (i.e. under both the regulations and the 2013 Act).

7.9 Notwithstanding the above, in the event of a material change in the proposals or use of the land since consultation under the 2013 Act, the Local Authority should consider whether further consultation on the disposal of a school playing field is appropriate. Such further consultation would need to be undertaken in accordance with the Regulations. However, if the Local Authority had consulted on the disposal as part of school organisation proposals and any delay only occurred as a result of complex negotiations, issues with the land, or other factors which did not materially change the nature of the proposals, further consultation may not be necessary, but Local Authorities should consider the circumstances of each individual case.

7.10 A proposed decision to dispose which is not subject to the requirements contained in regulations 5 to 10 by virtue of falling within the terms of regulations 4(1)(a) to (d) is nonetheless subject to the notice requirements of section 123(2A) of the 1972 Act, if the land in question falls within the definition of 'open space' land<sup>6</sup>.

## **8. Notice and Consultation Arrangements**

8.1 Regulation 5 provides that a Local Authority must before making a decision to dispose of a playing field, or any part of a playing field, to:

- i. Publish, on two consecutive weeks in at least one newspaper circulating in the Authority's area, a notice:

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<sup>6</sup> "Any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground" – reference section 336(1) of the Town and County Planning Act 1990.

- a) Stating that the Local Authority is proposing to dispose of a playing field;
  - b) Informing the public of the place, or places, and times at which details of the proposed disposal may be inspected and the period in which it would be possible to do so. The minimum period that can be specified by a Local Authority is 6 weeks after the date the notice is first published in a newspaper; and
  - c) Informing the public of their right to make representations, the means by which they must do so and the date by which representations must be received. The Local Authority must specify a date which is at least 6 weeks after the date the notice is first published.
- ii. Make the details of the proposed disposal available for inspection during normal office hours at the Authority's principal office (if it has one) and, if reasonably practicable, at one or more other places in its area.
- iii. No later than the day on which the notice is first published:
- a) Display a copy in at least one place on or near the playing field to which the disposal relates and, in any event, at each official entrance to the playing field, for not less than 6 weeks;
  - b) Place a copy on its website (where it has one) for not less than 6 weeks; and
  - c) Send a copy of the notice to any owner or occupier of land adjoining the playing field.
- iv. No later than the day on which the notice is first published, send a copy of the notice **and** details of the proposed disposal to:
- a) Any Local Authority whose area includes any part of, or shares a boundary with any part of, the playing field to which the disposal relates;
  - b) The Sports Council for Wales;
  - c) The National Playing Fields Association, which are currently known as Fields in Trust Cymru;
  - d) Persons which appear to the Local Authority to represent the interests of persons who make use of the playing field who are in the Authority's area, or in the area an Authority which shares a boundary with any part of the playing field;
  - e) Any body whose main aims include the protection of open spaces and play opportunities. This is limited to those bodies

which are active on a national basis, i.e. throughout Wales (see paragraph 8.7 below); and

- f) Such other persons as the Local Authority considers appropriate.
- v. Provide a copy of the details of the proposed disposal to any other person who requests it during the consultation period. A Local Authority may require the payment of a reasonable charge for sending the details of the proposed disposal under regulation 5(7), or it may provide the details free of charge.

### Consultation

8.2 The Regulations set out the minimum requirements for consultation expected of a Local Authority proposing to dispose of a playing field. The 'National Principles of Public Engagement in Wales', developed by Participation Cymru, are an overarching set of principles aimed at organisations across the public service in Wales. They aim to offer a consistent approach and good standards for public engagement in Wales. The Principles are endorsed by the Welsh Local Government Association, One Voice Wales and the Welsh Government. Local Authorities should have regard to the principles when consulting on the proposed disposal of a playing field. The Principles are available on Participation Cymru's website: <http://www.participationcymru.org.uk/principles>

### Timing of Consultation

8.3 As outlined in section 7, the consultation must take place before making a decision to dispose of a playing field, i.e. when the Local Authority is *proposing* to dispose.

8.4 Where a particular disposal involves a two-stage process, for example exchange of contracts and subsequently completion, the requirements in regulations 5 to 10 must be complied with in advance of the decision to enter into an agreement, i.e. by way of exchange of contracts.

