

Cabinet

Meeting Venue
**Council Chamber - County Hall,
Llandrindod Wells, Powys**

Meeting date
Tuesday, 20 June 2017

Meeting time
10.30 am

For further information please contact
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County Hall
Llandrindod Wells
Powys
LD1 5LG

14 June 2017

AGENDA

1.	APOLOGIES
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To receive apologies for absence.

2.	MINUTES
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To authorise the Chair to sign the minutes of the last meeting held on 11 April 2017 as a correct record.

(Pages 5 - 12)

3.	DECLARATIONS OF INTEREST
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To receive any declarations of interest from Members relating to items to be considered on the agenda.

4.	FINANCIAL OUTTURN FOR THE YEAR ENDED 31ST MARCH 2017
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To consider a report by County Councillor Aled Davies, Portfolio Holder for Finance.

(Pages 13 - 30)

5.	WELSH GOVERNMENT CONSULTATION - PROPOSED REDUCTION IN THE SIZE OF THE BRECON BEACONS NATIONAL PARK AUTHORITY
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To consider a report by the Solicitor to the Council.

(Pages 31 - 34)

6.	DETERMINATION OF 'CORRECTIVE' APPLICATIONS UNDER SECTIONS 19 AND 22 AND SCHEDULE 2 OF THE COMMONS ACT 2006
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To consider a report by County Councillor Jonathan Wilkinson, Portfolio Holder for Housing and Countryside Services.

(Pages 35 - 108)

7.	POWYS SAFEGUARDING CHILDREN'S AND ADULT SERVICES QUARTERLY UPDATE
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To consider a report by County Councillor Rachel Powell, Portfolio Holder for Children's Services and County Councillor Stephen Hates, Portfolio Holder for Adult Social Care.

(Pages 109 - 124)

8.	APPOINTMENTS
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To consider the following appointments to outside bodies and working groups:

Association of Public Service Excellence – Portfolio Holder with responsibility for Commissioning

LPD Working Group – Portfolio Holder for Regeneration and Planning plus 2 representing each of the Shires

North and Mid Wales Trunk Road Agency – Portfolio Holder for Highways plus 1

TRACC – Portfolio Holder for Highways

Welsh Joint Education Committee – Portfolio Holder for Education

9.	CORRESPONDENCE
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To receive such items of correspondence as in the opinion of the Leader is of such urgency as to warrant consideration.

10.	DELEGATED DECISIONS TAKEN SINCE THE LAST MEETING
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To receive for information the list of delegated decisions taken since the last meeting.

(Pages 125 - 126)

11.	FORWARD WORK PROGRAMME
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To consider the Cabinet forward work programme.

(Pages 127 - 132)

12.	EXEMPT ITEMS
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The Monitoring Officer has determined that categories 1, 3 & 7 of the Access to Information Procedure Rules applies to the following items. His view on the public interest test (having taken account of the provisions of Rule 14.8 of the Council's Access to Information Rules) was that to make this information public would disclose information relating to:

- (i) information relating to a particular individual
- (ii) information relating to the financial or business affairs of any particular person (including the authority holding that information).
- (iii) information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

These factors in his view outweigh the public interest in disclosing this information. Members are asked to consider these factors when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.

13.	CONSIDERATION OF THE DEPUTY MONITORING OFFICER HOME TO SCHOOL TRANSPORT INVESTIGATION REPORT ON BEHALF OF POWYS COUNTY COUNCIL & THE GOVERNING BODY OF LLANIDLOES HIGH SCHOOL
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To consider a report by the Solicitor to the Council.

(Pages 133 - 178)

14.	CONSIDERATION OF THE DEPUTY MONITORING OFFICER HOME TO SCHOOL TRANSPORT INVESTIGATION REPORT ON BEHALF OF POWYS COUNTY COUNCIL & THE GOVERNING BODY OF YSGOL BRO HYDDGEN
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To consider a report by the Solicitor to the Council.

(Pages 179 - 236)

15.	PROCEEDS OF CRIME ACT - PROPOSED SETTLEMENT FIGURE
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To consider a report by County Councillor Aled Davies, Portfolio Holder for Finance and County Councillor Jonathan Wilkinson, Portfolio Holder for Housing and Countryside Services.

(Pages 237 - 242)

16.	FORMER LIVESTOCK MARKET AND PREMISES, GORN ROAD, LLANIDLOES, POWYS
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To consider a report by the Leader, County Councillor Rosemarie Harris.

(Pages 243 - 250)

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MINUTES OF A MEETING OF THE CABINET HELD AT COUNCIL CHAMBER - COUNTY HALL, LLANDRINDOD WELLS, POWYS ON TUESDAY, 11 APRIL 2017

PRESENT

County Councillor W B Thomas (Chair)

County Councillors R G Brown, J H Brunt, M R Harris, S M Hayes, E A Jones, W T Jones, W J T Powell and A G Thomas

In attendance: County Councillors KW Curry and JG Morris and Mr John Brautigam.

The Leader presented his secretary Karen Southcott with a bouquet of flowers and thanked her for all her help.

1.	APOLOGIES	C77 - 2017
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There were no apologies for absence.

2.	MINUTES	C78 - 2017
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The Leader was authorised to sign the minutes of the last meeting held on 14th March 2017 as a correct record.

3.	DECLARATIONS OF INTEREST	C79 - 2017
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County Councillor AG Thomas declared a personal and prejudicial interest in item C83 – 2017 Admission Arrangements for the 2018-19 School Year as the Chair of Governors of Llangors C in W School who had written in was his neighbour.

The Leader advised that he was changing the running order of the agenda to take the report on the Brecon Cultural Hub next as the Portfolio Holder for Property, Buildings and Housing had to leave to attend another meeting.

4.	EXEMPT ITEMS	C92 - 2017
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RESOLVED to exclude the public for the following item of business on the grounds that there would be disclosure to them of exempt information under category 3 of The Local Authorities (Access to Information) (Variation) (Wales) Order 2007).

5.	BRECON CULTURAL HUB	C93 - 2017
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Cabinet received an update report on Brecon Cultural Hub. Cabinet was advised that the costs of the project had increased since Council had agreed to provide additional funding for the project in January 2017. A funding shortfall caused by increases in construction costs and fees had been identified.

The Leader and Cabinet members expressed their concern at the rising costs of the scheme with the contingency sum recently approved by Council already committed and a further virement required. Cabinet also expressed concern at the project management of the scheme and at delays in identifying rising costs and bringing these to the attention of elected Members. Officers reported on a meeting that had been held with the consultants appointed as project manager. In addition the Council had appointed its own project manager. Officers would produce a report for the Audit Committee and Scrutiny on lessons to be learned. Cabinet was also concerned that the combined current revenue budgets for Brecknock Museum and Brecon Library would not be sufficient to run the Cultural Hub. Further detail on running costs would be provided to the Cabinet in the summer.

RESOLVED	Reason for Decision:
<p>1. That a virement in the sum stated in the recommendation to the report is made from the Capital budget to make up the funding shortfall.</p> <p>2. That officers provide timely advice on any future action that may be required.</p>	<p>To ensure the Project is funded.</p>

County Councillor Harris left the meeting. Cabinet went back into open session.

6.	FINANCIAL OVERVIEW AND FORECAST	C80 - 2017
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Cabinet received the financial overview and forecast for the period ended 28 February 2017. The Portfolio Holder for Finance reported a projected overspend of £3,675k against the approved budget, an improvement of £682k on the January position. Schools delegated budgets remained a risk for the Council with a combined projected deficit of £4.4m in 2 years.

RESOLVED:	Reason for Decision:
<p>1. The contents of this report are noted by Cabinet; and</p> <p>2. Cabinet supports appropriate action by services to curtail or reduce the reported forecasted service deficits.</p> <p>3. The Capital virements set out in paragraph 14.2 are approved, and those over £500k be submitted to full council for approval.</p> <p>4. The virement between the General Fund and the Pension Fund as set out in paragraph 12.1 be approved.</p>	<p>To monitor the council's financial performance and ensure that spending remains within approved limits and that the 3% minimum general fund reserve is maintained.</p>

7.	CABINET RESPONSE TO FINANCE SCRUTINY PANEL REPORT ON THE BUDGET	C81 - 2017
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In giving the Cabinet's formal response to the Finance Scrutiny Panel's report on the budget, the Portfolio Holder for Finance thanked the Panel for their work and the Chair, County Councillor John Morris, for his professional and constructive approach. Councillor Morris thanked his colleagues on the Finance Scrutiny Panel and officers for their support and wished Councillor Wynne Jones well.

RESOLVED	Reason for Decision:
That Cabinet adopts the report as its response to the Finance Scrutiny Panel report.	To ensure an appropriate response to the valuable work carried out by FSP.

8.	CABINET RESPONSE TO THE FINANCE SCRUTINY PANEL REPORT ON THE ADULT SOCIAL CARE BUDGET	C82 - 2017
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The Portfolio Holder for Adult Services presented the response to the Audit / Finance Scrutiny Panel report into the overspend by Adult Social Care. The report set out the progress being made in relation to a number of the key areas addressed by the Audit/Scrutiny paper and the further work required.

RESOLVED:	Reason for decision:
To endorse and adopt the paper as the Cabinet response to the Joint Adult Social Care and Audit Committee report and further correspondence, including progress made in implementing improvements.	Response to the Joint Adult Social Care and Audit Committee report on 'Adult Social Care Overspend'

9.	ADMISSION ARRANGEMENTS FOR THE 2018-19 SCHOOL YEAR	C83- 2017
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County Councillor AG Thomas left the meeting while this item was being discussed having declared an interest.

Cabinet considered admission arrangements for primary schools in the Gwernyfed catchment area in 2018/19. Cabinet noted the letter received from the Chair of Governors of Llangors C in W School objecting to the reduction in admission numbers for 24 to 21 and the explanation in the report as to why the additional space should not be included in the school capacity calculation.

RESOLVED	Reason for decision:
1. That the additional space in Llangors	To ensure surplus places for

<p>C in W School is treated as a community/large group area and is not included in the school capacity calculation.</p> <p>2. That the annual admission numbers for the 4 schools in the Gwernyfed catchment area for the 2018-19 school year for which the Authority is the admission authority is set at:</p> <table data-bbox="284 539 855 685"> <tr> <td>Hay on Wye CP School</td> <td>30</td> </tr> <tr> <td>Llangors C in W School</td> <td>21</td> </tr> <tr> <td>Ysgol y Mynydd Du</td> <td>21</td> </tr> <tr> <td>Clyro C in W School</td> <td>17</td> </tr> </table> <p>3. That officers liaise with the headteacher and governing body of Llangors C in W School throughout the admissions process for the 2018-19 and subsequent year, to meet parental preferences up to a maximum of 24.</p> <p>4. That Cabinet approve the amendments to the admission arrangements for the 2018-19 school year.</p>	Hay on Wye CP School	30	Llangors C in W School	21	Ysgol y Mynydd Du	21	Clyro C in W School	17	<p>the school are controlled within the Authority's target</p> <p>To meet parental preferences for pupil places within space available</p>
Hay on Wye CP School	30								
Llangors C in W School	21								
Ysgol y Mynydd Du	21								
Clyro C in W School	17								

Councillor AG Thomas returned to the meeting.

10.	ERW BUSINESS PLAN 2017-20	C84 - 2017
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Cabinet received the ERW business plan for 2017-2020.

RESOLVED	Reason for Decision:
To receive and note the ERW business plan for 2017-20	To ensure that Cabinet are aware of the objectives, aims and actions of the regional school improvement service

11.	POWYS PUBLIC SERVICE BOARD - WELL-BEING ASSESSMENT 2017	C85 - 2017
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Cabinet received the Powys Public Service Board (Powys PSB) Well-being Assessment. The Assessment was a key evidence base on which a statutory well-being plan would be developed and would also inform the council's corporate planning arrangements.

Cabinet was advised that two emails had been received from members of the public challenging the data presented in the Environment Key Findings paper that there had only been 20 responses that expressed concern at the LDP Renewable Energy planning policy. Cabinet was adjourned for 5 minutes for members to read the emails. When Cabinet reconvened it was explained that the data was taken at a set point in time last year before the LDP consultation attracted hundreds of responses. Cabinet was advised that the emails would be forwarded to the Public Service Board and that the Environment Key Findings paper would be updated to reflect the responses received on the Renewable Energy planning policy. Cabinet was reminded that they were receiving the Well-Being Assessment for information and that the Powys Public Service Board was responsible for approving it.

RESOLVED	Reason for Decision:
<p>1. The Powys PSB's Well-being Assessment 2017 is noted and received for information.</p> <p>2. Powys PSB well-being assessment be made available to new members in their induction pack and in local libraries, leisure centres and public receptions for public use.</p>	<p>The Well-being Assessment 2017 provides an essential foundation for developing the well-being plan by 31st March 2018 and will also inform the council's corporate planning arrangements.</p> <p>The evidence base contained within the well-being assessment gives a comprehensive picture of the well-being of Powys and as such should be made available publicly.</p>

Councillor Brown did not vote having missed the start of the debate.

12.	2025: POWYS TRANSFORMED - STRATEGIC PLANNING	C86 - 2017
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The Chief Executive set out the approach he had developed with his Management Team to deliver a long term sustainable service delivery model for the Council called 2025: Powys Transformed. The approach would be centred on 3 priorities with 2 further (enabling) priorities in place to support their delivery:

- Improving Health and Care
- Creating a vibrant economy
- Improving learner outcomes and aspiration for all

These would only be delivered by two 'Enablers'

- Developing the Workforce
 - Behaviours and Culture
 - Leadership
 - Engagement
 - RROOTS

- Remodelling Council services and improving efficiency by using the approach outlined above that will in effect form a transformation toolkit consisting of the following:
 - Agile, Flexible, Remote and Mobile Working
 - Improving collaboration and Integration
 - Customer Insight and Business Intelligence
 - Business Process Improvements
 - Productivity
 - Flexibility
 - Commercialisation

Management Team would continue to work on developing the narrative produced for Powys 2020 to illustrate what the transformed Powys will look like in 2025 for the new Cabinet and Council to consider after the local government elections.

RESOLVED	Reason for Decision:
That Cabinet endorse the ‘2025: Powys Transformed’ as a means of longer term strategic planning and savings delivery for the new Council to continue.	To enable the Chief Executive to commence strategic transformational planning to meet the savings requirement and explore options to be presented to a new administration

13.	STRATEGIC OVERVIEW BOARD	C87- 2017
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In presenting the minutes of the Strategic Overview Board meeting held on 21st March, the Portfolio Holder for Finance and Performance noted the positive contribution from the Scrutiny side. He asked that the information requested by the SOB be circulated before the end of this Council.

RESOLVED	Reason for Decision:
That Cabinet receive the Strategic Overview Board Quarter 3 2016-17 – Summary Report and the minutes of the Strategic Overview Board meeting held on 21st March 2017.	To ensure effective evaluation and challenge relating to performance against agreed priorities and Objectives.

14.	UPDATE FROM THE ANTI-POVERTY CHAMPION	C88- 2017
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The Council’s Anti-Poverty Champion, County Councillor Joy Jones, supported by the Anti-Poverty Corporate Project Support Assistant reported back on the very successful Tackling Poverty Workshop held at Antur Gwy on 17 February. The event had been attended by 62 people representing Councillors, Council officers, third sector partners, service users and academics. Councillor Jones thanked Greg Thomas and Caroline Evans for their support. She wanted to build on the success by repeating the event and by establishing a Tackling Poverty Stakeholder Group.

The Leader thanked Councillor Jones for her work and expressed the hope that Anti-Poverty work would continue under the new Cabinet and asked for a further update report to be included in the Cabinet forward work programme for July.

Cabinet also thanked County Councillor Dawn Bailey for her outstanding work as the Council's Dementia Champion.

15.	CORRESPONDENCE	C89- 2017
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Royal British Legion

Cabinet received a letter from the Royal British Legion calling for changes to the census to capture data regarding the size and needs of the armed forces community.

RESOLVED to refer the letter to full Council.

16.	DELEGATED DECISIONS TAKEN SINCE THE LAST MEETING	C90- 2017
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Cabinet received details of delegated decisions taken since the last meeting.

17.	FORWARD WORK PROGRAMME	C91- 2017
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Cabinet received the forward work programme.

The Leader closed the meeting by thanking his Cabinet colleagues, and in particular his deputy leaders, for their loyalty and dedication. He thanked the people of his ward for the honour of representing them and colleagues for the privilege of being made Chairman, then Leader of the Council. He was thankful for the help he'd received and expressed the hope that the Council would continue to provide backing for the dyslexia support officer. He wished retiring colleagues and those seeking re-election well for the future.

Members thanked County Councillor Barry Thomas for his leadership. Retiring Members, County Councillors Wynne Jones, Graham Brown, Tony Thomas and John Brunt, thanked the Leader for the opportunity to serve and paid tribute to fellow Cabinet members, including Avril York and to staff.

County Councillor W B Thomas (Chair)

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CYNGOR SIR POWYS COUNTY COUNCIL

CABINET EXECUTIVE

20th June 2017

REPORT AUTHOR: County Councillor Aled Davies

Portfolio Holder for Finance

SUBJECT: Financial Outturn for the Year Ended 31st March 2017

REPORT FOR: Decision / Discussion / Information

1. Summary

- 1.1 This report provides the summary outturn position by Directorate for the year ended 31st March 2017 and outlines the management action taken to reduce the projected overspend. The final outturn position, is an over spend of £561k. This compares with a forecast overspend of £3.7m at the end of February. The figures include savings delivered of £9.633m, 79% of the £12.139m target, this is a slight improvement on the 76% delivered last year.
- 1.2 In delivering the outturn position, consideration has been given to the balance between a prudent level of reserves, modest capitalisation and the subsequent demand on future year's budgets. This approach has secured an increased level of general reserves at year end of £8.7m, 5.40% of total net revenue budget excluding Schools and Housing Revenue Account (HRA).

2. Revenue

- 2.1 The final outturn position is an overspend of £561k. The table contained in Appendix A provides the outturn position by service, against approved working budget, which includes budgeted transfers to or from reserves. RAG (Red, Amber, Green) status has been applied to service variance based on the defined parameters. This method helps to highlight those Service areas with significant pressures, which are at most risk to the Authority, and to ensure future year budgets are managed effectively and mitigate any risk for future years. A summary by directorate is shown below:

Outturn by Directorate	Original Budget	Total Working budget	Contribution to / (Use) of Reserves	Outturn Spend	Variance (Over) / Under	Variance (Over) / Under
	£'000	£'000	£'000	£'000	£'000	%
People	71,546	73,040	(23)	76,195	(3,155)	-4.32%
Place	38,792	41,978	(1,359)	41,742	236	0.56%
Schools	29,029	24,119	(246)	24,119	0	0.00%
Resources	6,456	7,022	(337)	6,446	576	8.20%
Central Activities	21,317	14,789	948	13,007	1,782	12.05%
Total	167,140	160,948	(1,017)	161,509	(561)	-0.35%

HRA	0	0	(432)	822	822	822%
Delegated Schools	69,979	76,169	(2,124)	76,449	(280)	-0.37%

3. **Capital**

- 3.1 The revised Capital Budget was £48.258m, final expenditure was £38.404m which represents 80% spend against the original budget, where necessary funding has been rolled forward to fund schemes continuing in future years.
- 3.2 Following the greater flexibility provided by Welsh Government, available until March 2019, capitalisation was undertaken to cover identifiable costs of transformation, totalling £907k. This is less than planned, and was reduced to ensure that a level of capital receipt is maintained to meet future capital scheme requirements, which would otherwise need to be covered by further borrowing, the cost of which would fall on the revenue account.

4. **Efficiency savings**

- 4.1 The revised total revenue saving target for 2016/17 is £12.139m, made up of in year and previous year's targets. Savings of £9.633m have been achieved to date representing 79% of the total required, a slight improvement on the 76% delivered in 2015/16.
- 4.2 Unachieved savings of £2.5m have been mitigated by underspends elsewhere in the service areas but these remain a pressure going forward within the service budgets. All savings have now been achieved for 2014/15, whilst £1.26m for 2015/16 is still to be delivered, and equates to 50% of the unachieved savings rolled forward.
- 4.3 £1.32m of the targets relate to savings with external suppliers (3rd Party Spend) and Phase 1 income targets, and in 2017/18 this target has been drawn back from service budgets and will be managed and delivered through the Income and Cost Improvement Board (ICIB). This will support a corporate approach. Meetings thus far have agreed delivery of the targets by:
- Improved prices negotiated with 3rd party suppliers to reduce costs and deliver savings
 - Inflationary uplifts to all income targets, and full cost recovery pricing
 - Reviewing income budgets against previous years outturns and uplifting where feasible
 - Reviewing debt collection policies to improve income collection, thus reducing provisions and write off.
- 4.4 The table contained in Appendix B provides the outturn position on the delivery of savings across the service areas. A prudent approach is adopted and only savings that have been delivered are included in the outturn.
- 4.5 A summary and service analysis are provided overleaf.

	Target £'000	Delivered £'000	Variance £'000
2014/15	51	51	0
2015/16	2,534	1,272	1,262
2016/17	9,554	8,310	1,244
Total	12,139	9,633	2,506

4.6 **People** – the overall savings target was £1,940k with £454k, 23% unachieved at year end. The delivery gap was due to:

- Cabinet Agreed Delays – an original plan to reduce day service activities and deliver £450k of savings was reversed by Cabinet. The service were proactive in identifying and delivered alternative savings to ensure this did not create a gap in their ongoing savings plan.
- Still to be Delivered - 3rd party savings of £478k, which are to be addressed through the ICIB in 2017/18

4.7 **Place** - the overall target was £3,113k with £1,080k, 35% unachieved. The delivery gap was due to:

- Timing Issues – projects on track for implementation for 2017/18, waste contracts and logistics £340k and the transfer of caravan park £13k
- Cabinet Agreed Delays – delaying the introduction of charging schools for the carbon reduction tax £110k
- Still to be Delivered – a number of savings targets have yet to be delivered, including, reduction in fleet costs for waste collection £120k, increased customer base for waste services £150k, waste permits £30k, additional income rentals £60k and 3rd party savings £257k.

4.8 **Schools** – the savings target was £2,055k with £288k, 14% unachieved at the end of the year. The key delivery gap issues are:

- Timing Issues – Projects on track for implementation in 2017/18 are Additional Learning Needs restructure and budget slippage will deliver £88k
- Still to be Delivered - Home to School Transport with a target of £158k, brought forward from 2015/16, extra income targets was unachieved by £27k in relation to the cashless project and £15k for the introduction of a common charging register for school facilities which has not yet been implemented.

4.9 **Chief Executive's** – the savings target within this area was £434k of which £101k, (23%) have been carried forward. These include income targets for delivering training and income for official searches and recovering full costs for running Town/Community Elections in total £101k.

4.10 **Resources** – the overall savings target for Resources was £4.596 million. A total of 83% was delivered leaving 17% outstanding at the end of the year.

- Timing Issues – The redesign of audit services will see the removal of a post saving £20k in 2017/18

- Still to be Delivered - 3rd party savings of £563k were apportioned to the directorate and these will be addressed through the ICIB in 2017/18.

5 Reserves

- 5.1 The use of reserves to support the revenue budget during the year was £3.573m and represents an improvement of £1.366m compared to the position at the end of February. A number of in year reserve movements were reviewed as part of concluding the year end and this has enabled us to secure an increased level of reserves. The assessment of reserves as part of the 2017/18 budget setting concluded that “the overall level was adequate but at the lower end of acceptability given the scale of savings required in the future”.
- 5.2 The level of General Fund reserves as at 31st March 2017 is £8.7m, 5.40% of the total net revenue budget excluding Schools and HRA, compared 3.52% reported last month. This level of reserve is in excess of the 3% agreed strategy and ensures a healthy reserve balance is maintained.
- 5.3 All reserve balances are shown at Appendix C.

6 Revenue Forecast

- 6.1 Previous reports have focussed on those areas with RAG status red, however, given this is the final outturn report for 2016/17, an explanation of other areas with significant under/overspends has also been provided.

7. <u>People Directorate</u>	Net Working Budget:	£ 73,040k
	Net Outturn:	£ 76,195k
	Variance (Over)/Under Spend:	£ (3,155)k
	<i>February Forecast (Over)/Under Spend</i>	£ (4,589)k
	<i>Change in Forecast</i>	£ 1,434k

- 7.1 The delivery of the Budget Recovery Plan put in place in December to address the projected overspend for the Directorate has secured a significantly improved outturn for the directorate, due to a commitment to achieve savings targets and a corporate approach.
- 7.2 Additional resources introduced and closer working between all areas of the authority has ensured the successful delivery of some actions identified in this plan. This has utilised authority wide support through additional manual checks and reconciliations of the client database and finance system to ensure a robust estimate on activity was provided.
- 7.3 The current processes still need careful monitoring and on-going review to ensure client activity is accurate every month, this will require manual intervention until the new care database has reliable case information that can be used to populate the finance system.
- 7.4 The plan for the base budget review is on track for summer 2017, and will utilise outcomes and zero based budgeting practices to better allocate and prioritise its ASC resources to the strategic outcomes and priorities identified in its vision 2021 document. This may require adjustments not only within Adults Services but across the overall People Directorate to ensure budgets are aligned to priorities.

7.5 Adult Social Care (ASC) Overspend £(3,424)k

7.5.1 The Recovery Plan efficiency target of £750k has been exceeded through delivery of projects that include matching packages to care assessments and the recovery of under-utilised sums paid part as part of Direct Payments, totalling £969k.

7.6 Older People Overspend £(3,851)k

7.6.1 Home Care – outturn overspend of £2,911k. A £730k obligation arose when external delivery was brought back in-house last year, although some of these clients are again having care in the independent sector. There are historic and in year cost obligations for the national living wage, increases from 15 minute calls to 30 minute calls and inflationary uplifts which have been negotiated with the independent contractors. Current demand for care exceeds the baseline funded activity levels and it is important that packages of care continue to be in proportion to assessed need.

7.6.2 Residential Care – outturn overspend of £1,638k, due to the 1.16% unit cost uplift per bed week and the change in legislation on respite charging. There has been an overall reduction of 56 residential beds (38 of which relate to Bupa) offset by an increase of 3 nursing beds overall. In addition there has been 2,934 days of residential/nursing respite beds utilised.

7.6.3 Day Centres – the £641k outturn overspend in this area is mainly due to unachieved efficiency savings targets, and an acknowledgement that the future shape of the service needs to be re-planned. It has been agreed by Cabinet as part of the Financial Resources Model to reinstate budgets in 17/18.

7.6.4 Staff and travel slippage provides a mitigating £577k underspend.

7.7 Learning Disabilities (LD) Over spend £ (577)k

7.7.1 Residential Nursing – 11 new placements made in-year, offset by savings achieved through the right sizing of packages. An underspend on staffing across all LD services, is mitigating the pressures from a reduction in funding from the Independent Living Fund and Supporting People Grant in relation to voids, along with costs to providers of funding the National Living Wage.

7.8 Mental Health Underspend £ 170k

7.8.1 The main reason for the outturn underspend in Mental Health, is due to staff slippage and vacancies.

7.9 Support Services Underspend £834k

7.9.1 The underspend within this area relates to vacancy staff slippage and reallocating staff time to grants.

7.10 Childrens Underspend £102k

7.10.1 Adoption delivered an underspend of £158k, £96k relating to placement costs which were budgeted for but did not materialise, along with £63k of inter-authority recoupment that was not spent.

7.10.2 Looked after Children are at a 5 year high with 160 children in placements at the end of 2016, an increase of 13.5% over 12 months. The growth in demand, complexity of need and safeguarding, has resulted in an outturn overspend of £543k within Family Placements and Out of County Service areas.

7.10.3 Staff slippage due to recruitment issues, a completed restructure, and the impact of IR35, has resulted in an underspend of £454k in the fieldwork budget.

7.10.4 Children and Young Peoples partnership has underspent by £163k, this is mainly due to the maximisation of grant funding within the Authority to utilise underspending of grant allocations by partner organisations.

7.11 Housing General Fund (HGF) Underspend £167k

7.11.1 Gypsy site budgets were underspent by £50k, due to reduced running costs in Kings Meadow and Leighton Arches following their redevelopment and refurbishment, this has offset unbudgeted costs totalling £35k in relation to the Machynlleth Development.

7.11.2 Due to over-achieved income in respect of “Rent Smart Wales” training, Private Sector Housing was underspent by £69k, however, this income stream is non-recurring.

8. <u>Place Directorate</u>	Net Working Budget:	£ 41,978k
	Net Forecast Expenditure:	£ 41,742k
	Variance (Over)/Under Spend	£ 236k
	<i>February Forecast (Over)/Under Spend</i>	£ (64)k
	<i>Change in Forecast</i>	£ 300k

8.1 The Place Directorate have reported an outturn underspend of £236k against a forecast outturn position overspend of £64k at the end of period 11, February. The service improvement of £300k is due to action taken in all 3 areas of the Directorate, resulting in additional income and some areas of service redesign. All 3 areas have exceeded their recovery plan position targets, which will be necessary to achieve the 2017/18 efficiency targets.

As a result of the Councils favourable financial outturn position, £669k of agreed contributions from reserve were reversed. However it is appropriate that a reserve to support regeneration is established at a sum of £100k by re-designating existing reserves.

8.2 Leisure and Recreation Underspend £447k

8.2.1 Service redesign in both Libraries and Youth Services have delivered the Service savings targets of £39k and £150k respectively and also prepare for further savings in 2017/18.

8.2.2 Funding provisions for Theatres was reduced by £91k in line with the medium term financial plan at the beginning of the year, and the revised budget was adhered to.

8.2.3 Catering achieved an underspend of £100k by the year end which was achieved through the 5p increase in School meals, improved monthly monitoring and managing meal numbers. This has also been positively impacted by a rise in meal uptake, both paid and free meals, through introduction of Cashless payments in a number of schools. Next year most of this underspend has been identified as being needed to off-set the extended school calendar.

8.2.4 Cleaning have introduced various measures in order to achieve a year end underspend of £179k including full cost recovery. Significant additional one-off income was achieved as a result of very poor performance in service to schools from an external contractor. The Cleaning Service have supported the schools and charged the contractor for rectification of issues and managing the situation. Further additional income was achieved through increased business from a housing void service.

8.3 Regeneration, Property and Commissioning Underspend £470k

8.3.1 Additional income has been achieved in a number of areas, Private Water Supplies, Cemeteries, Building Control and Planning Fees totalling £349k.

8.3.2 Statutory Testing have again achieved an underspend of £172k due to the variable nature of fixed electrical and legionella testing over the programme year, £81k of which has been used against 3rd party savings targets.

8.4 Highways, Transport and Recycling Forecast Underspend £ 252k

8.4.1 Highways, Transport and Recycling outturn position is an under spend of £252k which exceeds their recovery plan target by £641k and is a significant improvement of £606k compared with the forecast position at the end of February.

8.4.2 North and Mid Wales Trunk Road Agency (NMWTRA) income for the service is £6.34m against a forecast of £5.66m, an overachievement of £680k. This is a difficult area to predict and analysis shows the final year end payment received by the Council, was 35.1% of the total income received. Therefore a prudent approach is taken by the service to in-year projections based on NMWTRA finance information.

8.4.3 Improvements to the payment process and timeliness of the programme release has already been agreed with NMWTRA, which should enable a more consistent cashflow throughput to the Council and more accurate forecasts going forward. The overachieved income has been offset in part by an increase in the bad debt provision of £323k due to works being paid on estimates and not actuals.

8.4.4 The service has maximised grants in both Waste Operations and Integrated Transport by £110k. This has been identified during the closedown process but will be monitored as part of the on-going grant process to ensure the Council is maximising its resources throughout the year in a planned way.

8.4.5 There were significant underspends in Waste contracts and Highways Technical of £533k and £370k respectively. Waste contracts saw reductions in costs of £195k relating to waste containers and £250k in respect of landfill tax, offset by unachieved savings of £150k.

8.4.6 Highways Technical underspend was achieved by the delivery of additional income from car parks through price increases and continued usage from customers.

8.5 Central Directorate overspend £(933k)

8.5.1 The directorate had been allocated in year reserve funding to cover one off costs, totalling £669k. Because of the underspend within the directorate these reserve movements were reversed to facilitate a strategy for stronger reserve levels.

8.5.2 Third party savings of £257k were held centrally, in readiness for procurement savings across the services, these did not materialise and will be addressed in 2017/18 through the ICIB programme.

9 Schools Service (non-delegated)

Net Working Budget:

£24,119k

Net Forecast Expenditure:	£24,119k
Variance (Over)/Under Spend:	£ 0k
<i>February Forecast (Over)/Under Spend</i>	<i>£ (437)k</i>
<i>Change in Forecast</i>	<i>£ 437k</i>

9.1 Schools Operational costs saw a reduction in overspend at year end compared with the previous projection by £66k from £1,020k to £954k, but there were still significant overspends in both Home to School Transport of £472k and costs in relation to severance pay of £469k.

9.2 Schools Pupil Inclusion increased their underspend at year end by £189k to £366k mainly due to a change in the requirements of out of county placements and inter authority recoupment.

10	<u>Resources Directorate</u>	Net Working Budget:	£ 7,022k
		Net Forecast Expenditure:	£ 6,446k
		Variance (Over)/Under Spend:	£ 576k
		<i>February Forecast (Over)/Under Spend</i>	<i>£ 206k</i>
		<i>Change in Forecast to Outturn</i>	<i>£ 370k</i>

10.1 Business Services Underspend £105k

10.1.1 Income and Awards underspent by £104k due to the completion of their restructure. Whilst a budgeted contribution from general reserves of £157k to pay for the additional costs for Careline from Carmarthenshire Council was not required.

10.2 Information Services Underspend £176k

10.2.1 Section 33 monies were under-spent by £120k, for staffing and supplies and services, this money is transferred to a ring fenced joint reserve to support the partnership in future years.

10.3 Chief Executives Underspend £289k

10.3.1 Corporate Legal and Democratic Service underspend of £164k was due to slippage from unfilled vacancies and making future staff savings in advance of original timescales.

10.3.2 Communications year end position was an underspend of £192k. The majority of the underspend relates to the Welsh Language budget for which £150k growth had been awarded to meet the requirements of the Welsh Language Standards. The standards include the development of a fully bilingual intranet which is dependent on roll out of new ICT system, £150K will be carried forward into 2017/18.

10.3.3 A forecast budgeted contribution from Reserves of £101k to finance the Trade Union Partnership was not required to be made at year end.

11	<u>Central Activities</u>	Net Working Budget:	£ 14,789k
		Net Forecast Expenditure:	£ 13,007k
		Variance (Over)/Under Spend:	£ 1,782k
		<i>February Forecast (Over)/Under Spend</i>	<i>£ 1,210k</i>
		<i>Change in Forecast to Outturn</i>	<i>£ 572k</i>

- 11.1 The Management of Change costs are held within this area and due to the Welsh Government's capitalisation direction £907k of legitimate transformation costs were capitalised.
- 11.2 The renewal of the Council's insurance policies resulted in an in-year saving of £135k, the full year saving will be close to £300k and offset against 3rd Party targets. There was a £302k decrease in the insurance provision which is held for future claims, this money is the returned to the insurance reserve, and may be drawn down in future years.
- 11.3 Capital Charges were under spent by £1,291k at year end as a result of reduced borrowing costs (borrowing not needed to fund capital schemes) and interest received of £275k, from investing the money held for the capital programme that was not needed.

12	<u>Schools Delegated</u>	Net Working Budget:	£	76,169k
		Net Forecast Expenditure:	£	76,449k
		Variance (Over)/Under Spend:	£	(280)k
		January Forecast (Over)/Under Spend	£	(333)k
		Change in Forecast	£	53k

- 12.1 The actual outturn position of School Delegated Budgets was better than previously anticipated with a net surplus on reserves at year end of £413k compared with £295k submitted to Cabinet in July. Budgets were heavily supported by reserves in this financial year particularly within the Secondary sector and this has seen a significant fall on the overall level of reserves held. Unless decisive action is taken by schools to address their projected deficits over the next few years the reserves will be depleted.
- 12.2 The table below shows the breakdown of the deficit and surplus positions at year end by type of school:

Type of School	Number of Schools Projected to be in Deficit at Period 11	Actual Schools in Deficit	Actual Deficit £000	Actual surpluses £000	Total £000
Primary	26	24	(395)	2,004	1,609
Special	2	2	(473)	213	(260)
Secondary	8	8	(1,680)	744	(936)
Total	36	34	(2,548)	2,961	413

- 12.3 The revised reserve position will need to be incorporated into the Schools budget plans, along with corrective action to ensure a balanced budget can be achieved within the required timeframe.

13 Housing Revenue Account Underspend (HRA) £822k

- 13.1 HRA core budget was underspent by £822k at year end, mainly due a reduction in the budgeted bad debt write off of £338k, this evidences better collection of debt and less

outstanding or at risk at year end. A reduction in cost relating to 3rd party consultants and other hired services savings totalled £143k.

- 13.2 The repairs and maintenance budget was underspent by £168k, however, the budget had been increased by £160k, funded by a reduction in the Grounds SLA for the service and changes to Access to Services.

14 CAPITAL PROGRAMME

- 14.1 The revised Capital programme after virements approved is £48.258m. The table in Appendix D summarises the position for each directorate.

- 14.2 As part of the closing of accounts 15 virements and 3 capital grants also requiring approval, details as follows:-

- Remove from the programme £925k from the Fleet replacement programme monies as the 17/18 budget is already sufficient.
- Roll forward £100k to continue the Voice and Unified Communications Project.
- The IT Infrastructure project did not progress in 16/17 therefore roll forward £195k.
- Roll forward £408K for highways resurfacing, as a result of a delay in the availability of the contractor to complete works before 31st March 2017.
- Due to the delays from Welsh Government to determine the outcome of an ongoing objection, Phase 2 of the River Ennig flood alleviation has an unspent budget of £145k to be rolled forward.
- Reduce the budget in 17/18 in respect of 21st Century Schools by £260k, due to the progression of the new Schools in the Gwernyfed catchment area and additional grant monies received from Welsh Government in 2016/17.
- Roll forward monies set aside for the Library fit out at the Brecon Cultural Hub of £275k.

- Roll forward £2.255m due to delays with the progression of Brecon Cultural Hub.
- Roll forward £253k in respect of the Housing Fairview Project.
- Additional roofing work in the South of the County requires an increase to budget of £450k.
- The remaining budget of £406k in respect of the Welsh Housing Quality Standards does not need to be rolled forward due to sufficient budget already in 17/18 to meet the programme requirements.
- Roll forward £386k for the new builds/repurchase budget due to delays securing the properties.
- Roll forward into 2017/18 underspend of £366k in respect of the project to provide level access to bungalows.
- Roll forward the £182k underspend to provide Fit for Purpose properties.
- Remove the remaining budget of £267k for the adaptations and garage demolition project because adaptations spend was funded through the ICF grant instead and the garage demolitions did not commence.

14.3 Grants

- Received from Welsh Government, £70k to fund Phase 2 of the Montgomery Canal Active Travel project.
- Early commencement of the infrastructure enhancement along the T6 & T7 TrawsCymru corridors has been funded by a £52k grant from Welsh Government.
- Grant received of £97k to relocate Knighton Library into Knighton Community Centre.

15 **Place** - A spend of £16.585m against a total budget of £22.122m, 25% of the capital budget remained unspent at year end.

15.1 Highways – Structural Strengthening and Maintenance underspent by £412k, due to delays by contractors and 3rd parties, not all planned works were completed. Due to the long lead time for the purchase of vehicles within Fleet an underspend of £712k was realised at year end, the remaining budget will be removed as the 5 year programme already has sufficient funding.

15.2 Welsh Government determination of outstanding objections, has delayed the Flood Alleviation Scheme for the River Ennig at Talgarth, which is £145k underspent and the major strategic scheme at Talerddig realised an underspend of £220k, due to the profiling of spend over the project years.

15.3 Leisure - the largest scheme is Brecon Hub which amounts to £3.75m in this financial year of which only £1.5m has been spent to date, the remainder to be rolled forward. The other major works relates to the Archives scheme amounting to £1.3m, of which £1m has been spent to date.

15.4 Regeneration, Property and Commissioning – 80% of the £3,282k budget was spent by year end. Project Lemar has now been purchased for £1.1m out of the £1.4m office accommodation allocation, the underspend will be rolled forward for use in the refurbishment project. Total allocation for Knighton Community Centre roof is £575k of which £500k is grant funding, spend for the project to date is £503k. The workshop in Brecon has now been purchased for £278k, any underspend will be rolled forward to pay for the refurbishment.

16 Schools – this is the one area where actual expenditure exceeded budget by 1.6%

16.1 The new schools in the Gwernyfed Catchment progressed more quickly than anticipated. In addition Welsh Government provided an increased amount of 21st Century schools grant in 2016/17, allowing the authority to reduce the amount of borrowing and call on reserves.

16.2 Major Improvements programme underspent by £144k, this will be rolled forward for use on incomplete projects or to fund the next ranked schemes in 2017/18.

17 People

17.1 The allocation for Adult Services and Commissioning was £443k, only £25k was spent at year end in relation to Integration and Agile Working. Intermediate Care Funding 2 (ICF2) and Substance Misuse grant was received and fully utilised totalling £150k.

- 17.2 The Housing General Fund, capital budget is £2.2m; including £1.3m for Disabled Facilities works. Prudential borrowing of £43k has been approved to search for a new Gypsy site in Machyllneth. A bid for Welsh Government grant will be submitted, subject to planning permission, and works will begin in 2017/18.
- 17.3 In addition, £100k funded from capital receipts, has been allocated to search for a new Gypsy site in Welshpool the outturn spend was £12k. A Welsh Government grant of £304k has been awarded to complete the two outstanding pitches on Kings Meadow, a need was identified from the Gypsy Traveller Accommodation Assessment, £292k had been spent by year end.