### Period of Consultation

8.5 The Regulations prescribe a minimum consultation period of 6 weeks. However, the Local Authority will need to consider carefully whether this minimum period of consultation is adequate, in the context of the scale and nature of the proposed disposal.

8.6 Whilst 6 weeks may be adequate for small-scale and largely uncontroversial disposals, a longer period of consultation is likely to be appropriate for more significant or potentially controversial disposals. This may also be so when consultation goes beyond the minimum requirements of the Regulations and involves a broad range of engagement methods, such as public meetings and meetings with user representatives and other bodies. A longer period of consultation may also be appropriate during recognised holiday periods.

### Persons to be consulted

8.7 The Regulations prescribe as a minimum the persons to be consulted on the proposed disposal of a playing field. These include a number of national organisations which it appears to the Welsh Government have a direct interest in the availability of sport and recreational open space in Wales, i.e. Sports Council for Wales, the National Playing Fields Association (currently known as Fields in Trust Cymru). The Regulations also refer to national bodies whose main aims include the protection of open spaces in Wales and the protection of play opportunities of children in Wales. As a minimum, such national bodies are to be regarded as including the Open Spaces Society and Play Wales, or any successor body with substantially the same aims.

8.8 In addition to these national bodies, the Local Authority must consult such other persons or bodies which appear to it to represent the interests of persons or bodies who are in the Authority's area, or in the area of an Authority which shares a boundary with any part of the playing field, and who make use of the playing field. This means, for example, that an Authority would need to consult representatives of local sports teams which play sport on the playing field, but would not be required to consult representatives of teams which travel from outside the immediate or neighbouring area. However, in keeping with an Authority's wider discretion to consult such other persons or bodies as it considers appropriate, there may be circumstances in which it would be helpful or appropriate to consult representatives of users originating from beyond the immediate or neighbouring Authority area.

8.9 Given the range of sports and recreational activities potentially affected, it is not possible to address comprehensively in guidance precisely how a Local Authority should exercise its discretion in determining which persons or bodies should be consulted. However, the Welsh Government encourages authorities to exercise their discretion broadly so as to engage with a wide range of persons or bodies with a potential interest. In this way, the Authority will benefit from an appreciation of the views of a broad cross-section of the community, before taking a final decision on a potential disposal.

### Information to be provided to Consultees

8.10 The Regulations do not prescribe the precise nature of the details of the proposed disposal to be sent to consultees. This will enable an Authority to tailor the information provided to the scale and nature of the proposed disposal.

8.11 If consultees are to respond effectively, they will require sufficient information to enable them to gain a good understanding of the underlying rationale for the proposed disposal and the intended future use of the site. However, as a minimum, the details of the proposed disposal must include information about the effect a proposed disposal of a playing field would have on any relevant strategies, plans or assessments (see regulation 6 and section 9 of this guidance).



8.12 There is no requirement to send information to those persons to whom an Authority is required only to give formal notice that the proposals are available for public inspection. Such persons are entitled to a copy of the proposals on request, subject to the payment of a reasonable charge, if any, as determined by the Authority. An Authority should give careful consideration as to whether it is appropriate to do charge for supplying details to other persons.

8.13 The principal office of an Authority may not always be the most readily accessible location for members of the community in which a playing field subject to potential disposal is located. Very often, community councils do not have a principal office. Consequently, the Regulations anticipate that an Authority's proposals will be available for public inspection at locations in addition to its principal office. Where practicable, an Authority's proposals should be made available for inspection in a location or locations reasonably proximate to the area in which the playing field is located. Suitable venues might include a local office of the Authority, libraries, leisure centres, community halls or similar community buildings.

## **9. Impact Assessment**

9.1 Regulation 6(1) provides that the details of the proposed disposal which must be available for inspection and sent to specified consultees or other persons under regulation 5 must include information about the effect a proposed disposal would have on the following strategies, plans and assessments for the area:

- a) Local Development Plan – required under section 62 of the Planning and Compulsory Purchase Act 2004;
- b) Play Sufficiency Assessment – required under section 11 of the Children and Families (Wales) Measure 2010;
- c) Community Strategy – required under section 39 of the Local Government (Wales) Measure 2009;
- d) Health, Social Care and Well-being Strategy – required under section 40 of the National Health Service (Wales) Act 2006;
- e) Other – such other strategies, plans and assessments as the Local Authority considers appropriate.

9.2 The assessment should consider how the proposed disposal would impact upon achieving the outcomes contained in the above strategies, plans and assessments for the area.

9.3 Currently, the Community Strategy, Health and Well-being Strategy and Play Sufficiency Assessment form part of the non-statutory 'Single Integrated Plan'<sup>7</sup> for the Principal Authority area. The Single Integrated Plan is the

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<sup>7</sup> 'Shared Purpose – Shared Delivery, Guidance on integrating Partnerships and Plans'

mechanism through which action on local priorities is planned and delivered and outcomes monitored and evaluated, based on an assessment of local needs. Action to develop, monitor and scrutinise the Single Integrated Plan is co-ordinated by the Local Service Board, bringing together leaders of Local Government, the NHS, the police, third sector and the Welsh Government.

9.4 On 29 April 2015, the Well-being of Future Generations (Wales) Act 2015 became law. The Act establishes Public Service Boards and requires them to prepare and publish a “local well-being plan”. These plans will replace the Community Strategies required under Part 2 of the Local Government (Wales) Measure and the health and well-being strategies required under section 40 of the National Health Services (Wales) Act 2006 once the provisions relating to the local well-being plan are brought into force by the Welsh Ministers by way of a commencement order. The Regulations and this guidance will be amended, as appropriate, at the relevant time to reflect these changes.

9.5 The Regulations do not prescribe the extent and nature of the assessment an Authority needs to undertake in order to be able to publish information on the impact of a proposed disposal. The assessment should be proportionate to the nature and scale of the proposed disposal. It is anticipated that in most circumstances the assessment would normally be a desk exercise undertaken in-house by the Authority’s officers.

9.6 Planning Policy Wales<sup>8</sup> states Development Plans should contain clear policies for the provision, protection and enhancement of tourism, sport, recreation and leisure facilities. They should set standards of provision, so local deficiencies can be identified and met through the planning process, and set out policies to avoid or resolve conflict between different pursuits. Plans should protect from development playing fields and open spaces which have significant amenity or recreational value to local communities.

9.7 Supplementary guidance in TAN 16 advises authorities to consider undertaking an ‘Open Space Assessment’ to inform the preparation, monitoring and review of Development Plan policies. TAN 16 further notes such an assessment may also be useful for the preparation of corporate Open Space Strategies and Community Strategies in which broader environmental, social and health issues can be addressed.

9.8 Whilst the preparation of an Open Space Assessment is not itself mandatory, in meeting their obligations under Planning Policy Wales, Planning Authorities will have developed a good understanding of the level of playing field provision and foreseeable future needs of their communities within the Development Plan horizon.

9.9 The Health, Social Care and Well-being Strategy for the area is underpinned by an assessment of the unmet health, social care and well-being needs of the community, including information on the physical environment.

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<sup>8</sup> Chapter 11 – Tourism, Sport and Recreation

9.10 The Play Sufficiency Assessment will provide a full assessment of the play opportunities in the Principal Authority's area, including those arising from playing field provision.

9.11 Consequently, a clear and comprehensive strategic policy framework should already exist within which to assess the specific impact any given disposal would have on the health and well-being of the community. In most cases, this should obviate the need for a further detailed study.

9.12 By virtue of regulation 9 the information required under regulation 6 can be sent electronically where the consultee has an address for electronic consultation.

## **10. Consideration of Representations**

10.1 Regulation 7 provides a Local Authority must consider all representations received in relation to a proposed disposal during the consultation period. The Regulations also make it clear the Authority may consider any representations received after the end of the consultation period.

10.2 An Authority should not disregard representations received after the consultation period simply because it is expedient to do so. However, there will come a point where the Authority's decision-making process has reached the stage where it is impractical to take account of further late representations. The Local Authority should consider whether it would be appropriate for the reason for disregarding any given representation should be recorded and the sender advised.

## **11. Decision Following Consultation**

11.1 Regulation 8 provides a Local Authority, having considered any representations received, must prepare a report ("the Decision Report") summarising those representations and the reasons for its decision to dispose, or not to dispose, of the playing field.

11.2 In the event of a disposal that involves a two-stage process, i.e. an initial agreement then subsequent completion, a Local Authority must comply with regulation 8 prior to entering any agreement to dispose of a playing field.