18 HRA

- 18.1 Maintaining the Housing Stock is funded by £3.71m Major Repairs Allowance from Welsh Government, Housing reserves, receipts and prudential borrowing.
- 18.2 The HRA Capital includes the Welsh Housing Quality Standards (WHQS) plan of £15.210m for 2016/17 to enable the council to achieve WHQS by March 2018. The spend was £11.319m and £2.782m has been rolled forward.
- 18.3 Of the other capital works (total £3.34m), only £1.184m has been spent at the year end, virements have been completed to roll forward monies into 2017/18 where required.

19 Options Considered/Available

No alternative options are considered appropriate as a result of this report.

20 Preferred Choice and Reasons

None to consider.

21 Sustainability and Environmental Issues/Equalities/Crime and Disorder, /Welsh Language/Other Policies etc.

The proper management and control of the Council's finances together with the associated delivery of services will have an impact across all Council services. It is not sustainable to allow service areas to overspend without a plan to address the underlying cause of the overspending.

22 Children and Young People's Impact Statement - Safeguarding and Wellbeing

This report presents the financial position for Children's services and forecasts a near balanced budget for the year. The budgets must continue to be monitored to ensure the allocated resources meet service need.

23 Local Member(s)

This report relates to all service areas across the whole County.

24 Other Front Line Services

This report relates to all service areas across the whole County.

25 **Support Services (Legal, Finance, HR, ICT, BPU)**

This report has no specific impact on support services other than reporting on those service areas financial outturns. Financial Services work closely with all service areas in monitoring financial performance against budgets.

26 **Local Service Board/Partnerships/Stakeholders etc.**

This report presents financial information which will help inform the future medium term financial plan and therefore has implications for any related organisation.

27 **Communications**

This report has no specific communication considerations. Detailed finance reports are presented to Heads of Service, Cabinet and the Audit Committee. These reports are public and are part of a range of statutory and non-statutory financial information documents including the Statement of Accounts.

28 **Statutory Officers**

The Strategic Director, Resources (Section 151 Officer) notes the overall financial position. It is essential that agreed savings are delivered in order to safeguard the council's financial position. Previous years' savings that were not delivered in 2016/17 will need to be delivered in 2017/18 because they remain in the base budget.

The improved position in the People's Directorate is welcomed and this improvement will need to continue in 2017/18.

The overall reserves position means that the council has a sound general fund balance for 2017/18 largely due to support from central budgets and the delivery of the recovery plan.

The Cabinet's attention is drawn to the schools reserves position which is of increasing concern and will need to be carefully monitored and reviewed in 2017/18.

The Monitoring Officer has no specific concerns with this report.

29 **Members' Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
a. The contents of this report are noted by Cabinet; and b. The Capital virements set out in paragraph 14.2 are approved, and those over £500k be submitted to full council for approval. c. To re-designate £100k of existing general fund reserves as a regeneration reserve to support activity in 2017/18.	To outline the end of year financial position and the council's financial performance. To ensure appropriate virements are carried out and an appropriate reserve is established To help support the Cabinet's priorities.

Relevant Policy (ies):		Financial Regulations	
Within Policy:	Yes	Within Budget:	n/a
Relevant Local Member(s):			
Person(s) To Implement Decision:		Jane Thomas	
Date By When Decision To Be Implemented:			
Contact Officer Name	Tel	Fax	E mail
Jane Thomas	01597-826341	01597-826290	jane.thomas@powyscc.gov.uk

Outturn by Service Area including RAG status as at 31st March 2017

Service Area	Net Budget	Outturn Spend	Variance (Over) / Under spend	Variance (Over) / Under spend as a % of Net Budget	Variance RAG status
	£'000	£'000	£'000	%	
People					
Adult & Commissioning	56,356	59,780	(3,424)	-6.08%	R
Children Services	15,949	15,847	102	0.64%	G
Housing General Fund	735	568	167	22.72%	B
Place					
Leisure & Recreation	12,001	11,554	447	3.72%	B
Regeneration, Property & Commissioning	7,758	7,288	470	6.06%	B
Highways, Transport, Recycling & Central Directorate	22,219	22,900	(681)	-3.06%	R
Schools					
Schools Service	24,119	24,119	0	0.00%	G
Resources					
Professional Services	907	901	6	0.66%	G
Information Services	186	10	176	94.62%	B
Business Services	1,779	1,674	105	5.90%	B
Chief Executive	4,150	3,861	289	6.96%	B
Service Area Totals	146,159	148,502	(2,343)	-1.60%	
Central Activities	14,789	13,007	1,782	12.05%	B
Total	160,948	161,509	(561)	-0.35%	
Housing Revenue Account (HRA)	0	-822	822	0.00%	G
Schools Delegated	76,169	76,449	-280	-0.37%	G
Total including HRA	237,117	237,130	(13)		

KEY :

- **Blue** Underspend above 1%
- **Green** +/- 1% (or £0.05m if budget less than £5m)
- **Amber** Overspend of 1-2% (£0.05m - £0.1m if budget less than £5m)
- **Red** Variance above 2% (£0.1m if budget less than £5m)

APPENDIX B

Efficiency / Saving	2014/15	2015/16	2016/17	Total to be Achieved 16/17	Total Achieved to Date	Remainder to find	Achieved
	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s	%
Place							
Highways Transport & Recycling	0	400	1,283	1,682	1,018	664	61%
Regeneration, Property & Commissioning	0	14	528	542	383	159	71%
Leisure & Recreation	0	52	438	491	491	0	100%
Place	0	398	0	398	141	257	35%
Place	0	864	2,249	3,113	2,033	1,080	65%
Schools							
Schools	51	158	1,846	2,055	1,767	288	86%
Schools	51	158	1,846	2,055	1,767	288	86%
People							
Adult	0	868	450	1,318	969	349	74%
Children Services	0	105	511	616	510	105	83%
Housing	0	7	0	7	7	0	100%
People	0	979	961	1,940	1,486	454	77%
Chief Executives							
Chief Executives	0	1	183	184	130	54	71%
Legal	0	0	251	251	204	47	81%
Chief Executives	0	1	434	434	334	101	77%
Resources							
Business Services	0	117	531	648	531	117	82%
Information Services	0	68	143	210	143	68	68%
Professional Services	0	78	180	258	160	98	62%
Corporate Activiites	0	269	3,211	3,480	3,180	300	91%
Resources	0	532	4,064	4,596	4,013	583	87%
Grand Total	51	2,534	9,554	12,139	9,633	2,506	79%

RESERVE BALANCES

Summary	Reserves 01/04/16 Surplus/ (Deficit)	Actual Addition / (Use) of reserves	Reserves 31/3/17 Surplus/ (Deficit)
	£'000	£'000	£'000
General Fund	10,285	(1,600)	8,685
	10,285	(1,600)	8,685
Ringfenced & Specific Reserves			
Budget Management Reserve	3,984	(500)	3,484
Specific Reserves	1,881	22	1,903
21st Century Schools Reserve	6,734	(437)	6,297
Invest to Save & Corporate Initiatives (inc JE)	8,673	(624)	8,049
Insurance Reserve	1,965	430	2,395
Transport & Equipment Funding Reserve	5,054	1,145	6,199
Sub-Total	28,291	36	28,327
Schools Delegated Reserves	2,810	(2,456)	354
School Loans & Other Items	(417)	55	(362)
Net School Delegated Reserves	2,393	(2,401)	(8)
Total Ringfenced & Specific Reserves	30,684	(2,365)	28,319
Housing Revenue Account	1,385	377	1,762
	1,385	377	1,762
Total Revenue Reserves	42,354	(3,588)	38,766

CAPITAL TABLE AS AT 31st March 2017

APPENDIX D

Service	Original Budget 2016/17	Virements Approved	Working Budget 2016/17 as at 31st March 2017 (after virements approved and required)	Actuals & Commitments	Remaining Budget	
	£'000	£'000	£'000	£'000	£'000	%
People						
Adult Services & Commissioning	443	-236	207	177	30	14.5%
Housing	1,948	719	2,667	2,328	339	12.7%
Schools and Inclusion	4,872	222	5,094	5,175	-81	-1.6%
Chief Executive	0	76	76	76	0	0.0%
Resources						
Business Services	87	213	300	258	42	14.0%
Professional Services	532	-463	69	0	69	100.0%
Information Services	820	109	929	395	534	57.5%
Corporate Activities	0	1,981	1,981	907	1,074	54.2%
Place						
Highways, Transport & Recycling	7,696	4,029	11,725	9,469	2,256	19.2%
Leisure & Recreation	8,445	-1,280	7,165	4,481	2,684	37.5%
Regeneration, Property & Commissioning	4,284	-1,052	3,232	2,636	596	18.4%
Total Capital	29,127	4,318	33,445	25,902	7,543	22.6%
Housing Revenue Account	18,550	-3,737	14,813	12,502	2,311	15.6%
TOTAL	47,677	581	48,258	38,404	9,854	20.4%

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET
20th June, 2017

REPORT AUTHOR: Solicitor to the Council
SUBJECT: Welsh Government Consultation – Proposed Reduction in the size of the Brecon Beacons National Park Authority

REPORT FOR: Decision

1. Summary

Welsh Government is proposing to reduce the size of the Brecon Beacons National Park Authority (BBNPA) from 24 members to 18, bringing it into line with the Snowdonia and Pembrokeshire Coast National Park Authorities.

- 1.1 For Powys County Council this would mean a reduction in representation on the BBNPA from 8 to 6 members. Responses are required by 29th June, 2017.
- 1.2 The impact on individual political groups' representation would be as follows:

Political Group	Current	Revised	Change
Independent Group	3	2	-1
Welsh Conservatives	2	2	0
Welsh Liberal Democrats	1	1	0
Welsh Labour	1	1	0
Plaid Cymru / Green Party Group	1 (from Liberal Democrats)	0	-1
Total	8	6	

2. Responses from Political Groups

The Group Leaders of all the political groups have been consulted on the proposals and the responses are set out below.

- 2.1 Independent Group – No comment received.
- 2.2 Welsh Conservative Group – The Group did not wish to comment on the proposals.
- 2.3 Welsh Liberal Democrat Group – Comment received and included in response as Comment 2.
- 2.4 Welsh Labour Group – Comment received and included in response as Comment 1.
- 2.5 Plaid Cymru / Green Party Group – No comment received.

3. Consultation Response.

The responses above have been included in the Consultation Response From which is attached as an Appendix A. The Cabinet are asked to consider the consultation responses in Appendix A and decide which (if any) of the reponses will be sent to Welsh Government as the Council's response.

4. Statutory Officers

4.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: " I have nothing to add to the report."

4.2 The Strategic Director – Resources (Section 151 Officer) notes the contents of the report.

5. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
That the Cabinet approves the Council's response to the Consultation document.	To respond to the Welsh Government Consultation Document by 29th June, 2017.

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Wyn Richards, Scrutiny manager
Date By When Decision To Be Implemented:	29/06/2017

Contact Officer:	Wyn Richards, Scrutiny Manager and Head of Democratic Services
Tel:	01597-826375
Email:	wyn.richards@powys.gov.uk

Background Papers used to prepare Report:

Consultation Response Form

What do you think?

Question 1: What are your views on the proposal to reduce the membership of the Brecon Beacons National Park Authority from 24 to 18?

Comment 1 - Powys County Council is satisfied with the proposed reduction in members of BBNPA and support the reasons stated.

Comment 2 - Before any reduction is considered it would be necessary to amend the various Acts, including the Environment Act, in order to allow for greater local democracy to support the people living in the Park. At present PCC is obliged to show political balance when appointing to the BBNPA. This has resulted in present and previous appointments being made with members from outside the Park area, mainly from Montgomeryshire being appointed to the Park to meet this requirement. Due to the low number representation from other authorities there is no such issue for them. The Environment Act suggests that members should come from wards wholly or partially within the Park. If the political balance is maintained and Powys numbers were decreased it would mean a further reduction in local members within the Park being appointed to the BBNPA. This can only be addressed by only allowing members with wards wholly or partially within the Park becoming authority members. This approach will support the need for National Parks to have more focus on social and economic development. This would also reduce the member travel costs. BBNPA is unique compared with the other two Welsh National Parks in having a much greater number of local authorities within its boundaries. We must also consider that 80% of the BBNPA lies within Powys together, with the majority of its residents, including the towns of Brecon, Crickhowell, Talgarth, Sennybridge and Hay on Wye. Any number reduction would need to reflect this and as such no reduction in the 8 members from Powys should be considered.

Question 2: What are your views on the proposed distribution of members of the Brecon Beacons National Park Authority between the seven principal authorities and the Welsh Ministers as set out in Table 3?

Comment 2 - As previously mentioned the BBNPA is unique in the large number of authorities involved. We do not support a reduction in the Powys numbers due to 80% of the Park being within Powys. This would give Powys a disadvantage and would not compare favourably with the numbers representing the Pembroke and Snowdonia single authorities. The consultation mentions the BBNPA's use of Member Champions and ambassadors. However, experience has shown that they have little or no impact on the residents of the Park, with a lack of understanding of the social and economic needs of the Park communities. If any reduction is to be made it should come from the Welsh Minister's appointments. These members have no mandate from the residents of the Park and have little contact or understanding of residents' needs. Some live outside the National Park area and some live in England.

Question 3: We would like to know your views on the effects that reducing the membership of the Brecon Beacons National Park Authority would have on the Welsh language, specifically on:

i) opportunities for people to use Welsh and

ii) on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Comment 2 - Any reduction in numbers could cause a reduction in Welsh-speaking members and a desire to use Welsh within the authority.

Question 4: Please also explain how you believe the proposed actions could be formulated or changed so as to have:

i) positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and

ii) no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Comment 2 - As per question 3, it is largely about the commitment and desire of the senior management and members of the authority that the Welsh language is adequately supported.

Question 5: We have asked 2 specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Comment 1 - There are broader questions around functions (planning) that should also be considered. There are two planning authorities within Powys which is not conducive. Members of the group have suggested one planning authority could present opportunity for further savings and reduce any duplication.

Comment 2 - We do not support the proposed changes, as they have been prompted only by the need to reduce financial costs. The original numbers were put forward to reflect the unique position that the BBNPA is in, with seven local authorities involved. Any reduction would mean a reduction in democratic local representation. What is required is consideration of a new governance requirements, linked to local accountability and based on the emerging white paper on the future roles of National Parks.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

CYNGOR SIR POWYS COUNTY COUNCIL.**CABINET EXECUTIVE
20th June 2017**

REPORT AUTHOR: County Councillor Jonathan Wilkinson
Portfolio Holder for Housing and Countryside Services

SUBJECT: Determination of 'Corrective' applications under sections 19 and 22 and Schedule 2 of the Commons Act 2006

REPORT FOR: Decision

1. Summary

1.1 Powys County Council is a Commons Registration Authority. The Welsh Government has brought into effect provisions of the Commons Act 2006, which impose new duties on Welsh Commons Registration Authorities.

1.2 The new duties relate to alleged errors or omissions on the Registers of Common Land, or of Town or Village Greens. Under sections 19, 22 and Schedule 2 of the Commons Act 2006, applications and proposals can now be put forward for correction of these errors and omissions

1.3 If opposed, some applications or proposals must be referred to the Planning Inspectorate for determination. However, the Council is required to determine any applications or proposals that are not referred to the Planning Inspectorate, whether opposed or not.

1.4 The Regulations relating to the processing of these applications are the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017. They came into force on 5th May 2017.

1.4 The purpose of this report is to consider the options open to the Council for determining applications and proposals under sections 19, 22 and Schedule 2 of the Commons Act 2006. Initial processing can be carried out by officers, but formal determination is currently a function of the Cabinet. This responsibility could be delegated, if it is considered appropriate.

2. Proposal

2.1 It is proposed that formal determination of applications and proposals be delegated, so that this responsibility does not remain solely with the Cabinet.

2.2 Responsibility for determining other applications relating to the Registers of Common Land and of Town or Village Greens is already delegated to the Planning, Taxi Licensing and Rights of Way Committee. Given this, it is

proposed that determination of the new 'Corrective' applications or proposals be delegated to the Planning, Taxi Licensing and Rights of Way Committee.

2.3 If delegated to the Planning, Taxi Licensing and Rights of Way Committee, a panel could be formed. This would allow for applications and proposals to be determined by a smaller number of Committee Members, on a rotating basis, rather than requiring a full Committee to consider them.

2.4 Delegation to officers may be appropriate for unopposed applications that are wholly administrative in nature, with evidence that is not complicated to interpret. An example would be section 19(2)(d) of the Commons Act 2006 under which names and addresses in the Registers can be updated e.g. following a change of residence (but not a change of ownership.)

3. Options Considered / Available

3.1 The Council must make arrangements to determine any 'Corrective' applications or proposals affecting the Powys Register of Common Land and Town or Village Greens that are not referred to the Planning Inspectorate.

3.2 Determination of these applications and proposals is a quasi-judicial role. It requires interpretation of evidence against the relevant legal criteria. The outcome affects the content of legal Registers that impact on property value, land use and other financial interests e.g. farm subsidy payments.

3.3 Even if unopposed, the Council cannot accept a 'corrective' application or proposal at face value; the evidence must still be scrutinised and challenged and it may be necessary to refuse an unopposed application.

3.4 Responsibility for determination of these applications and proposals could remain with the Cabinet. However, this would impact on the Cabinet's time to consider other matters and on the time taken to determine individual applications under sections 19, 22 and Schedule 2 of the Commons Act 2006.

3.5 Determination could be delegated to the Planning, Taxi Licensing and Rights of Way Committee. The Committee already determines other applications relating to Common Land and Town or Village Greens, so has expertise in this area of work. A smaller panel of Members could be formed, to reduce the time and other costs of determination.

3.6 Determination of all applications could be delegated to Portfolio Holder or officer level. However, this would not be consistent with the way in which decisions are made about other, similar evidence-based Commons Registration and public rights of way applications.

4. Preferred Choice and Reasons

4.1 The way in which these applications is determined has an impact on the costs incurred. Responsibility for meeting those costs will fall to the Welsh Government (for 'public interest' applications), to the Council (where the

Commons Registration Authority may have made an error) or to the applicant, for other types of application. The cost incurred needs to be balanced against ensuring the appropriate level of scrutiny and challenge for decisions.

4.2 The preferred option is that determination of 'Corrective' applications and proposals under sections 19, 22 and Schedule 2 of the Commons Act 2006 be delegated to the Planning, Taxi Licensing and Rights of Way Committee, with opportunity for further delegation to a panel or to officer level. This will allow for a sufficient level of scrutiny and challenge, but would reduce the cost of determination when compared to full Committee or Cabinet involvement.

4.3 The Council can opt to hold a public inquiry and appoint an independent inspector for any opposed 'Corrective' application that it must determine, so additional scrutiny can be put in place if needed.

5. Impact Assessment

5.1 Is an impact assessment required? No

6. Corporate Improvement Plan

6.1 The outcome of these applications and proposals impacts on property value, land use and other financial interests and there is risk of legal challenge to any decision made. It is anticipated that many applications will be routine and not attract a high level of public interest. However, others may be contentious and raise significant concern for the public or the applicant(s.)

6.2 Determining a duly made 'Corrective' application under the Commons Act 2006 is a legal duty; it contributes to the Corporate Improvement Plan objective 'Meet statutory provision of rights of way and countryside access.'

7. Local Member(s)

7.1 None - this proposal has equal force across the whole County.

8. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council? No

9. Communications

Have Communications seen a copy of this report? Yes

Have they made a comment? Communications comment is that no proactive communication action is required.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

- 10.1 Legal - The Professional Lead-Legal notes the recommendations in section 4 of this report and recognises the reasons given as being appropriate in the circumstances. The Legal Services will continue to give advice and support when and where required.
- 10.2 Finance – The contents of the report are noted. There will be no budgetary implications where applicants or the Welsh Government pay for determination as long as we set fees to cover full costs.

It could impact though where we are required to meet costs in cases where there may be a Commons Registration Authority error. In these rare events, it is suggested that the directorate find these additional costs within their existing budgets.

- 10.3 Corporate Property – Not applicable;
- 10.4 HR – Not applicable;
- 10.5 ICT – Not applicable.

11. Scrutiny

Has this report been scrutinised? No

12. Statutory Officers

- 12.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report.”
- 12.2 The Strategic Director Resources (S151 Officer) notes the comments made by finance.

13. Members’ Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
That determination of ‘Corrective’ applications and proposals under sections 19, 22 and Schedule 2 of the Commons Act 2006 be delegated to the Planning, Taxi Licensing and Rights of Way Committee, with opportunity for further delegation if appropriate.	To ensure an adequate level of scrutiny and challenge in determining these applications and proposals whilst balancing this against the cost of determination.

Relevant Policy (ies):	N/A		
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	N/A (applies county wide)
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Person(s) To Implement Decision:	Planning, Taxi Licensing and Rights of Way Committee
Date By When Decision To Be Implemented:	With immediate effect

Contact Officer:	Stuart Mackintosh, Head of Leisure and Recreation
Tel:	01597 827583
Email:	stuart.mackintosh@powys.gov.uk

Background Papers used to prepare Report:

- The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (Appendix 1)
- Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 - Welsh Government Guidance for Commons Registration Authorities May 2017 (Appendix 2)
- Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 - Welsh Government Guidance for Applicants May 2017 (Appendix 3)

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WELSH STATUTORY INSTRUMENTS

2017 No. 566 (W. 135)

COMMONS, WALES

**The Commons Act 2006 (Correction, Non-Registration
or Mistaken Registration) (Wales) Regulations 2017**

<i>Made</i>	- - - -	<i>9 April 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 April 2017</i>
<i>Coming into force</i>	- -	<i>5 May 2017</i>

The Welsh Ministers being the appropriate national authority make the following Regulations in exercise of the powers conferred by sections 3(5), 19(6), 24(1) to (2A), 24(3), 24(6) to (8) and 59(1) of, and paragraphs 2 to 10 of Schedule 2 to, the Commons Act 2006⁽¹⁾.

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of these Regulations is the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

(2) These Regulations come into force on 5 May 2017.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the 1965 Act” (“*Deddf 1965*”) means the Commons Registration Act 1965⁽²⁾;

“the 1966 Regulations” (“*Rheoliadau 1966*”) means the Commons Registration (General) Regulations 1966⁽³⁾;

(1) 2006, c. 26; section 61(1) was amended by Schedule 7, para. 9 of the Planning (Wales) Act 2015, c. 4, and defines “appropriate national authority” as the Welsh Ministers in relation to Wales; and “regulations” as regulations made by the appropriate national authority.

(2) 1965 c. 64.

(3) S.I. 1966/1471.

“the 2006 Act” (“*Deddf 2006*”) means the Commons Act 2006;

“application” (“*cais*”) means an application to a registration authority under section 19 of, or Schedule 2 to, the 2006 Act or under these Regulations to amend its register;

“appointed person” (“*person penodedig*”) means a person or persons appointed in accordance with regulation 4;

“commons council” (“*cyngor tiroedd comin*”) means a body established by Order under section 26 of the 2006 Act;

“the determining authority” (“*yr awdurdod sy’n dyfarnu*”) means—

- (a) the appointed person in relation to an application or proposal which has been referred to such person pursuant to regulation 15(2); or
- (b) in relation to any other application or proposal, the registration authority which is required to determine the application or proposal in accordance with regulation 15(1);

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(4);

“inspector” (“*arolygydd*”), except in regulation 4, means a person appointed by the determining authority to conduct a public inquiry, hearing or site inspection in relation to an application or proposal;

“local authority” (“*awdurdod lleol*”) means—

- (a) a county council;
- (b) a county borough council;
- (c) a community council; or
- (d) a National Park authority;

“notice of application” (“*hysbysiad o gais*”) means a notice containing the details specified in regulation 12(1);

“proposal” (“*cynnig*”) means a proposal by a registration authority to amend a register on its own initiative pursuant to—

- (a) section 19 of the 2006 Act; or
- (b) Schedule 2 to the 2006 Act;

“referring authority” (“*yr awdurdod sy’n cyfeirio*”) means, in relation to an application or proposal which has been referred to an appointed person pursuant to regulation 15(2), the registration authority which referred it;

“register” (“*cofrestr*”) means a register of common land or a register of town or village greens, and “registered” (“*cofrestredig*”) and “registration” (“*cofrestriad*”) are to be interpreted accordingly;

“registered land” (“*tir wedi ei gofrestru*”) means land registered as common land or as a town or village green;

“register unit” (“*uned gofrestr*”) means, in respect of any land registered in a register, the sum of that land’s registration in the land section and the rights section of the register and, if the registration was made under regulations under the 1965 Act, the ownership section of that register;

“registration authority” (“*awdurdod cofrestru*”) means a commons registration authority.

- (2) These Regulations apply in relation to any application or proposal.

(4) 2000 c. 7. The definition of “electronic communication” was amended by the Communications Act 2003 (c. 21), Schedule 17, paragraph 158.

Amendment to register

3.—(1) An amendment made to a register pursuant to the determination of an application or proposal must be made in the appropriate section of the register unit relating to that land.

(2) A registration authority must, when amending the register (including the registration or removal of registered land and an amendment to a registration), follow as closely as possible the format of the register, with such variations and adaptations as the circumstances may require.

(3) Following the determination of an application or proposal the registration authority must stamp every sheet forming part of the determination.

Appointment of persons to discharge functions of a registration authority

4.—(1) The Welsh Ministers may appoint—

- (a) persons (“an appointed person”) as eligible to carry out the administration of applications made to, or proposals made by, a registration authority, which are referred by the registration authority to an appointed person in accordance with these Regulations; and
- (b) any person who is employed or otherwise engaged as one of the inspectors of the appointed person, or is employed on its staff, as eligible to—
 - (i) determine an application or proposal which a registration authority has referred to the appointed person in accordance with these Regulations; and
 - (ii) carry out any steps necessary for or incidental to that purpose (for example, conducting a public inquiry, a hearing or a site visit).

(2) An appointment under paragraph (1) must be in writing.

(3) The Welsh Ministers may at any time, by giving notice in writing to an appointed person—

- (a) revoke the appointment generally;
- (b) revoke the appointment insofar as it relates to a particular application or proposal which has not been determined by the appointed person before that time; or
- (c) revoke the authority of the appointed person to exercise a particular function in relation to an application or proposal.

(4) A notice under paragraph (3) will not affect the validity of anything done by the appointed person before the notice is given.

PART 2

Applications and proposals to amend the Registers

Making an application

5.—(1) An application must—

- (a) be made in writing on a form provided by the Welsh Ministers for an application of that type;
- (b) include the information specified in the form; and
- (c) be signed by, or by a representative of, every applicant who is an individual, and by the secretary or some other duly authorised officer of every applicant which is a body corporate or an unincorporated association.

(2) Schedule 1 contains provisions which apply in relation to the specific types of applications listed as to—

- (a) the circumstances in which an application is permitted to be made; and
 - (b) the matters which must be included in or which, subject to paragraph (3), must accompany the application.
- (3) An applicant is not required to include with an application a copy of any document specified in Schedule 1 if—
- (a) the registration authority issued the document, or was a party to the document; or
 - (b) the document has been deposited with the registration authority in accordance with any enactment.

Application Fees

6.—(1) An application must be accompanied by such fee (if any) specified for an application of that type by the registration authority to which it is submitted.

(2) The fee specified by a registration authority as payable in relation to an application must be published on its website.

(3) Where a fee first specified by a registration authority under this regulation is subsequently revised by that authority, and in the case of any further revision, such revised fee must be published on the authority's website not less than 14 days before such fee is to take effect.

(4) No fee may be specified for an application made under, and for the purposes of, a provision listed in Schedule 2 to these Regulations.

(5) Where regulation 15 requires an appointed person to determine an application, the applicant must send to the appointed person the further fee (if any) specified for an application of that type by the appointed person.

(6) A fee may be payable at such times and in such instalments as the registration authority and the appointed person may specify.

(7) Any fee charged by the registration authority or the appointed person must be reasonable for the work performed or to be performed.

(8) Neither a registration authority nor an appointed person need take any steps to deal with an application until the applicant has paid to it the specified fee.

Making a proposal

7.—(1) Before taking any other steps under this Part in relation to a proposal, a registration authority must prepare a statement in writing describing the proposal and explaining the justification for it.

(2) A registration authority may not proceed with a proposal under Schedule 2 to the 2006 Act unless it has complied with paragraph (1), and paragraphs (2) to (5) of regulation 11, on or before 4 May 2032.

Land descriptions

8.—(1) This regulation applies in relation to any requirement to describe land for the purposes of an application or proposal, except where another provision of these Regulations specifies the manner in which land is to be described in a particular case.

(2) The land must be described, except where paragraph (3) applies, by an Ordnance Map accompanying the application or proposal and referred to in it.

(3) Where the land is registered land, and the application relates to the whole of the land in a register unit, the land must be described by a reference to the number of that register unit.

(4) Where part of the land is registered land, that part of the land must be described by a reference to the number of any register unit which includes that part.

(5) In paragraphs (3) and (4) the references to “registered land” include land provisionally registered under the 1965 Act, but which registration was not subsequently confirmed, in which case the requirement under those paragraphs is to be met by describing such land by reference to the number under which it was provisionally registered.

(6) Any Ordnance Map accompanying an application or proposal must show the land to be described by means of distinctive colouring within an accurately identified boundary and must be on a scale of not less than 1:2,500 if available, and in any event not less than 1:10,000.

Management of application

9.—(1) As soon as practicable after receiving an application and (if any) the specified fee, the registration authority must send an acknowledgement of receipt to the applicant, which must include —

- (a) the reference number allocated to the application; and
- (b) a postal address and an email address to which written communications to the registration authority may be sent.

(2) The registration authority may direct the applicant to provide any further information or documents necessary to enable the application to be determined.

(3) The registration authority may specify a time for complying with any direction given under this regulation.

(4) If the applicant fails to comply with any direction given under this regulation or, where applicable, fails to comply within the time specified, the registration authority may treat the application as abandoned.

Registration authority’s duty to publicise application

10.—(1) As soon as reasonably practicable after receiving an application complying with regulations 5 (making an application) and 6 (application fees), the registration authority must—

- (a) publish a notice of the application on its website;
- (b) serve a notice of the application by email on anyone who has previously asked to be informed of all applications, and who has given the registration authority an email address for that purpose; and
- (c) subject to paragraphs (2) and (3), serve a notice of the application on each of the persons specified in Schedule 3 in relation to an application of that kind.

(2) In relation to any application, the registration authority may decide that paragraph 1(c) of Schedule 3 does not apply in respect of the requirement to serve a notice on the persons registered as owners of rights of common in gross, if it considers that those persons are so numerous that it would not be reasonably practicable to serve notice of the application on all of them.

(3) A requirement pursuant to paragraph 2 of Schedule 3 to serve a notice on an owner of land does not apply if it is not reasonably practicable to identify that person.

(4) The requirements in paragraph (5) apply in relation to—

- (a) an application under section 19 of the 2006 Act, for the removal of registered land from, or for the addition of land to, a register; or
- (b) an application under Schedule 2 to the 2006 Act.

(5) As soon as reasonably practicable after receiving such an application, the registration authority must—

- (a) post a notice of the application for not less than 42 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the application relates;
- (b) serve a notice of the application on every other local authority for that area; and
- (c) serve a notice of the application on any commons council established for land which includes the land to which the application relates.

(6) Where a notice posted under paragraph (5)(a) is, without any fault or intention of the registration authority, removed, obscured or defaced before the period of 42 days referred to in that paragraph has elapsed, the authority is to be treated as having complied with the requirements of that paragraph.

Registration authority's duty to publicise proposal

11.—(1) A registration authority which has prepared a statement of a proposal in accordance with regulation 7(1) must, before taking any further steps in relation to the proposal, comply with paragraphs (2) to (5).

(2) The registration authority must publish a notice of the proposal on its website.

(3) If the proposal is to register or deregister any land as common land or as a town or village green, the registration authority must post a notice of the proposal for not less than 42 days at or near at least one obvious place of entry to (or, if there are no such places, at or near at least one conspicuous place on the boundary of) the land to which the proposal relates.

(4) The registration authority must serve a notice of the proposal on the following persons—

- (a) subject to paragraph (7), the owner of any land comprising the whole or any part of the register unit to which the proposal relates;
- (b) any person who has made a declaration, duly recorded in the register, of entitlement to a right of common over any land comprising the whole or any part of the register unit to which the proposal relates;
- (c) any commons council established for land which includes the land to which the proposal relates;
- (d) subject to paragraph (8), any owner of a right of common in gross which is exercisable over any land comprising the whole or any part of the register unit to which the proposal relates; and
- (e) every other local authority for that area.

(5) The registration authority must also serve a notice of the proposal by email on any other person who has previously asked to be informed of all proposals, and who has given the registration authority an email address for that purpose.

(6) Where a notice posted under paragraph (3) is, without any fault or intention of the registration authority, removed, obscured or defaced before the period of 42 days referred to in that paragraph has elapsed, the authority is to be treated as having complied with the requirements of that paragraph.

(7) The requirement in paragraph (4)(a) does not apply if it is not reasonably practicable to identify that person.

(8) The registration authority may, in relation to any proposal, decide that paragraph (4)(d) is not to apply, if it considers that the persons registered as owners of rights of common in gross are so numerous that it would not be reasonably practicable for it to serve notice of the proposal on all of them.

Contents of notice of application or proposal

12.—(1) A notice of application or proposal which is required to be published, posted or served under regulation 10 (registration authority’s duty to publicise application) or 11 (registration authority’s duty to publicise proposal) must contain the following details—

- (a) a reference to “the Commons Act 2006”, and the provision of that Act under (or pursuant to which) the application or proposal is made;
- (b) the name of the applicant (in the case of an application);
- (c) the name of the registration authority;
- (d) the name and location of the land to which the application or proposal relates;
- (e) a summary of the effect of the application (if granted) or proposal (if a decision is made to give effect to it);
- (f) both a postal address and an email address for the registration authority to which any representations concerning the application or proposal may be sent;
- (g) a statement that any representations will not be treated as confidential, but will be dealt with in accordance with regulation 14, and that where the application or proposal is referred to an appointed person for determination in accordance with regulation 15, any representations will be sent to the appointed person;
- (h) the date on which the period for making representations expires, which must not be less than 42 days after the date of the publishing, posting or service of the notice; and
- (i) the address of the registration authority at which documents relating to the application or proposal are available for inspection.

Inspection of copies of documents

13.—(1) The registration authority must ensure that copies of the following documents are available for inspection at the address specified for that purpose in any notice of the application or proposal—

- (a) in the case of an application, copies of the application and any accompanying documents; or
- (b) in the case of a proposal, copies of—
 - (i) the statement prepared in accordance with regulation 7(1); and
 - (ii) any documents in the possession of the registration authority which are relevant to the proposal.

(2) The times and dates at which the documents referred to in paragraph (1) are available for inspection must include all normal office hours during a period of not less than 42 days ending with the expiry of the period for making representations.

Representations

14.—(1) Any person may, by the date specified in a notice of an application or proposal, make written representations to the registration authority about the application or proposal.

- (2) Representations under paragraph (1)—
 - (a) must state the name and postal address of the person making them, and the nature of that person’s interest (if any) in any land affected by the application or proposal;
 - (b) may include an email address of the person making them;
 - (c) must be signed by the person making them; and

- (d) must state the grounds on which they are made.
- (3) As soon as reasonably practicable after the expiry of the period allowed for making representations in respect of an application, the registration authority must—
 - (a) notify the applicant that no representations have been made; or
 - (b) serve on the applicant a copy of all the representations it has received.
- (4) The applicant may reply in writing to the registration authority within 21 calendar days of being served with a copy of representations (or within such longer period as the registration authority may specify at the time it serves the copy of representations), setting out the applicant's response to the representations.
- (5) A reply under paragraph (4) must be signed by the person making it.
- (6) Where the applicant makes a reply under paragraph (4), the registration authority must send a copy of it to every person who made a representation under paragraph (1).

Responsibility for determining applications and proposals

- 15.—**(1) Subject to paragraph (2)—
- (a) an application made in accordance with these Regulations must be determined by the registration authority with responsibility for the register in which the land to which the proposal relates is recorded, or a registration authority who has the power to determine applications on such a registration authority's behalf; and
 - (b) a registration authority which has made a proposal in accordance with these Regulations must determine whether or not to amend its registers in accordance with the proposal.
- (2) In the cases specified in paragraph (3), a registration authority must refer to the appointed person for determination by it—
- (a) any application made in accordance with these Regulations; and
 - (b) any proposal made by the registration authority in accordance with these Regulations.
- (3) The cases referred to in paragraph (2) above are where the registration authority has an interest in the outcome of the application or proposal such that there is unlikely to be confidence in the authority's ability impartially to determine it, or where a person having a legal interest in the land the subject of an application or proposal (or someone acting on behalf of such a person) has made (and not subsequently withdrawn) representations amounting to an objection in respect of the application or proposal, and—
- (a) the application or proposal is made under section 19(4) of the 2006 Act, and seeks—
 - (i) to add land to, or to remove land from, a register; or
 - (ii) to correct an error as to the quantification of rights of common in a register; or
 - (b) the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.
- (4) Where the registration authority refers an application or proposal to an appointed person for determination—
- (a) the registration authority must inform the applicant that the application has been referred to an authorised person for determination;
 - (b) the registration authority must send to the appointed person all material in its possession which is relevant to the determination of the application or proposal;
 - (c) in the case of an application, the appointed person may direct the applicant to provide any further information or documents necessary to enable the application to be determined; and

- (d) the appointed person may direct the registration authority to provide any further information or documents necessary to enable the application or proposal to be determined.
- (5) The appointed person may specify a time for complying with any direction given under this regulation.
- (6) If the applicant fails to comply with any direction given under this regulation or, where applicable, fails to comply within the time specified, the appointed person may treat the application as abandoned.

Method of determining applications and proposals

16.—(1) The determining authority must, in determining any application or proposal, take into account—

- (a) the contents of the application or proposal, and any material accompanying it;
- (b) any material provided by the registration authority under regulation 15(4)(b);
- (c) in the case of an application, any further information or evidence provided by the applicant in accordance with a direction under regulation 9(2) or 15(4)(c);
- (d) in the case of a proposal, any further information or evidence provided by the registration authority in accordance with a direction under regulation 15(4)(d);
- (e) any written representations made by any person in accordance with regulation 14, or in accordance with an invitation under paragraph (4);
- (f) any oral representations made by any person in accordance with paragraph (7);
- (g) the findings made at a site inspection, if any; and
- (h) where a public inquiry or a hearing has been held by an inspector—
 - (i) the evidence presented at the inquiry or hearing (if the determination is being made by the inspector who heard the evidence); or
 - (ii) the report and recommendation of the inspector (if the determination is not being made by the inspector).

(2) The determining authority may decide that a public inquiry is to be held in relation to any application or proposal.

(3) Where an appointed person is the determining authority, it may decide that a hearing in accordance with regulation 21 is to be held in relation to any application or proposal.

(4) The determining authority may, if it thinks it necessary to enable an application or proposal to be determined, invite further written representations about any specified matter from—

- (a) the applicant, in the case of an application;
- (b) the registration authority, in the case of a proposal;
- (c) a person who has made representations in accordance with regulation 14; or
- (d) any other person,

and may specify the time within which any such further representations must be made.

(5) Representations made pursuant to an invitation under paragraph (4) must be signed by the person making them.

(6) Paragraph (7) applies in relation to any application or proposal which the determining authority decides to determine without holding a public inquiry or, where an appointed person is the determining authority, a hearing in accordance with regulation 21.

(7) The determining authority—

- (a) may not refuse an application without first offering the applicant an opportunity to make oral representations; and
- (b) may not grant or refuse an application or proposal without first offering any person (other than the applicant) for whom the grant or refusal (as the case may be) would represent a determination of that person's civil rights an opportunity to make oral representations.

Notice of a public inquiry or hearing

17.—(1) If a public inquiry or a hearing is to be held in relation to an application or proposal, the determining authority must ensure that a notice of the inquiry or hearing is—

- (a) published on an appropriate website;
- (b) served on—
 - (i) the referring authority, if an appointed person is the determining authority;
 - (ii) in the case of an application, the applicant;
 - (iii) any person who has made representations in accordance with regulation 14; and
 - (iv) any other person whom the determining authority invited under regulation 16(4)(d) to make written representations; and
- (c) as the determining authority considers necessary, publicised by such other means or served on such other persons as may be appropriate to bring the inquiry to the attention of persons likely to be affected by the application or proposal.

Public inquiries: general provisions

18.—(1) Where it has been decided that a public inquiry is to be held in relation to an application or proposal, the determining authority must appoint an inspector—

- (a) to hold the inquiry; and
- (b) if the inspector is not also to determine the application, to provide a report and recommendation to the determining authority.

(2) Subject to the following provisions of this regulation, and to regulation 20, the procedure at the inquiry is to be determined by the inspector, having regard to all the circumstances of the case.

(3) Where the inspector does not propose to hold a pre-inquiry meeting, the inspector may give such directions in preparation for the inquiry as might have been given at such a meeting, and giving directions under this paragraph does not preclude the subsequent holding of a pre-inquiry meeting, if the inspector considers it desirable, nor does it preclude the inspector giving further directions at such a meeting.

(4) Any person interested in the subject-matter of an inquiry may appear at the inquiry in person or by a representative.

- (5) The inspector may, at any stage of an inquiry, prevent any person from—
 - (a) giving evidence;
 - (b) cross-examining a person giving evidence; or
 - (c) presenting any matter,

if the inspector considers it not to be relevant or to be repetitive.