11.3 The Regulations do not prescribe the detailed content of the Decision Report. However, the report should provide sufficient detail to enable a person or body to gain a fair and reasonable understanding of:

- the nature and extent of the representations received and considered by the Authority;
- the nature and extent of any representations received after the consultation period which the Authority did not consider and its reasons for not doing so; and

- the rationale for the Authority's decision to proceed, or not to proceed, with the disposal.

#### Decision Not to Proceed

11.4 Where, in light of representations received or other factors, a Local Authority decides not to proceed with a decision to dispose, as soon as reasonably practicable after making the decision it must send a copy of the Decision Report to any person from whom it received a substantive representation (see paragraph 11.6 below) which was taken into account in its decision.

#### Decision to Proceed

11.5 Where an Authority decides to proceed with a decision to dispose, as soon as reasonably possible after making the decision, it must:

- i. Publish, on two consecutive weeks in at least one newspaper circulating in the Authority's area, a notice informing the public of:
  - a) the Authority's decision to dispose of the playing field; and
  - b) Informing the public of the place or places and times at which the Decision Report may be inspected and the period in which it would be possible to do so. The minimum period is 6 weeks after the date the notice is first published in a newspaper;
- ii. Make the Decision Report available for inspection during normal office hours at the Authority's principal office (if it has one) and, if reasonably practicable, at one or more other places in its area.
- iii. No later than the day on which the decision notice is first published:
  - a) Display a copy in at least one place on or near the playing field to which the disposal relates and, in any event, at each official entrance to the playing field, for not less than 6 weeks;
  - b) Place a copy on its website (where it has one) for not less than 6 weeks; and
  - c) Send a copy of the notice and Decision Report to any person from whom the Authority received a substantive representation on the proposed disposal which the Local Authority considered in accordance with regulation 6.
- iv. Provide a copy of the Decision Report to any other person or body who requests it. The Local Authority may provide a copy free of charge, or for a reasonable charge as determined by the Authority.

11.6 A response from an individual or organisation should be considered a substantive response. Where representations are received in the form of a signed

petition, it may be impractical for an Authority to send a copy of the Decision Report to each signatory. The Welsh Government regards it as sufficient for the Decision Report to be sent to the petition organiser, where contact details are known or can be readily established, rather than to each of the individual named signatories.

11.7 Under Regulation 8(8), an Authority may not proceed with a proposed disposal until a period of 12 weeks has elapsed from the day on which the notice is first published. This is intended to provide a reasonable minimum period in which objectors may initiate a legal challenge to the Authority's decision.

## **12. Electronic Communication**

12.1 Regulation 9 makes provision for electronic communication with interested parties. Where a Local Authority is required to send a document or give notice etc. to another Local Authority or other person having an address for electronic communications, it may do so by way of electronic communication.

12.2 Similarly, a person who may make representations to a Local Authority as provided for under the Regulations may do so by way of electronic communication to the address provided by the Authority for this purpose.

12.3 An electronic communication received outside the recipient's normal office hours is to be taken as having been received on the next working day. "Working day" does not include a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday a bank holiday or any day appointed for public thanksgiving or mourning.

12.4 "Bank holiday" is further defined as any day observed as such under the Banking and Financial Dealings Act 1971. This could be by reason that the day is specified under Schedule 1 to the Act or where a bank holiday has been appointed by royal proclamation under that Act (for example the early (May bank holiday). Schedule 1 to that Act lists the following as bank holidays in England and Wales:

- Easter Monday;
- The last Monday in May;
- The last Monday in August;
- 26 December (if it is not a Sunday); and
- 27 December (in a year where 25 or 26 December is a Sunday).

12.5 Electronic communication is defined by reference to section 15(1) of the Electronic Communications Act 2000 as a communication transmitted (whether from on person to another, from one device to another or from a person to a device or vice versa) –

- a) by means of an electronic communications network; or
- b) by other means but while in an electronic form.

### **13. Application of Guidance**

13.1 Regulation 10 requires a Local Authority to have regard to this guidance when considering the potential disposal of a playing field.

### **14. Enquiries**

14.1 Enquiries about this guidance should be directed to:

Local Government Democracy Team  
Local Government Department  
First Floor, North Wing  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Telephone: 029 2082 3366 / 029 2082 6414  
Email: [CustomerHelp@Wales.GSI.Gov.UK](mailto:CustomerHelp@Wales.GSI.Gov.UK)