- (6) If a person is behaving in a disruptive manner the inspector may—
 - (a) require a person to leave an inquiry;
 - (b) prevent a person from participating in the inquiry by giving evidence, cross-examining a person giving evidence, or presenting any matter; or

- (c) permit a person to remain at, or participate in, the inquiry only on specified conditions.
- (7) The inspector may proceed with an inquiry in the absence of any person entitled to appear at it.
- (8) The inspector may take into account any written representations or evidence or any other document received by the inspector from any person before or during an inquiry, provided that the inspector discloses it at the inquiry.
- (9) The inspector may, if it is considered reasonable in the circumstances—
 - (a) adjourn an inquiry to another date;
 - (b) adjourn an inquiry to the site of any land affected by the application or proposal, and conduct part of the inquiry at that site in conjunction with a site inspection.

Pre-inquiry meeting

19.—(1) Where it has been decided to hold a public inquiry, the inspector may, if the inspector considers it desirable, hold a pre-inquiry meeting to determine the matters to be addressed and the procedure to be followed at the inquiry.

(2) If the inspector decides to hold a pre-inquiry meeting, not less than 14 calendar days notice in writing must be given to—

- (a) the applicant, in the case of an application;
- (b) the registration authority;
- (c) any person who has made written representations about the application or proposal; and
- (d) any other person whose presence at the pre-inquiry meeting the inspector considers desirable.

(3) Paragraphs (2) and (4) to (7) of regulation 18 (so far as relevant) apply to pre-inquiry meetings as they apply to inquiries.

(4) The inspector may, at a pre-inquiry meeting—

- (a) give directions about things to be done in preparation for the inquiry to—
 - (i) the applicant, in the case of an application;
 - (ii) the registration authority; and
 - (iii) any other person wishing to appear at the inquiry; and
- (b) specify a date or dates by which any such directions must be complied with.

(5) In particular, the inspector may direct any person wishing to give evidence to serve a written statement of that evidence on—

- (a) the inspector; and
- (b) such other persons as the inspector may specify.

Procedure at inquiries

20.—(1) At the start of an inquiry, the inspector must—

- (a) identify the main issues to be considered at the inquiry;
- (b) identify any matters on which further explanation from any person appearing at the inquiry is required; and
- (c) explain the procedure to be followed at the inquiry.

(2) Paragraph (1)(a) does not preclude other issues from being considered at the inquiry, or (subject to the inspector's powers under regulation 18(5)) raised by persons appearing at the inquiry.

(3) If a person giving evidence at the inquiry has provided a written statement of evidence in accordance with a direction under regulation 18(3) or 19(5), the inspector may direct that—

- (a) the written statement is to be treated as the person's evidence, or as part of the person's evidence; and
- (b) other parties at the inquiry may cross-examine the person on the written statement.

Hearings

21.—(1) Where the appointed person decides that a hearing is to be held in relation to an application or proposal for which it is the determining authority, it must appoint an inspector to hold the hearing.

(2) A hearing is to take the form of a discussion led by the inspector.

(3) Paragraphs (2) and (4) to (9) of regulation 18 apply to a hearing as they apply to a public inquiry.

(4) Subject to regulation 18(5) to (7)—

- (a) in the case of an application, the applicant is entitled to give, or to call another person to give, oral evidence; and
- (b) any other person may give oral evidence with the permission of the inspector.

(5) Cross-examination is not permitted unless the inspector decides that it is necessary to ensure a sufficient examination of the issues.

Site inspections

22.—(1) Where an inspector is appointed to hold a public inquiry, the inspector must (unless any permission necessary to do so is refused) inspect the land affected by the application or proposal before determining the application or proposal or producing a report to the determining authority.

(2) In any other case, before an application or proposal is determined, the determining authority may conduct an inspection of the land affected by the application or proposal.

(3) Before a site inspection is made under paragraph (1) or (2) in relation to an application, the inspector or determining authority must ask the applicant whether the applicant wishes to be present or represented.

(4) If the applicant expresses a wish to be present or be represented, the inspector or determining authority must give the applicant reasonable notice of the date and time of the inspection, and give the applicant or their representative the opportunity to be present.

(5) The inspection does not need to be postponed if the applicant or their representative is not present at the appointed time.

Changes of procedure

23.—(1) This regulation applies where notice has been given under regulation 17 that a public inquiry or, where the appointed person is the determining authority, a hearing is to be held in relation to the application or proposal.

(2) Where a registration authority is the determining authority and considers it reasonable in the circumstances it may, subject to paragraph (3), decide at any time before the start of a public inquiry to cancel the inquiry and determine the application without holding an inquiry.

(3) The registration authority must consult the applicant before deciding to cancel a public inquiry in relation to an application.

(4) Where an appointed person is the determining authority and considers it reasonable in the circumstances it may, subject to paragraph (5), decide at any time before the start of a public inquiry or hearing—

- (a) to cancel the inquiry or hearing and determine the application without holding an inquiry or hearing; or
- (b) to hold a hearing instead of an inquiry, or vice versa.

(5) The appointed person must consult—

- (a) the applicant, before deciding to change the procedure for determining an application; or
- (b) the referring authority, before deciding to change the procedure for determining a proposal.

Action to be taken following determination of application or proposal

24.—(1) Where an application is granted or a decision is made to give effect to a proposal, in whole or in part, the registration authority must give effect to the determination in the appropriate register by addition, deletion, correction or otherwise as may be appropriate.

(2) The registration authority must give written notice of the determination to—

- (a) the applicant, if the determination was made upon an application;
- (b) every person who made representations concerning the application or proposal; and
- (c) every person (other than persons mentioned in sub-paragraph (b)) who gave evidence at a public inquiry or hearing, where the name and contact details of the person are known.

(3) Such notice must include—

- (a) reasons for the decision; and
- (b) details of any changes made to the register to give effect to the decision.

(4) The registration authority must publish the decision in relation to any application or proposal, and the reasons for it, on its website.

Award of costs in relation to certain applications

25.—(1) This regulation applies in relation to an application under Schedule 2 to the 2006 Act where—

- (a) the application is referred to an appointed person; and
- (b) a public inquiry is held in relation to the application.

(2) The inspector conducting the public inquiry may make an order for costs against any of the persons specified in paragraph (3) who, in the opinion of the inspector, has acted unreasonably, requiring payment to such person mentioned in paragraph (4) as may be specified in the order in respect of costs reasonably incurred by the latter person pursuant to the unreasonable action of the former person.

(3) The persons who may be ordered to pay costs are—

- (a) the applicant;
- (b) any person taking part in the public inquiry; or
- (c) any registration authority taking part in the public inquiry.

(4) The persons in whose favour an order for costs may be made are—

- (a) the applicant;
- (b) any person taking part in the public inquiry; or
- (c) any registration authority taking part in the public inquiry.

PART 3

Supplemental

Electronic communications

26.—(1) Any requirement by or under these Regulations for a person to send a document to another person may be met by means of an electronic communication if—

- (a) it results in the information contained in that document being available to the other person in a form similar to the form in which it would appear in a document sent in printed form; and
- (b) except where the other person is the determining authority, the other person consents to the notice or document being sent by those means.

(2) A person who has provided an email address is to be treated as consenting to a document being sent by email.

(3) A written representation pursuant to regulation 14 or 16 or reply under regulation 14 may be sent by means of an electronic communication.

(4) Any requirement in these Regulations for a document to be signed does not apply in the case of a document sent by means of an electronic communication.

(5) Paragraphs (1) and (4) do not apply in relation to the appointment of persons to discharge functions of a registration authority and any subsequent revocation of such appointment (regulation 4) or the submission of an application form to a registration authority (regulation 5).

(6) For the purposes of this paragraph “document” includes a notice, document, information or evidence.

Service of documents

27. Any requirement in these Regulations to serve a document on another person is satisfied, if that person cannot be found, by—

- (a) leaving the document at that person’s last known address; or
- (b) sending the document by registered post to that address.

Inspection and copying of documents

28.—(1) Any request to inspect or make copies of any document referred to in section 20(1) (b) or (c) of the 2006 Act must be treated by the registration authority as a request for information under the relevant legislation.

(2) Where the relevant legislation does not require the information contained in the document to be communicated or made available, the registration authority may refuse to permit inspection, or copies to be taken, of that document.

(3) In this regulation and in regulation 29, “relevant legislation” means the Environmental Information Regulations 2004⁽⁵⁾ or the Freedom of Information Act 2000⁽⁶⁾.

Official copies

29.—(1) Any person may request a registration authority to provide an official copy of, or of any part of, any register or document referred to in section 21(1) of the 2006 Act.

⁽⁵⁾ S.I. 2004/3391.

⁽⁶⁾ 2000 c. 36.

(2) A registration authority may charge a fee for providing an official copy, not exceeding its costs in providing official copies.

(3) Subject to paragraph (4), upon receiving a request for an official copy, and payment of any fee, a registration authority must provide an extract from the register or a copy of the document, certified on behalf of the registration authority as a true extract or copy as at the date of issue.

(4) A registration authority may refuse a request to provide an official copy of, or of any part of, a document referred to in section 20(1)(b) or (c) of the 2006 Act where the relevant legislation does not require the information contained in the document to be communicated or made available.

Official stamp of registration authority

30.—(1) Every registration authority must have an official stamp for the purposes of the 2006 Act, an impression of which bears the following information—

COMMONS ACT 2006

[Name of registration authority]

COMMONS REGISTRATION AUTHORITY

[Date].

(2) A requirement for a registration authority to stamp any document is a requirement to cause an impression of the official stamp to be affixed to it, bearing the date mentioned in the requirement or (where no date is mentioned in the requirement) the date when the stamp is affixed.

Revocations and savings

31.—(1) The following provisions of the 1966 Regulations are revoked—

- (a) regulation 26 (new addresses);
- (b) regulation 33 (certified copies and extracts);
- (c) regulation 34 (fees for searches, etc.); and
- (d) regulation 36 (errors and omissions).

(2) Paragraph (3) applies where—

- (a) an application for the amendment of a register has been made to a registration authority before 5 May 2017, pursuant to regulation 26 of the 1966 Regulations; and
- (b) the registration authority has not determined the application before that date.

(3) The registration authority shall continue to deal with the application on and after 5 May 2017 as if regulation 26 of the 1966 Regulations had not been repealed.

(4) Paragraph (5) applies where—

- (a) an error or omission is discovered, before 5 May 2017, pursuant to regulation 36 of the 1966 Regulations; and
- (b) the registration authority has not corrected the register before that date.

(5) The registration authority shall continue to deal with any necessary correction on and after 5 May 2017 as if regulation 36 of the 1966 Regulations had not been repealed.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9 April 2017

Lesley Griffiths
Cabinet Secretary for Environment and Rural
Affairs, one of the Welsh Ministers

SCHEDULE 1

Regulation 5(2)

Making an application

Applications under section 19(4)(b): amendment of a register of common land or town or village greens

- 1.—(1) An application made under section 19(4)(b) of the 2006 Act must include—
- (a) a statement of the purpose (being one of those described in section 19(2) of the 2006 Act) for which the application is made;
 - (b) the number of the register unit and, in so far as is relevant to the mistake or other matter in the register in respect of which the application seeks correction, the number of the rights section entry, in the register to which the application relates;
 - (c) evidence of the mistake or other matter in the register in respect of which the application seeks correction; and
 - (d) a description of the amendment sought in the register.

Applications under Schedule 2: non-registration or mistaken registration

2.—(1) An application made under Schedule 2 to the 2006 Act, for the purpose of remedying non-registration or mistaken registration under the 1965 Act, must be made on or before 4 May 2032.

(2) An application made under Schedule 2 to the 2006 Act must include a description of the land to which the application relates.

(3) In an application made under paragraph 2 or 3 of Schedule 2 to the 2006 Act, the land to which the application relates may not include land that is covered by a building or which is within the curtilage of a building if all of the necessary building consents have been obtained (and evidence of such consent is provided) and the owner of that land does not consent to its registration.

- (4) An application made under paragraph 2 of Schedule 2 to the 2006 Act must include—
- (a) evidence of the application of that paragraph, as described in paragraph 2(2) of that Schedule, to the land to which the application relates;
 - (b) a copy of any enactment or scheme referred to in paragraph 2(2)(b) of that Schedule, by which the land to which the application relates is regulated, recognised or designated, or to which it is subject;
 - (c) evidence, if applicable, that any consent referred to under sub-paragraph (3) has been given.

- (5) An application made under paragraph 3 of Schedule 2 to the 2006 Act must include—
- (a) evidence of the application of that paragraph, as described in paragraph 3(2) of that Schedule, to the land to which the application relates;
 - (b) a copy of any enactment by or under which the land was (and continues to be) allotted, including any award; and
 - (c) evidence, if applicable, that any consent referred to under sub-paragraph (3) has been given.

(6) An application made under paragraph 4, 5, 6, 7, 8 or 9 of Schedule 2 to the 2006 Act must include evidence of the application of the appropriate paragraph, as described in paragraph 4(2), 5(2), 6(2), 7(2), 8(2) or 9(2) of that Schedule, to the land to which the application relates.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 2

Regulation 6(4)

Application of a type and purpose for which no fee may be specified

<i>Provision of the 2006 Act under which, or for the purposes of which, the application is made</i>	<i>Purpose of application</i>
section 19	correction, for the purpose of section 19(2)(a) (of a mistake made by the registration authority)
section 19	correction, for a purpose described in section 19(2)(c)
Schedule 2, paragraph 2 or 3	non-registration of common land or town or village green
Schedule 2, paragraph 4	waste land of a manor not registered as common land
Schedule 2, paragraph 5	town or village green wrongly registered as common land

SCHEDULE 3

Regulation 10(1)(c)

Persons on whom registration authority must serve notice of an application

1. In all cases—

- (a) any person who has made a declaration, duly recorded in the register, of entitlement to a right of common over any land comprising the whole or part of the register unit to which the application relates;
- (b) any commons council established for land which includes the land to which the application relates; and
- (c) unless the registration authority decides otherwise pursuant to regulation 10(2), any person who is registered as the owner of a right of common in gross which is exercisable over all or part of the land to which the application relates.

2. Additionally, in the case of an application of a type specified in the first column of the following table, all the persons (other than where that person is the applicant) specified in the corresponding entry in the second column.

Additional persons on whom the registration authority must serve notice of the application

<i>Type of application</i>	<i>Persons on whom notice of application must be served</i>
Application under section 19 of the 2006 Act, to correct a register	<ol style="list-style-type: none"> 1. The owner of any land affected by the application. 2. In relation to an application for the purpose of updating any name or address referred to in an entry, any person to whom that entry refers.

<i>Type of application</i>	<i>Persons on whom notice of application must be served</i>
Application under Schedule 2 to the 2006 Act, to register land not registered, or to deregister land mistakenly registered, under the 1965 Act	<ol style="list-style-type: none">1. The owner of the land to which the application relates.2. Any occupier or lessee of that land.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in relation to Wales, prescribe the procedure for applications and proposals under sections 19 of, and Schedule 2 to, the Commons Act 2006.

They include provisions about:

- (a) the making, management and determination of applications and proposals to amend the registers (regulations 5, 7, 8, 9, 14, 15 and 16);
- (b) fees that may be charged in relation to an application (regulation 6);
- (c) the registration authority's duties in connection with the publication of applications and proposals (regulations 10, 11, 12 and 13);
- (d) the holding of public inquiries and hearings and the cases where applications and proposals must be referred to an appointed person for determination (these include cases where the registration authority has an interest in the outcome of the application or proposal) (regulations 17, 18, 19, 20, 21, 22 and 23); and
- (e) the award of costs in relation to certain applications (regulation 25).

They enable the Welsh Ministers to appoint persons as eligible to administer and determine applications made to, or proposals made by, a commons registration authority for the amendment of its registers (regulation 4).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.uk.

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Llywodraeth Cymru
Welsh Government

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Commons Registration Authorities

May 2017

Guidance

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Commons Registration Authorities

This guidance has been prepared by the Welsh Government and applies to Wales only.

The guidance is produced to accompany the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations). It is intended to assist Commons Registration Authorities (CRAs) in considering and determining applications and proposals under sections 19, 22 and Schedule 2 to the Commons Act 2006 (the 2006 Act) to amend commons registers. It is not a substitute for legislation and can only reflect the Welsh Government's understanding of the law at the time of issue. In case of doubt, please refer to the Commons Act 2006 and the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

The interpretation of the 2017 Regulations and the 2006 Act is ultimately a matter for the courts. Where matters of statutory interpretation arise CRAs are advised to seek their own independent legal advice as necessary.

Background

The Commons Registration Act 1965 (the 1965 Act) established definitive registers of common land and town and village greens in England and Wales in order to record details of rights of common. Commons Registration Authorities (Local Authorities) were appointed to draw up commons registers (the registers).

The task of establishing registers was complex and the 1965 Act proved to have deficiencies. For example, some land was mistakenly registered as common land. Other land was overlooked and never registered. The Court of Appeal held that even where land had been wrongly registered as common land, the 1965 Act provided no mechanism to enable such land to be removed from the register once the registration had become final¹.

This guidance sets out how anomalies and mistakes relating to existing entries in the registers may now be amended. CRAs will be able to receive applications under section 19 of the 2006 Act, which provides for correction of the registers in prescribed circumstances, and under Schedule 2 to the 2006 Act, which allows land which fulfils relevant criteria to be added to the register if it is not registered, or removed from the register if it was wrongly registered.

¹ Corpus Christi College v Gloucestershire CC [1983] 1 Q.B. 360

For a detailed definition of the provisions (sections 19, 22 and Schedule 2 of the 2006 Act) please see the 'Guidance for Applicants'

Applications and Proposals

Anyone may make an application to amend the registers under section 19, 22 and Schedule 2.

A proposal is the term used for an application the CRA makes to itself under section 19 or 22 of, or Schedule 2 to, the 2006 Act.

A CRA can make proposals in the public interest where the CRA has no direct interest in the land or rights affected, however a CRA should not bring forward a proposal on behalf of a person (s) who could have otherwise made an application for that purpose. In particular a CRA should not bring forward a proposal in order that a person need not pay a fee for an application, or because there is a mistaken entry in the register for which the registration authority was not itself responsible.

The CRA may apply to itself where it has a direct interest in the matter, it does this by way of a proposal. For example where land is owned by the CRA; the CRA is entitled to a right of common by virtue of ownership of a dominant tenement to which the right is attached; or the CRA owns a right of common in gross.

CRAs should consider bringing forward proposals for amendment of the register where:

- there is a public interest in the amendment being made (e.g. the amendment would secure the registration of additional land as common land, to which public access would be secured); or
- the CRA (or any predecessor of the CRA) was responsible for a mistaken entry in the register, and no person has a personal interest in correcting the mistaken entry, or any person with such an interest cannot be identified (e.g. because the ownership of the land is unclaimed).

In determining responsibility for a mistaken entry in a register, the CRA should not assume responsibility for the identification of mistakes in anything done by another party to a registration, unless the CRA was under a duty at that time to identify and correct such mistakes.

When a CRA decides to make a proposal it must prepare a statement describing the proposal and explaining the justification for it (regulation 7 of the 2017 Regulations). A proposal is subject to the same requirements as an application in terms of the standard of evidence provided.

In specified cases, a CRA must refer both an application and a proposal to the Planning Inspectorate (PINS) for determination (regulation 15(2) and (3) of the 2017 Regulations), namely where:

- the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or
- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:

- add or remove land from the register; or
- correct an error in the number of rights of common in the register;

or

the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

Regulation 16(2) provides that the CRA may decide that a public inquiry is to be held in relation to any application or proposal.

Where a CRA makes a proposal, it is to be assumed that the CRA has ‘an interest in the outcome’ of the application (and probably an expectation that it will be granted). The CRA must decide whether that interest is “such that there is unlikely to be confidence in the authority’s ability impartially to determine” the proposal (regulation 15(3) of the 2017 Regulations). Where this is the case, and the proposal is for one of the purposes mentioned above, the CRA must refer the proposal to PINS who may hold either a Hearing (regulation 16(3) of the 2017 Regulations) or a Public Inquiry regulation 16(2) of the 2017 Regulations).

Applying to make changes to the commons registers

The registers of common land and of town and village greens record information about where common land is located and the rights of common present over that land. The Commons Act 2006 (the 2006 Act) is the legislation that provides the power for applicants to apply to change the registers. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations) set out the legal requirements that must be complied with when making and processing applications and proposals.

The following guidance sets out the process CRAs need to follow in order to determine applications and proposals to make changes to the commons registers. A series of frequently asked questions (FAQs) is included at page 19 of this document to assist you in the determination process.

Pre application

If advice is sought by applicants on making applications under sections 19 or 22 of, or Schedule 2 to, the 2006 Act, CRAs may find it helpful to refer applicants to the Welsh Government guidance document – Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 – Guidance for Applicants.

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en>

Applicants may also ask to view the existing registers. Where an applicant asks the CRA to provide them with official copies of documents you may make a charge for such a service. It will be a matter for individual local authorities to set their own reasonable fees for providing such a service based on actual costs.

Application Forms

Applications may be submitted by anyone, including individuals, an organisation or a business. When someone is applying on behalf of an organisation or a business they will need to make this clear on the application form. An application may only be accepted if it is submitted, in writing, on the correct form. A fee may also be required, along with evidence and any maps requested by the form (at the correct scale).

The application must be signed by every applicant or the applicant's representative. The application forms by type of provision are as follows:

Type of Application	Form
Section 19 – Correction of the Register	CA10 WG – E (English) CA10 WG – W (Welsh)
Schedule 2, paragraphs 2 to 9 – registration of common land and removal of common land from the registers of common land and town or village greens	CA13 WG – E (English) CA13 WG – W (Welsh)

Forms may be downloaded from individual CRA (Local Authority) websites or via the Welsh Government website at:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en>

Setting Fees

It will be a matter for individual local authorities to set their own reasonable fees based on actual costs. You need to ensure that such charges are reasonable for the work performed or to be performed.

The cost of making an application

Applicants may, depending on the application they are making, be required to pay an application fee. CRAs must publish details of their fees on their website. In the event that the CRA wishes to revise its application fees it will need to publish these revised figures on its website for at least 14 days before the new fees take effect (regulation 6).

Applications made under section 19(2)(a) (correcting a mistake made by the registration authority) and 19(2)(c) (removal of a duplicate entry from the register) do not attract a fee as these are viewed as mistakes having been made historically by the CRA. Similarly, applications under Schedule 2 paragraphs 2 – 5 (inclusive) are also free as their determination is seen as being in the public interest as a whole. The Welsh Government has given a commitment to reimburse the costs incurred by the CRA in respect of public interest provisions.

In more complicated cases, it will generally be the case that the application is forwarded to PINS for further consideration. However, it may be the case that the CRA determines the application and if the facts merit it, the CRA may decide that a public inquiry is necessary. The CRA may seek further written representations if it thinks it is necessary to enable an application to be determined. The CRA may seek reimbursement from applicants for the additional costs, for example, the holding of a public inquiry. CRAs must publish additional fees on their website, for example in addition to the initial applications fees the hourly / daily rates of officer time should be clearly set out so that those applying are aware of the likely cost to them of determining the application.

If the applicant fails to pay the relevant fee there is no requirement for the CRA to process the application.

Evidence required

On receipt of an application CRAs will need to ensure that all of the required evidence has been included, including a copy of every document that is asked for on the application form. Applicants are advised not to forward original documents, but rather are expected to send copies that are certified, for example by a solicitor or other professional person, to say that they have been checked against the original and are a true copy. However, the CRA may require an applicant to provide original documents, for example if there are doubts about the validity of a particular document.

Applicants are not required to forward copies of documents that were issued by the CRA or are held by the CRA.

Maps

Applicants will, in most cases, need to include an up to date Ordnance Survey map with their application. CRAs will need to ensure that the maps provided have the relevant area of the land hatched in a distinctive colour (for example red) and are of a scale of:

- 1:2,500 (if this scale is available); or
- 1:10,000.

You may accept a larger scale map showing the land in more detail if it is considered to be appropriate. The map should accurately show the area of land comprised in the application, so that there is no doubt about the purpose of the application, and its effect if granted.

Checking the application

On receipt of an application the CRA should check to see whether the applicant has supplied all of the requisite information and documents and has signed the application.

As a guide applications will need to include the following:

1. A completed application form – CA10 WG (for applications under section 19) or CA13 WG (for applications under Schedule 2);
2. A description of the land to be registered/deregistered as appropriate (Question 6 on form CA13 WG);
3. The application fee (see below);
4. An Ordnance Survey map of the land to the correct scale (1:2,500 if available or 1:10,000 if not) with the relevant area hatched in a distinctive colour (for example red);
5. For applications under sections 19(2)(a) – (e) of the 2006 Act, a statement setting out the purpose of the application, the mistake in the register the applicant is seeking to correct and details of the amendment required (Question 5 form CA10 WG);
6. For applications under section 19(2) (a) and (c) evidence the mistake was made by the CRA;
7. For applications under section 19(4)(b) (amendment of a register of common land or town or village green), a statement of the purpose for which the application is made, the number of the register unit (and, if relevant, the number of the rights section entry), evidence of the mistake or other matter and a description of the amendment required;
8. For applications under Schedule 2:
 - **Schedule 2 (2) – (3)** - evidence that the land in question is land which falls within the scope of the legislation listed in paragraphs

2(2) and 3(2) of Schedule 2 to the 2006 Act and evidence of consent from the owner if the application includes land that is covered by a building or is within the curtilage of a building (if all necessary building consents have been obtained).

- **Schedule 2 (4)** – evidence of the provisional registration of the land, evidence that the land is still waste in character, evidence that the land is or was formerly of a manor, and evidence that the provisional registration was cancelled or withdrawn (including where relevant the Commons Commissioner’s determination).
- **Schedule 2 (5)** – evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner’s decision) and the status of the land as a town or village green immediately before it was provisionally registered as common land (this can be formal evidence, such as an inclosure award or order or exchange, or it could be 20 years’ use as of right, or was in customary use as a village green).
- **Schedule 2 (6) and (8)** - evidence of the provisional registration of the land as common land or as a town or village green; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner’s decision) and evidence that the land has been at all times and still is covered by a building or is within the curtilage of a building.
- **Schedule 2 (7)** - evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner’s for a determination) and that before its provisional registration the land was not subject to rights of common, waste land of the manor, was not a town or village green, or land of a description specified in section 11 of the Inclosure Act 1845.
- **Schedule 2 (9)** - evidence of the provisional registration of the land as a town or village green; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner’s for determination) and that the status of the land immediately before its provisional registration was not common land or a town or village green.

Additional guidance on applications made under Section 19(2)(a): mistakes made by the registration authority

A CRA should not consider itself responsible for any error in the register, solely because it failed to identify and resolve a mistake by another party to a registration, unless the registration authority had a duty at that time to identify and correct such mistakes. Generally, a registration authority was required under the 1965 Act to give effect to any duly made application for registration made to it at the proper time, regardless of its merits.

A mistake may arise, for example, where an error was made by the CRA in transposing onto the register map a plan supplied by an applicant or where in amending an entry in the register the CRA erroneously added a zero to (or deleted a zero from) the number of rights registered. An error made in a map supplied by an applicant which was faithfully reproduced in the register could not be corrected under this provision, because the CRA did not make the mistake (it may be possible to correct it under Schedule 2).

CRAs need to be aware of this distinction as it is likely that some applicants will inappropriately attempt to apply under Section 19(2)(a) either because they assume that all entries in the registers equate to mistakes made by the CRA or because they wish to avoid paying a fee. Applicants will be expected to provide supporting evidence where they believe the mistake was made by the CRA.

Ownership

Once a CRA has received an application that it believes to be complete it is under an obligation to publicise the application (regulation 10). One of the obligations under regulation 10 requires the CRA to serve a notice of the application on the owner of any land affected by the application, or to which the application relates. This obligation applies in connection with any application under section 19 of, or Schedule 2 to, the 2006 Act. In relation to application under Schedule 2, the CRA must also serve a notice of the application on any occupier or lessee of the land. If it is not reasonably practicable to identify such a person then this removes the CRA's obligation to serve a notice on an owner of land.

Furthermore, the 2017 Regulations set out that an application under paragraph 2 of Schedule 2 to the 2006 Act may not include land which is covered by a building, or within the curtilage of a building, if all the necessary building consents have been obtained (and evidence is provided), unless the owner of the land consents to the land being registered as common land.

Acknowledgement

If the application has been duly made (the requisite information and documents are included, the application has been signed and the fee, where relevant, has been enclosed) the CRA is required to send an acknowledgement to the applicant confirming receipt of the application. The acknowledgement letter needs to include:

- the unique reference number assigned to the application;
- a postal and email address through which applicants may contact you;
- a copy of the public notice that you intend to publish on your website and in certain circumstances, post at a location at or near the site;
- details of any further documents or information that you require the applicant to supply and a deadline for complying with this request; and

- details of the process you intend to follow in determining the application, including your obligations to forward applications to PINS for determination in certain circumstances. This will need to include information about the referral process and the fact that any such referral will attract further application fees.

Power to specify directions

CRAs have the power to direct applicants to supply further information or documents that are required in order for the case to be determined. In the event that an applicant fails to comply with such a direction, or fails to do so within the set deadline, the application may be abandoned (regulation 9).

There is no legal requirement to notify the applicant that the CRA considers the application abandoned, however as a matter of best practice CRAs may consider forwarding a letter to applicants notifying them that this is the case (Regulation 9(4)).

Advertising the application or proposal

Once the application is complete and has been acknowledged, the CRA has a duty to publicise the application. CRAs also have a duty to publicise proposals. The following list sets out how CRAs can comply with the requirement:

- publish a notice of the application or proposal on the CRA (LA) website;
- email a notice of the application or proposal to anyone who has asked to be informed of such applications or proposals (and who has provided an email address);
- serve a notice of the application or proposal on various people. This will depend on the specific application or proposal but may include:
 - owners of any land affected by the application or proposal (if reasonably identifiable);
 - anyone who has registered a declaration to use a registered right of common over any land which comprises the whole or part of the register unit connected to the application or proposal (when implemented);
 - any owners of rights of common in gross (rights which are not attached to land, but are held personally and can be bought or sold as assets) unless there are so many it would be impractical;
 - any Commons Council (when in place) responsible for the land which forms part of the application or proposal;
 - any occupier or lessee of the land in question; and
 - other Local Authorities with an interest

As set out above, the CRA is required to serve a notice of the application or proposal on the owner of any land affected by the application or proposal, or

to which the application or proposal relates. This obligation applies in connection with any application or proposal under section 19 of, or Schedule 2 to, the 2006 Act. In relation to application or proposal under Schedule 2, the CRA must also serve notice of the application or proposal on any occupier or lessee of the land. If it is not reasonably practicable to identify such a person then this removes the CRA's obligation to serve a notice on an owner of land.

CRAs would also be expected to inform NRW if the site is protected under habitat legislation and/or is designated as a SSSI, SAC or SPA. If this is the case, you will be required to comply with the relevant habitats legislation in addition to your duties under the 2006 Act and 2017 Regulations.

In addition, it is a matter of good practice for CRAs to send a copy of the notice of the application or proposal by post to anyone who has asked to be informed of such applications or proposals but who has not provided an email address.

As set out above, the CRA is not expected to serve notice on a landowner where it is not reasonably practicable to identify that person, in other words if the Land Registry search draws a blank and there is no other source of information locally.

Nor is the CRA expected to serve notice on the registered owners of rights of common in gross if they are so numerous it would not be reasonably practicable to serve notice on them all.

Adding or removing land from the register – and duty to publicise application or proposal

In the case where an application or proposal that would either add land to, or remove land from, the register, the CRA must post a site notice for not less than 42 days at, or near, a minimum of one obvious place of entry to the land. If there are no such places then the notice can be posted at a conspicuous place on the boundary of the land. In Welsh Government's view, one notice would suffice for contiguous areas of land. In order to keep costs down, multiple notices should be the exception, not the rule. Where the site notice is removed, obscured or defaced prior to the expiry of the 42 day period through no fault of the CRA it will be treated as having complied with the site notice requirement.

The CRA is responsible for drafting the notice. It is important that the notice complies with regulation 12 of the 2017 Regulations, is sufficiently descriptive, and explains fully the details associated with the application including, for example, giving sufficient explanation of the effect of the application or proposal.

Regulation 12 prescribes the details which must be included in a notice of an application or proposal. Failure to draft the notice correctly could leave a CRA's determination open to legal challenge. The notice must contain the following details:

- a reference to ‘the Commons Act 2006’ and the provision of the 2006 Act under which or pursuant to which the application or proposal is made;
- the name of the applicant and of the CRA;
- the name and location of the land affected by the application or proposal;
- a summary of the effect of the application or proposal;
- both a postal address and an email address for the CRA to which any representations concerning the application or proposal may be sent;
- an explanation that such representations will not be treated as confidential;
- the date on which the period for making representations expires, which must not be less than 42 days after the date of the service, publishing or posting of the notice; and
- the address of the CRA at which the application or proposal and any documents accompanying it are available for inspection.

Inspecting applications or proposals made

Copies of applications or proposals and any accompanying documents must be made available for inspection at the address specified in the notice. These documents need to be available for inspection during normal office hours and within the deadline (at least the 42 working days) for representations to be made.

Representations/Objections

Anyone can make a representation/objection regarding an application or proposal within the deadline (at least the 42 statutory days) specified in the notice of application. Those making representations/objections must state their name and address, the nature of their interest (i.e. do they have a legal interest in the land?), the grounds on which it has been made and be signed by the person making the representation/objection. Written representations are permitted to be made by way of email (regulation 26) – if this is the case no signature is required. The CRA may disregard objections where no name and address is supplied.

Any representation received after the deadline for representations has elapsed may be excluded from the process, although there may be (exceptional) circumstances where the CRA considers it reasonable to accept representations after this date – this would need to be considered on a case by case basis.

Once the deadline for representations has passed the CRA is required to write to the applicant to inform them that either:

- no representations have been received; or
- the authority has received representations.

Where representations have been received copies will need to be forwarded to the applicant. Applicants have the opportunity to respond to these representations – the 2017 Regulations set out that they must be given a minimum period of 21 days to write to the CRA with a response. Any such response must be in writing and signed by the person responding, although if this is done by email, no signature is required. A longer timeframe for comment may be given, for example, in the event that substantial correspondence on the application is received. There is also a duty on CRAs to provide the applicant's response to those who have made representations (regulation 14).

Depending on the type of application and the representations received it may be necessary for the application to be referred to PINS (see below).

Applications (or proposals) to which there is no objection

Even if no objections are received, CRAs must nevertheless consider the application or proposal on its merits. An application or proposal should only be granted if it is made in accordance with the criteria in the legislation, and the absence of opposition to its being granted must not be taken as suggestive that those criteria are met and need not be considered.

It is particularly important that an application or proposal is fully examined where, if granted, it would have some effect on the public interest, such as land being deregistered. For example, an application to deregister land under Schedule 2 paragraph 6 of the 2006 Act may not attract representations from third parties, but the CRA should nevertheless satisfy itself that the application contains sufficient evidence to merit granting the application. The applicant would be expected to provide convincing evidence that all of the land referred to in the application was and remained covered by a building, or the curtilage of a building, during the relevant period of time. If such evidence is unavailable then the application must not be granted.

Please note CRAs should be particularly cautious in accepting the applicant's assertion as to the facts, without supporting evidence, particularly in the absence of any third party who may wish to comment on or test such assertion.

Electronic communication

The use of email can speed up the application process, and is generally less costly and burdensome for all parties. Regulation 26 permits the use of email where it would result in the recipient receiving the information in substantially the same form as if it had been sent in printed form, provided that the recipient has consented to receive communications in this way. However, any person may communicate with the CRA by email, without the authority's prior consent. CRAs are therefore advised to establish and advertise email accounts which may be used in relation to sections 19 and 22 of, and Schedule 2 to, the 2006 Act.

An email need not be signed, but in case of any doubt, CRAs should take steps to establish the authenticity of any correspondent. Applications **must** be in hard copy and signed by the applicant; there is currently no mechanism that will allow for such applications to be submitted electronically.

Hearings and public inquiries

It is believed that many of the applications will be routine and will not attract significant interest. In routine cases, where there is no opposition, and the CRA intends to grant the application there will be no need to hold an inquiry. In cases where the CRA is minded to refuse an application you must afford the applicant the opportunity to be heard before you reach a final decision (regulation 16(7)). An opportunity to be heard means that the applicant is given the option of making oral representations so as to present their case to the decision maker, to explain orally the key aspects of the application, and to address any points of contention (but not necessarily to question any other person). This could be face to face or via a telephone call – in deciding this the CRA will need to have regard to the circumstances of the individual case.

When reaching a decision as to whether to grant or refuse an application or proposal, the CRA is required to consider the civil rights of any third party that may be affected by the application. The registration authority has to afford a similar opportunity to be heard to that person (regulation 16(7)).

Public inquiries are governed by regulations 17 to 20, 22 and 23 of the 2017 Regulations. An independent inspector (such as a barrister) can conduct public inquiries on behalf of your CRA. In cases where the application is referred to PINS they will be responsible for appointing an inspector to hear the case. Both you as the CRA and PINS (where cases are referred) will need to publish a notice of inquiries and hearings on respective websites and serve a notice of the inquiry or hearing on various parties (regulation 17). Whilst the 2017 Regulations do not prescribe a specific timeframe for publishing a notice of inquiries or hearings the Welsh Government expects both CRAs and PINS to allow an appropriate amount of time between the notice being published and the hearing or inquiry commencing. This will depend on the facts of the specific case. The appointed inspector may hold a pre-inquiry meeting – this will determine the matters to be addressed at the inquiry and the procedure which will be followed. If a pre-inquiry meeting is not considered necessary, the inspector can give written directions. An inspector, but not the CRA, can hold hearings under regulation 21. A hearing takes the form of a discussion led by the inspector.

Regulation 18 addresses general provisions in connection with a public inquiry. This sets out that, if the inspector considers evidence not to be relevant, or to be repetitious, the inspector has powers to prevent someone from giving evidence, cross-examining or presenting, as may be the case.

Site Visits

The CRA and PINS each have the power to conduct a site visit to help them understand an application or proposal (regulation 22(2)). In the event that a public inquiry is to be held the inspector overseeing the inquiry must organise a site visit before determining the application, unless the landowner refuses entry.

In advance of undertaking a site visit in relation to an application, the applicant must be asked whether they would like to be present or be represented (regulation 22(3)). If an applicant indicates a wish to attend the site visit but subsequently isn't present when it takes place, the inspection can still go ahead.

The 2006 Act does not provide powers of entry to land, and we would not expect a CRA to enter land without the permission of the landowner. In many cases, particularly where an application is made by the landowner, such permission will be willingly given. If permission is refused, it may be possible to inspect the land from public highways (including public rights of way) which pass across or near to the land.

CRAs should be cautious of exercising any right of access to land under Part I of the Countryside and Rights of Way Act 2000, under Section 193 of the Law of Property Act 1925, under any other legislation which confers a public right of access to common land, or any common law right to use of a town or village green. Such rights are invariably conferred for the purposes of recreation (or for similar purposes), and in Welsh Government's view, a landowner would be entitled to require an officer of the CRA to leave such land if that officer were present for the purposes of a site survey. Accordingly, where a CRA wishes to inspect such land, it should seek permission from the landowner notwithstanding any public right of access, and should respect any refusal.

Where land is unclaimed, no permission to enter can be obtained because no-one is known to have the authority to give such permission. In such a case, Welsh Government is of the view that a CRA may reasonably enter the land to inspect it. For the purposes of deciding whether land is unclaimed, the CRA is advised to adopt the criteria in section 45 of the 2006 Act (powers of local authorities over unclaimed land), that is that no person is registered as proprietor in the register of title maintained by the Land Registry and the CRA cannot otherwise identify the owner. The CRA should not assume that land is unclaimed merely because no person is recorded as owner of the land in the ownership section of the commons register.

Official Stamp

CRAs need to keep a stamp with an impression containing the information prescribed in regulation 30(1) of the 2017 Regulations. Following the determination of an application or proposal, the CRA is required to stamp every sheet that forms part of the determination (regulation 3(3)).

Determination by the Commons Registration Authority

The CRA must take all of the evidence and advice received into account, and be satisfied that all parties have been given sufficient opportunity to make their views known. The CRA must, in determining an application or proposal, take into account the matters set out in regulation 16(1) of the 2017 Regulations.

In addition, a CRA must be aware of and act in accordance with the following:

- its duty to take steps to maintain and enhance biodiversity under section 7 of the Environment (Wales) Act 2016;
- its duty (in relation to any land designated as a site of special scientific interest), to take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest (section 28G of the Wildlife and Countryside Act 1981);
- its duty to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions;
- its duty (in relation to National Parks) to have regard to the purposes for which the National Parks are designated, and if it appears that there is a conflict between those purposes, it shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park (section 11A of the National Parks and Access to the Countryside Act 1949); and
- its duty (in relation to an Area of Outstanding Natural Beauty) to have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty (section 85 of the Countryside and Rights of Way Act 2000).

If an application or proposal is made where it may have a significant practical effect on any land designated as a SSSI, the CRA should consider consulting Natural Resources Wales.

Once a CRA has granted an application or taken a decision to give effect to a proposal, it must amend the register.

Once the application or proposal has been determined, the CRA must inform (in writing) the applicant. Written notice of the determination must also be given to everyone who made representations concerning the application or proposal, and everyone who gave evidence at a public inquiry or hearing (where the contact details are known). The notice needs to include reasons for the decision and details of any changes that will be made to the register so as to give effect to the decision. The CRA must also publish a copy of the decision and reasons for it on its website (regulation 24).

Following the determination of an application or proposal the CRA must stamp every sheet forming part of the determination, through the application of the official CRA stamp as described in regulation 30(1) of the 2017 Regulations.

Check lists for CRAs to use in determining applications and proposals are attached at Annex 1. These are intended as helpful reference documents, and are not intended to be an exhaustive list of your legal obligations. CRAs should ensure that they comply with the requirements contained within the 2006 Act and the 2017 Regulations.

Referral to the Planning Inspectorate

The Planning Inspectorate's role

An application or proposal must be determined by the CRA with responsibility for the register in which the land to which the application or proposal relates is recorded. However, in certain cases the CRA must refer the case to an 'appointed person'.

The 2017 Regulations refer to an appointed person. Currently the Planning inspectorate (PINS) is appointed by Welsh Ministers as the appointed person to undertake the administrative work associated with the making of decisions in connection with an application made under section 19, 22 and Schedule 2 of the 2006 Act (regulation 4 of the 2017 Regulations).

PINS generally has the same powers as a CRA in determining an application or proposal, for example, PINS can direct the applicant to supply further information or evidence in order to enable the application or proposal to be determined, and the deadline for doing so, and can treat the application as abandoned if the applicant does not comply with a direction (regulation 15(4)(c), (5) and (6) of the 2017 Regulations).

Deciding whether to refer

The following applications should be referred to PINS:

- where the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or
- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:

- add or remove land from the register; or
- correct an error in the number of rights of common in the register;

or

the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

Regulation 16(2) provides that the CRA may decide that a public inquiry is to be held in relation to any application or proposal.

The registration authority's role prior to referral

The CRA must first process the application or proposal in the specified manner (including publishing a notice of the application), and invite representations/objections to be sent to the CRA within the specified period of time (as set out above).

After the deadline for representations/objections, and after seeking the applicant's views on the representations/objections, if the above-mentioned criteria are met, the CRA should then refer the case to PINS, enclosing any documents which are relevant to the case. This includes the application or proposal, supporting documents, other relevant documents possessed by the registration authority, including extracts from the relevant registers, and any representations/objections received (regulation 15(4) of the 2017 Regulations). Where the CRA makes a representation/objection, it should include it with the other documents. At the same time, you must inform the applicant that the application has been referred to PINS for determination (regulation 15(4)(a)).

It is likely that PINS will ask the CRA to complete a 'referral letter', which confirms certain details, including the reason for referral. If PINS thinks that the criteria for referral do not apply, it will return the application or proposal to the CRA for determination. The CRA will be expected to provide a clear reason as to its interest in the matter and why there is unlikely to be any confidence in its ability to impartially determine the application.

The address for referred applications is:

The Planning Inspectorate / Yr Arolygiaeth Gynllunio
Crown Building / Adeilad y Goron
Cathays Park / Parc Cathays
Cardiff / Caerdydd
CF10 3NQ

The registration authority's role after referral

Once a case has been referred to PINS the role of the CRA will be of a practical nature, for example involvement in the setting up of a site visit or the provision of a venue for any hearing or public inquiry.

The registration authority's role after determination

When PINS has determined the referred case, it will notify the CRA of its decision. The CRA must give written notification of the decision to the applicant, anyone who made representations concerning the application or proposal and those who gave evidence as part of an inquiry (where the name and contact details of such a person are known). The notice must include the reasons for the decision and details of any changes made to the register to give effect to the decision. In addition the CRA is required to publish the decision and the reasons for it on its website. (regulation 24 of the 2017 Regulations)

Where an application is granted or a decision is made to give effect to a proposal (in whole or in part), the CRA must give effect to the determination in the register as appropriate – by addition, deletion, correction or otherwise. An amendment of the register has to be made in the appropriate section of the register unit relating to the land. CRAs must follow the format of the current register as closely as possible, noting that the Regulations allow for such variations and adaptations as the circumstances of the application or proposal require. We would expect this to be done as soon as practicable after the decision has been taken.

Whilst any amendment to the register will be dependent on both the specific circumstances of the case, and the form of the register to be amended, example Model Forms are included at Annex 2. It is for the CRA to decide which may be appropriate, and the types of applications that may relate to a specific form are noted on each form for guidance only.

Frequently asked questions

Q. What or who is an appointed person?

A. The 2017 Regulations refer to an appointed person. Currently the Planning Inspectorate (PINS) is appointed by Welsh Ministers as the appointed person to make decisions in connection with an application made under section 19 or 22 of, and Schedule 2 to, the 2006 Act.

Q. Who can make an application?

A. Anyone. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 state that anyone may apply: however in reality it is believed that only those with a legal interest in registered land will be likely to seek to apply.

Q. How does a CRA access information on cases previously considered by the Commons Commissioners

A. Information about Commons Commissioners and decisions made are published on the Association of Commons Registration Authorities England and Wales website at the following link:

<http://www.acraew.org.uk/commissioners-decisions>

However, the collection of decision letters published on this website is not comprehensive, and the CRAs should rely on their own records and archives in cases of doubt. The register will usually make clear whether a provisional registration was referred to the Commons Commissioners.

Q. Can applicants view the existing registers?

A. Yes. If the CRA is asked to provide official copies of documents you may charge for such copies. It will be a matter for individual local authorities to set their own reasonable fees for providing such a service based on actual costs.

Q. Is there a time limit for making an application or a proposal?

A. There is no time limit for making an application or proposal under section 19 of the 2006 Act.

All applications and proposals made under Schedule 2 to the 2006 Act must be made within 15 years of the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 coming into force – 4 May 2032.

Q. How much will applicants be expected to pay for the determination of their application?

- A. This will depend on the nature of the application; CRAs must publish fees on their website by type of application (regulation 6(2) of the 2017 Regulations). A CRA can amend its fees, but any revised fees must be published on its website at least 14 days before such fee takes effect (regulation 6).

If the application needs to be referred to the Planning Inspectorate (PINS) additional charges will be payable. The expectation is that PINS will recover its fees on a full cost recovery basis. PINS publish the daily rates charged for an Inspector and administrative work on their website. PINS will provide applicants with an estimated cost of the likely determination of their application before commencing work.

Any fee charged must be reasonable for the work performed or to be performed. No steps need to be taken by either the CRA or PINS before the specified fee has been received (regulation 6).

Q. Can applications be made electronically?

- A. Not currently. Applicants are required to physically sign their application. Applicants are advised to either hand deliver the signed application form or send it via recorded post.

Q. Can other correspondence be sent electronically?

- A. Yes, providing the applicant has agreed to this form of communication. Anyone providing an email address to the CRA is considered to have consented to a document being sent via email. The information contained in the email must be in substantially the same form as if it had been sent in printed form. If the information is in substantially the same form, the applicant is entitled to send the document (which includes a notice, document, information or evidence) electronically to the CRA (without express prior agreement). (regulation 26)

Q. Does the CRA have to advertise applications or proposals in the press?

- A. No. There is no requirement for applications or proposals made under section 19 or 22 of, or Schedule 2 to, the 2006 Act to be published in the press.

Q. Schedule 2 (paragraphs 6 or 8) refers to curtilage, what does this mean?

- A: For the purposes of Schedule 2 of the 2006 Act the definition of curtilage will depend on the circumstances of the particular property. A curtilage is generally understood to be the area of ground used for the enjoyment of a

house or building – so, for example, a house may have a physical barrier around it (e.g. a wall, hedge or fence) and the area within that enclosure (except the house) could, depending on the facts, be the curtilage.

Q. What sort of evidence should the CRA expect to see to demonstrate that land had 20 years' use as of right, or was in customary use as a village green?

A. This will depend on the individual circumstances of the land in question. Applicants have been advised to check to see if there are any Parish, Community or Town Council Records indicating that the land has been used by local inhabitants for lawful sports and pastimes as of right.

Please also see the guidance notes issued to accompany Section 15 of the Commons Act 2006 for the completion of an application for the registration of land as a Town or Village Green as this provides additional detail on the 'use as of right'. The guidance may be found at the following link:

<http://gov.wales/docs/drah/publications/140807-section-15-commons-act-2006-en.pdf>

Q. What is meant by applications duly made?

A. Applications are duly made when they comply with the requirements of the 2006 Act and the 2017 Regulations. CRAs are not required to proceed with applications which do not comply with the requirements of the 2006 Act or the 2017 Regulations.

Q: What happens if a mistake was made by the CRA but it is something that has no practical consequence?

A: Even where an error was made by the CRA in making an entry in the register, the error may have been made nugatory by a subsequent entry in or amendment of the register. For example, the CRA may have mistakenly included a parcel of land in the registration of a common, but a subsequent application for registration of rights over the common included that parcel as the land over which the rights were exercisable. In such a case, although an application may prove the original mistake made by the CRA, the mistake had no substantive impact, and the CRA will need to consider whether it would be unfair to make the correction sought by the application having regard to the test in section 19(5).

Q. Can anyone inspect applications or proposals made?

A. Yes, copies of the application or proposal and any accompanying documents (evidence) must be made available for inspection at the address published in the notice of the application or proposal. This inspection may take place during normal office hours and within the 42

working days (or longer period specified in the notice of the application or proposal) ending with the deadline for making representations / objections.

Q. Can anyone make representations/objections to an application or proposal?

- A. Yes, anyone can make written representations/objections regarding an application or proposal. Representations/objections must be made to the CRA and must be made within the deadline specified in the notice of application or proposal.

The person making the representation/objection must state his or her name and address, the nature of their interest if they have such an interest (e.g. do they have a legal interest in the land?) and the grounds for making the representation/objection. The representation/objection must be signed by the person who has made it. Representations/objections may be made by email – if so, no signature is required.

Q. Can the Commons Registration Authority object to an application?

- A. Yes, a CRA may object to an application made to them, however, an objection would normally only be appropriate if the CRA itself has some interest in the matter under consideration. If the CRA is aware of an impediment to granting an application, other than one in which it has an interest, that is a ground for refusal (or for concluding that the application is not duly made), rather than a ground for making an objection – in such cases, the CRA should ensure that details of the impediment are disclosed to the applicant and those making representations so that they may comment on them.

Where a CRA objects to an application it must consider whether the application should be referred to PINS. In a case where the CRA is objecting to an application it would seem to be clear that the CRA could be considered to have ‘an interest in the outcome’ of the application. In such cases there is unlikely to be confidence in the CRA’s ability to determine it with impartiality. If this is the case, the application must be referred to PINS.

Q. Can an application be withdrawn or changed?

- A. Neither the 2006 Act nor the 2017 Regulations contain provisions for the amendment or withdrawal of an application. If an application has been made, it is for the CRA to determine whether to proceed with the application. The CRA does not have to agree to withdraw or change an application if the withdrawal or change would affect the interests of others.

The Welsh Government would expect a CRA to be cautious in accepting the withdrawal of an application that has been made in the public interest, particularly if other people wish to see the application proceed to a determination. The CRA may agree to let the applicant correct something

that is clearly wrong (such as an incorrect map). You will need to act reasonably in the circumstances of the particular application and judge each case on its merits.

Q. Can a CRA refuse repeat applications?

- A. The Welsh Government takes the view that an identical, or near identical, application to one previously made and refused would entitle the CRA to refuse to accept it on common law grounds of res judicata (A matter already judged).

If a repeat application was similar, but not the same, as that made previously, the CRA may need to consider the new evidence or material, and consider whether its earlier decision remains appropriate. Depending on the circumstances of the case, it may be relatively straightforward to isolate the new information and its potential impact on the previous decision. However, this could potentially be costly (not least because of the cost of publicising repeated applications), and could be relevant only where the application is sufficiently novel that it merits some element of fresh consideration.

Q. Can an application be granted in part only?

- A. CRAs may conclude that an application should be granted only in part, because the criteria are met only in relation to that part.

Before granting an application in part only, the CRA should consider whether, had the application been submitted in relation only to that part, the application would have satisfied the requirements of the 2006 Act and the 2017 Regulations.

Q. Can a CRA reject what it considers to be a spurious application?

- A. If the application is spurious in the sense that it does not fulfil the statutory criteria to be successful, this will constitute grounds for the CRA to refuse the application. If the application is made without sufficient evidence to be capable of being granted, then the CRA may conclude that the application is not duly made. For example, an application made under paragraph 7 of Schedule 2, which contains no supporting evidence, is unlikely to be duly made.

Q. Can costs be awarded to any party?

- A. Costs may only awarded by an inspector where a Public Inquiry has been held in relation to an application or proposal under Schedule 2 to the 2006 Act. The person against whom costs are awarded must have, in the inspector's opinion, acted unreasonably.

The inspector may make an order for costs in favour of the applicant, any person who participated in the public inquiry or the CRA taking part in the public inquiry.

Costs may be ordered against the applicant, any person who participated in the public inquiry or the CRA taking part in the public inquiry.

Q. Can a decision by the CRA be challenged?

A. There is no specific appeals mechanism, however decisions by the CRA or PINS may be challenged in the High Court by way of judicial review.

Q. Can anyone else order a CRA to amend its register under section 19, 22 and Schedule 2?

A. Yes, a High Court may order an authority to amend the register if it is satisfied that:

- an entry, or information in an entry, was included due to fraud;
and
- it would be just to amend the register.

Contacts

For further enquiries and comments please contact:

For enquiries relating to applications that have been referred to the Planning Inspectorate:

The Planning Inspectorate
Crown Building
Cathays Park
Cardiff
CF10 3NQ

e-mail: wales@pins.gsi.gov.uk

The Commons Act Team
Agriculture – Sustainability and Development Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: CommonsAct2006@wales.gsi.gov.uk

Annex 1 – Check Lists
Annex 2 – Model Forms

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Llywodraeth Cymru
Welsh Government

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Applicants

May 2017

Guidance

Guide to the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017

Guidance for Applicants

This guidance has been prepared by the Welsh Government and applies to Wales only.

The guidance is produced to accompany the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations). It is intended to assist those making applications under sections 19, 22 and Schedule 2 of the Commons Act 2006 (the 2006 Act) to amend commons registers. It is not a substitute for legislation and can only reflect the Welsh Government's understanding of the law at the time of issue. In case of doubt, please refer to the Commons Act 2006 and the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017.

The interpretation of the 2017 Regulations and the 2006 Act is ultimately a matter for the Courts. Where matters of statutory interpretation arise you should obtain your own independent legal advice as necessary.

Background

The Commons Registration Act 1965 (the 1965 Act) established definitive registers of common land and town and village greens in England and Wales in order to record details of rights of common. Registration authorities (Local Authorities) were appointed to draw up commons registers (the registers).

The task of establishing registers was complex and the 1965 Act proved to have deficiencies. For example, some land was mistakenly registered as common land. Other land was overlooked and never registered. The Court of Appeal held that even where land had been wrongly registered as common land, the 1965 Act provided no mechanism to enable such land to be removed from the register once the registration had become final¹.

This guidance sets out how anomalies and mistakes relating to existing entries in the registers may now be amended. You will be able to submit an application under section 19 of the 2006 Act, which provides for correction of the registers in prescribed circumstances. You will also be able to submit an application under Schedule 2 to the 2006 Act, which allows land which fulfils relevant criteria to be added to the register if it is not registered, or removed from the register if it was wrongly registered.

¹ Corpus Christi College v Gloucestershire CC [1983] 1 Q.B. 360

Applications must be made to the appropriate Commons Registration Authority (CRA), which is part of the Local Authority for the area in which the land is situated. Contact details may be accessed at the following link:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonlandregauthorities>

The Provisions

Section 19 – Correction

Section 19 of the 2006 Act allows for applications to be made by any person to the CRA at the Local Authority to correct certain types of mistakes in the registers of common land and town and village greens (set out below).

It is not possible for a CRA to correct mistakes if it would be unfair to do so (section 19(5) of the Commons Act 2006). For example, if someone bought land thinking it was not a common or village green because it was not included in the register, the CRA would need to consider whether, in all the circumstances, it would then be unfair to allow an application to register it as common land or a town or village green. The interests of those who own the land must be balanced against those who want to correct the register.

The CRA may only grant an application if it considers that relevant evidence has been provided and it is fair to amend the register, having regard to the effect which the amendment will have on other people with an interest in the registration.

A CRA must refer an application to the Planning Inspectorate (PINS) if any of the following apply (regulation 15(2) and (3) of the 2017 Regulations):

- the CRA has an interest in the outcome of the application;
- the CRA has received objections to the application from those with a legal interest in the land;
- the application is looking to add or remove land from the register;
- the application is looking to correct an error in the number of rights of common in the register; or
- the application or proposal is made under Schedule 2 paragraphs 2 to 9 of the 2006 Act.

- **Section 19(2)(a) - Mistakes made by the registration authority**

An application may be made to the CRA to correct a mistake previously made by the CRA when making or amending an entry in the register. You should note that the mistake must have been made by the CRA.

For example, if an error was made by the CRA when mapping the boundary of a common during the registration of common land, this would fall within the scope of this provision. Another example would be where, in amending an entry in the register, the CRA made a mistake in the number or form of rights registered. If the CRA recorded all the information contained in an application correctly, this would not qualify as a Local Authority mistake.

- **Section 19 (2) (b) - Correcting other mistakes**

An application may be made to the CRA to correct any other mistake, provided the amendment does not increase or reduce the area of land registered as common land or village green and does not affect what can be done by virtue of having a right of common. In this scenario, the mistake could have been made by the CRA or another person.

For example, an application might be made to correct the name of the farm or holding to which a right of common is registered, or to correct a mistake in the identification of the land over which a right of common is exercisable - such as where a right is over the whole of a common rather than a particular part. For the CRA to be able to correct such a mistake, you will need to show how the mistake was made.

- **Section 19 (2) (c) - Duplicate entries**

An application may be made to the CRA to remove a duplicate entry in the register.

Duplicate entries sometimes occurred where two applications to register rights of common were made under the 1965 Act, for example by both the tenant and the landlord of a farm. If no objection was made to either registration they both became final.

- **Section 19 (2) (d) - Updating names and addresses**

An application may be made to the CRA to update any name or address shown in the register. For example, following marriage or moving residence. This provision can not be used to record a change in ownership of the rights.

- **Section 19 (2) (e) - Accretion or diluvion**

An application may be made to the CRA to update an entry in the register to take account of the common law principles of accretion and diluvion, which apply to all land where the boundary of ownership follows a body of water.

If, by gradual accretions in the ordinary course of nature, land is added on one side of the body of water, this land falls into the ownership of the person owning the rest of the land on that side, and the boundary line advances to correspond with this. Diluvion is the reverse - where land is eroded on the opposite side.

If the land affected is subject to rights of common, then the rights of the commoners and the rights of the owner will adjust in line with the boundary, however the number of rights will not increase or decrease.

Guidance on making a section 19 application starts at page 8

Schedule 2 - Non registration or mistaken registration under the Commons Registration Act 1965

Schedule 2 makes provision for any person to make an application to correct mistakes under the 1965 Act – it concerns land which should have been registered as common land, but wasn't, and land which shouldn't have been registered as common land, but was.

- **Schedule 2 - Paragraph 2 - Non-registration of common land**

An application may be made to the CRA for land to be registered as common land under the 2006 Act if the land is legally recognised as being common land but has not been registered. For an application to be successful, the land must be recognised by one of the following:

- The land is regulated by an order of regulation made under the Commons Act 1876 and confirmed by provisional order of the Inclosure Commissioners;
- The land is subject to a scheme made under the Commons Act 1899;
- the land is regulated as common land under a local or personal Act; or
- the land is otherwise recognised or designated as common land under any other enactment.

The 2017 Regulations set out that an application under paragraph 2 of Schedule 2 to the 2006 Act may not include land which is covered by a building, or within the curtilage of a building, if all the necessary building consents have been obtained (and evidence is provided), unless the owner of the land consents to the land being registered as common land.

The registration of land under Schedule 2, paragraph 2 will not create new rights of common. However, if land is added to an existing common that has rights over it, then the existing rights can be used over the new part of the common.

- **Schedule 2 - Paragraph 3 - Non-registration of town and village greens**

An application may be made to the CRA for land to be registered as a town or village green under the 2006 Act if the land meets all of the following criteria:

- on 31 July 1970 it was allotted under an Act for recreation;
- was not finally registered as a town or village green under the Commons Registration Act 1965; and
- continues to be used for exercise and recreation.

The 2017 Regulations set out that an application under paragraph 3 of Schedule 2 to the 2006 Act may not include land which is covered by a building, or within the curtilage of a building, if all the necessary building consents have been obtained (and evidence is provided), unless the owner of the land consents to the land being registered as a town and village green.

The registration of land under Schedule 2, paragraph 3 will not create new rights of common. However, if land is added to an existing town or village green that has rights over it, then the existing rights can be used over the new part of the town or village green.

- **Schedule 2 - Paragraph 4 - Waste land of a manor not registered as common land**

An application may be made to the CRA to register land as common land under the 2006 Act if the land is waste land of a manor and meets the criteria set out in paragraph 4 of Schedule 2.

Waste land of a manor is land that fulfils all of the following:

- the land was at any point, or still is, part of a manor;
- the land is open, uncultivated and unoccupied at the date of the application; and
- the land has not been registered as common land or a village green.

Waste land of the manor is only eligible to be registered as common land if it was provisionally registered as common land under the Commons Registration Act 1965, someone objected and the provisional registration was cancelled for any of the following reasons:

- the Commons Commissioner dismissed it because the land was no longer part of a manor;
- the Commons Commissioner dismissed it because the land was not subject to rights of common, but the Commissioner did not consider whether the land was waste land of a manor; or
- the applicant withdrew or agreed to withdraw the application, whether or not it was referred to a Commons Commissioner.

In order to check whether land was part of a manor the following archives may be of use:

- The National Archives (www.nationalarchives.gov.uk);
- British History on line (www.british-history.ac.uk); or
- Local records offices

Open land – this is understood to be land that has no physical barriers that prevent access to that land. Please note that fencing that sets boundaries of ownership can still be classed as open land, especially if the land can still be accessed on foot.

You will need to consider whether any barriers on the land are temporary or permanent. Fencing is only considered relevant on land that forms part of your application; you may ignore fencing on adjacent land even if the common is completely surrounded by it.

Uncultivated land - Land is considered uncultivated if it has less than 25% sown agricultural species present

Unoccupied land - Whether land is considered to be unoccupied will depend on whether the land is used by the occupant and if so how much. Unoccupied land means that nobody is physically using the land in a way that prevents other people from using it. Land will not automatically be considered occupied because it is subject to a tenancy, lease or licence whose sole purpose is to allow grazing of the land. Land may be considered as occupied if it has been physically improved by tenants for example cultivating and reseeded moorland only for the tenants' use and benefit.

In the event that waste land of the manor is registered it will not create new rights of common. However, if it is added to an existing common with rights on it then the existing rights can be used over the new part of the common.

- **Schedule 2 - Paragraph 5 - Town or village green wrongly registered as common land**

An application may be made to the CRA to remove land from the common land register and instead register it in its register of town and village greens under the 2006 Act. To do this, the land needs to meet all of the following criteria:

- the land was provisionally registered as common land under section 4 of the Commons Registration Act 1965;
- the provisional registration became final; but
- immediately before its provisional registration the land was a town or village green.

Some village greens were wrongly registered as common land because the land had rights of common over it, however village greens can also have rights of common over them. Any rights of common over the land will remain even if it is recorded in the register of town or village greens.

- **Schedule 2 - Paragraph 6 - Buildings registered as common land**

An application may be made to the CRA to remove land from the common land register under the 2006 Act if the land is covered by a building or the curtilage of a building (the land that 'belongs' to the building), and was wrongly registered as common land. The land must meet all of the following criteria:

- the land was provisionally registered as common land under section 4 of the Commons Registration Act 1965;
- the land was covered by a building, or belonged to a building, on the date of the provisional registration;
- the provisional registration became final; and
- the land has been, at all times since the provisional registration, and continues to be, covered by a building or within the curtilage of a building.

- **Schedule 2 - Paragraph 7 - Other land wrongly registered as common land**

An application may be made to the CRA to remove land from the common land register under the 2006 Act if the land meets all of the following criteria:

- the land was provisionally registered as common land under section 4 of the Commons Registration Act 1965;
- the provisional registration became final without being referred to a Commons Commissioner; and
- immediately before its provisional registration the land was not:
 - subject to rights of common,
 - waste land of a manor,
 - a town or village green (within the original meaning under the Commons Registration Act 1965), or
 - land described in section 11 of the Inclosure Act 1845.

- **Schedule 2 – Paragraph 8 - Buildings registered as town or village green**

An application may be made to the CRA to remove land from the town or village green register under the 2006 Act if the land is covered by a building or the curtilage of a building (the land that 'belongs' to the building), and was wrongly registered as a town or village green. The land must meet all of the following criteria:

- the land was provisionally registered as a town or village green under section 4 of the Commons Registration Act 1965;
- the land was covered by a building, or belonged to a building, on the date of the provisional registration;

- the provisional registration became final; and
 - the land has been, at all times since the provisional registration, and continues to be, covered by a building or within the curtilage of a building.
- **Schedule 2 - Paragraph 9 - Other land wrongly registered as town or village green**

An application may be made to the CRA to remove land from the town or village green register under the 2006 Act if the land meets all of the following criteria:

- it was provisionally registered as a town or village green under section 4 of the Commons Registration Act 1965;
- the provisional registration became final without being referred to a Commons Commissioner; and
- immediately before its provisional registration the land was not common land or a town or village green.
- Land is considered not to have been a town or village green immediately before its provisional registration if it was physically unusable for recreation during the 20 previous years and the land was not, and is still not, allotted by an Act for recreation.

Applying to make changes to the commons registers

The registers of common land and of town and village greens record information about where common land is located and the rights of common present over that land. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 enable applications to be made to make changes to the register under sections 19 and 22 of, and Schedule 2 to, the Commons Act 2006.

The following guidance sets out the process you will need to follow in order to make changes to the commons registers. A series of frequently asked questions (FAQs) is included at the end of this document (page 16) to assist you in understanding the application process.

How to Apply

The Commons Act 2006 is the legislation that allows applicants to apply to change the registers. The application process for sections 19 and 22 of, and Schedule 2, are set out in the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 (the 2017 Regulations).

You may apply as an individual, an organisation or a business. If you are applying on behalf of an organisation or a business you will need to make that clear on the application form.

Applications will need to be submitted, in writing, to the CRA at the Local Authority on the correct form.

The application must be signed by every applicant or the applicant's representative. The application forms by type of provision are as follows:

Type of Application	Form
Section 19 – Correction of the Register	CA10 WG – E (English) CA10 WG – W (Welsh)
Schedule 2, paragraphs 2 to 9 – registration of common land and removal of common land from the registers of common land and town or village greens	CA13 WG – E (English) CA13 WG – W (Welsh)

Forms may be downloaded from either your own Local Authority website or the Welsh Government website at:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/?lang=en>

.Making an application

Before making an application you will need to ensure that you have the correct evidence available to support your application.

You must include a copy of every document that is asked for on the application form. You are advised not to forward original documents, instead send copies that are certified, for example by a solicitor or other professional person, to say that they have been checked against the original and are a true copy. You are advised to note where the originals may be inspected.

It is not necessary to send copies of documents that were issued by the registration authority or those that you know they already have in their possession.

Map to accompany the application

You will generally need to provide a map, with the relevant area of the land in question hatched in a distinctive colour (for example red), as part of your application; the map must be at least the following scale (you may use a larger scale map showing the land in more detail if you wish):

- at a scale of 1:2,500 (if this scale is available); or
- at a scale of 1:10,000.

You must use an up to date Ordnance Survey map.

<http://www.ordnancesurvey.co.uk> Should you need historical ordnance maps these are available on the internet.

The map should accurately show the area of land comprised in the application, so that there is no doubt about the purpose of the application, and its effect if granted.

Checklist of information to accompany the application

As a guide your application will need to include the following:

1. A completed application form – CA10 WG (if you are applying under section 19) or CA13 WG (if you are applying under Schedule 2);
2. A description of the land to be registered/deregistered as appropriate (Question 6 on form CA13 WG);
3. The application fee (see below);
4. An ordnance map of the land to the correct scale (1:2,500 if available or 1:10,000 if not) with the relevant area hatched in a distinctive colour (for example red);
5. If you are applying under sections 19(2)(a) – (e) of the 2006 Act, a statement from you setting out the purpose of the application, the mistake in the register you are seeking to correct and details of the amendment you require (Question 5 form CA10 WG);
6. If you are applying under section 19(2)(a) or (c) evidence the mistake was made by the CRA;
7. If you are applying under section 19(4)(b) (amendment of a register of common land or town or village green), a statement of the purpose for which the application is made, the number of the register unit (and, if relevant, the number of the rights section entry), evidence of the mistake or other matter and a description of the amendment you require;
8. If you are applying under Schedule 2 you, as the applicant, will need to include the following information as part of your evidence:
 - **Schedule 2 (2) – (3)** - evidence that the land in question is land which falls within the scope of the legislation listed in paragraphs 2(2) and 3(2) of Schedule 2 to the 2006 Act and evidence of consent from the owner if the application includes land that is covered by a building or is within the curtilage of a building (if all necessary building consents have been obtained).
 - **Schedule 2 (4)** – evidence of the provisional registration of the land, evidence that the land is still waste in character, evidence that the land is or was formerly of a manor, and evidence that the provisional registration was cancelled or withdrawn (including where relevant the Commons Commissioner's determination).
 - **Schedule 2 (5)** – evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. a Commons

Commissioner's decision) and the status of the land as a town or village green immediately before it was provisionally registered as common land (this can be formal evidence, such as an inclosure award or order or exchange, or it could be 20 years' use as of right, or was in customary use as a village green).

- **Schedule 2 (6) and (8)** - evidence of the provisional registration of the land as common land or as a town or village green; the circumstances in which the provisional registration became final (e.g. a Commons Commissioner's decision) and evidence that the land has been at all times and still is covered by a building or is within the curtilage of a building.
- **Schedule 2 (7)** - evidence of the provisional registration of the land as common land; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner's for a determination) and that before its provisional registration the land was not subject to rights of common, waste land of the manor, was not a town or village green, or land of a description specified in section 11 of the Inclosure Act 1845.
- **Schedule 2 (9)** - evidence of the provisional registration of the land as a town or village green; the circumstances in which the provisional registration became final (e.g. without reference to the Commons Commissioner's for determination) and that the status of the land immediately before its provisional registration was not common land or a town or village green.

Stamp Duty Land Tax

If your application to amend the register will affect the right of common, you may have to pay stamp duty land tax (SDLT). More information in respect of SDLT may be found at <http://www.hmrc.gov.uk/sdlt/>

Cost of making an application

You may be required, depending on the application you are making, to pay an application fee. The fees will be published on your CRAs website so please check what the charge is before submitting your application. If your application is determined by the CRA and, as part of due process, a hearing or public inquiry is held you will be required to reimburse the CRA for this. Such fees will be published on the CRAs website.

Applications made under section 19(2)(a) (correcting a mistake made by the registration authority) and 19(2)(c) (removal of a duplicate entry from the register) do not attract a fee as these are viewed as mistakes having been made by the registration authority. Similarly applications under Schedule 2 paragraphs 2 – 5 (inclusive) are also free as their determination is seen as being in the public interest as a whole.

Depending on the application you are making and the complexity of the case it may be necessary for your CRA to forward your application to the Planning Inspectorate (PINS) for determination. If this is the case you may have to pay a further fee (depending on the type of application made) to PINS.

If this is the case PINS will contact you to set out the charging method and the estimated cost of determining your application. Please note that the expectation is that PINS will charge on a full cost recovery basis. Processing an application through to determination will only occur once all payments are made. Neither a registration authority nor PINS is required to process an application until the specified fee has been paid.

What happens once you have made an application?

On receipt of your application the CRA will undertake an initial check to ensure that you have supplied all the requisite information and documents and that you have signed the application form and included the application fee.

Once the CRA is content that the application has been duly made they will send you an acknowledgement confirming receipt of the application. Your acknowledgement letter will include:

- your unique reference number as assigned by the CRA to your application;
- a postal and email address through which you may contact the CRA;
- a copy of the public notice that the CRA intends to publish on their website or in certain circumstances, post at a location at or near the site;
- details of any further documents or information that the CRA requires you to supply and a deadline for complying with this request; and
- details of the process, including the obligation the CRA is under to forward your application to PINS for determination in certain circumstances. This will include being informed that any such referral will attract further application fees.

Please note that the CRA has the power to direct you to supply further information or documents in order that it may determine the application. The CRA may specify a time for complying with any such direction. If you fail to comply with such a direction, or fail to do so within the set deadline, the CRA can abandon the application.

Advertising your application

If your application is deemed complete the CRA has a duty to publicise your application. To comply with this requirement, the CRA must:

- publish a notice of the application on its website;

- email a notice of the application to anyone who has asked to be informed of all applications (and who has provided an email address);
- serve a notice of the application on various people. This will depend on the specific application but may include:
 - owners of any land affected by the application (if reasonably identifiable);
 - anyone who has registered a declaration to use a registered right of common over any land which comprises the whole or part of the register unit connected to the application (when implemented);
 - any owners of rights of common in gross (rights which are not attached to land, but are held personally and can be bought or sold as assets) unless there are so many it would be impractical;
 - any Commons Council (when in place) responsible for the land which forms part of the application;
 - any occupier or lessee of the land in question; and other Local Authorities with an interest

CRA's would also be expected to inform NRW if the site is protected under habitat legislation and/or is designated as a SSSI, SAC or SPA.

CRA's are expected to post a copy of the notice of the application to anyone who has asked to be informed of all applications but who has not provided an email address.

Where the application would either add land to, or remove land from, the register, the CRA must also post a site notice for not less than 42 days at, or near, a minimum of one obvious place of entry to the land. If there are no such places then the notice can be posted at a conspicuous place on the boundary of the land. In Welsh Government's view, one notice would suffice for contiguous areas of land. In order to keep costs down, multiple notices should be the exception, not the rule. Where the site notice is removed, obscured or defaced prior to the expiry of the 42 day period through no fault of the CRA, the authority will be treated as having complied with the site notice requirement.

The contents of the notice are set out in regulation 12 of the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017. The information that must be provided includes a date on which the period for making representations expires. This date must not be before the statutory 42 days after the date of the publishing, posting or serving of the notice.

What happens if representations/objections are made to your application?

Once the period for making representations/objections has passed the CRA will write to you to inform you that:

- no representations/objections have been received; or
- the authority has received representations/objections.

If representations/objections have been received, the CRA will forward copies of these to you for your comment. You will be given the opportunity to respond in writing within 21 days to any such representations/objections. The CRA may specify a longer timeframe for comment. Please note the CRA is under a duty to circulate your response to others (those who made a representation/objection).

Depending on the application you are making and the representations received it may be necessary for the CRA to refer your application to PINS. In the event that this is the case the CRA will send the case file and all relevant evidence to PINS.

Referral to PINS

Your CRA must refer your application to PINS if any of the following apply:

- where the CRA has an interest in the outcome of the application or proposal so that it is unlikely that there would be confidence in its impartiality; or
- the CRA has received objections to the application or proposal from those with a legal interest in the land;

and in either case:

the application or proposal seeks under section 19(4) of the 2006 Act to:

- add or remove land from the register; or
- correct an error in the number of rights of common in the register;

or

the application or proposal is made under any of paragraphs 2 to 9 of Schedule 2 to the 2006 Act.

On receipt of a CRA referral PINS will make an assessment of your case based on the evidence you have provided in support of your application. They will acknowledge your application; issue you with their procedural guidance in respect of applications made under the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017. You will also be provided with a copy of the fee structure and the estimated costs that you will be required to pay in order for your case to be determined. This will include a requirement to pay an initial application fee to PINS to enable work to commence on determining your application.

It is anticipated that, where a fee is payable, the cost of determining applications will be based on full cost recovery. In order for fees to accurately reflect the work undertaken we anticipate that PINS will seek payment via

instalments as work progresses. As part of the acknowledgement process you will be provided with details as to how and when you will need to make payments

Hearings and Public Inquiries

In the event that either the CRA or PINS are considering refusing your application they must give you the opportunity to meet or discuss with them in order to talk about the key aspects of the application and answer any possible points of conflict. They must also give the opportunity to meet or discuss the application to anyone else whose civil rights would be affected by the outcome of your application – this is the case in all eventualities (i.e. if they are going to grant or refuse an application).

Either the CRA or PINS may decide to hold a public inquiry in relation to an application. If there is opposition to your application and objections are received from people with a legal interest in the land (such as the owner, commoners, or those with lease or tenancy agreements) your application will be forwarded to PINS and it is likely that a public inquiry will be held.

Site Visits

The CRA and PINS each have the power to conduct a site visit to help them understand your application. In the event that a public inquiry is to be held the inspector overseeing the inquiry must organise a site visit before determining the application, unless the landowner refuses entry.

Before the CRA, PINS or the inspector makes a site inspection, they must ask you whether you would like to be present or be represented. If you indicate that you wish to attend the site visit but subsequently don't attend, the inspection will continue without you.

Decisions

A decision on your application may be taken by either the CRA or PINS. An application may be granted in whole or part. Once this decision is made the CRA must communicate that decision as follows:

- give written notice to you as the applicant;
- inform everyone who made representations;
- inform anyone who gave evidence at a public inquiry or hearing, if that is practicable;
- publish the decision and the reason for it on the CRAs website; and
- give effect to the determination by amending the register as soon as possible.

The notice given to the various persons has to include the CRAs reasons for its decision and provide details of any changes that will be made to the register.

Frequently asked questions

Q. **What is a Commons Registration Authority (CRA)?**

A. Commons Registration Authorities were set up to administer the registration of common land and town and village greens. The 22 Local Authorities in Wales all undertake the functions of a CRA which include:

- maintaining the common land registers for public inspection;
- conducting searches of the registers;
- handling applications for amendments to the registers;
- registering new town and village greens;
- removing common land from the registers.

Q. **What or who is an appointed person?**

A. The 2017 regulations refer to an appointed person. Currently the Planning Inspectorate (PINS) is appointed by Welsh Ministers as the appointed person to make decisions on applications made under section 19, 22 and Schedule 2 of the 2006 Act.

Q. **Who can make an application?**

A. Anyone. The Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 states that anyone may apply: however in reality it is believed that only those with a legal interest in registered land will be likely to seek to apply.

Q. **The common land that I wish to make an application for covers two registration authorities, do I have to make an application to both?**

A. Most neighbouring registration authorities have 'straddling agreements' in place which means that one of them will have responsibility (in terms of processing an application) for the whole of the common land in question. You will need to check which registration authority you need to apply to.

Q. **I believe I have a very good case, what do you mean when you say a CRA may only grant an application if it is fair to amend the register?**

A. The CRA is under a duty to act fairly in respect of all parties involved, namely considering and balancing the arguments raised by all parties. For example if someone bought land having carried out all of the relevant searches and built on the land in good faith then the CRA would have to balance this person's interests in the land against the rights of those seeking to register the land as common land.

Q. I believe my case was previously considered by the Commons Commissioners - how do I find out whether this was the case?

A. Information about Commons Commissioners and decisions made are published on the Association of Commons Registration Authorities England and Wales website at the following link:

<http://www.acraew.org.uk/commissioners-decisions>

Q. Before I make an application may I view the existing registers?

A. You can ask your Commons Registration Authority to view the registers. If you request official copies of documents your CRA may charge you for making such copies. Charging will be a matter for individual local authorities who will be required to set their own reasonable fees for providing such a service based on actual costs.

Q. Is there a time limit for making an application?

A. There is no time limit for making an application under section 19 of the 2006 Act.

All applications made under Schedule 2 to the 2006 Act must be made within 15 years of the Commons Act 2006 (Correction, Non-Registration or Mistaken Registration) (Wales) Regulations 2017 coming into force – 4 May 2032.

Q. How much will I have to pay for the determination of my application?

A. This will depend on the nature of the application; you will need to refer to your CRAs website to see a published list of fees it charges by type of application.

If your application needs to be referred to the PINS additional charges will be payable. The expectation is that PINS will recover its fees on a full cost recovery basis. PINS publish the daily rates charged for an Inspector and administrative work on their website. PINS will provide you with an estimated cost of the likely determination of your application before commencing work.

Q. Can I apply electronically?

A. Not currently. You must physically sign your application. There is currently no mechanism that will allow for applications to be submitted electronically, and you are advised to either hand deliver your signed application form or send it via recorded post.

Q. Can other correspondence be sent electronically?

A. Yes, providing you have agreed to this form of communication. If you provide an email address it will be assumed that you have consented to a document being sent via email. The information contained in the email must be in substantially the same form as if it had been sent in printed form.

You are able to send documents (e.g. notices, information or evidence) by email to the CRA or, where relevant, PINS, without agreeing this expressly – provided that the information contained in the email is substantially in the same form as if it had been sent in printed form.

A requirement for a document to be signed does not apply in the case of a document sent by means of an email.

Q. Do I have to advertise my application?

A. No, this is the responsibility of the CRA. Your application will be published on the local authority website and, in certain circumstances, at a location at or near the site. There is no requirement for applications made under section 19, 22 or Schedule 2 of the 2006 Act to be published in the press.

Q. I am applying under Schedule 2 (paragraphs 6 or 8), what does curtilage mean?

A: For the purposes of Schedule 2 of the 2006 Act the definition of curtilage will depend on the circumstances of the particular property. A curtilage is generally understood to be the area of ground used for the enjoyment of a house or building – so, for example, a house may have a physical barrier around it (e.g. a wall, hedge or fence) and the area within that enclosure (except the house) could, depending on the facts, be the curtilage.

Q. What sort of evidence would I need to provide to demonstrate that land had 20 years' use as of right, or was in customary use as a village green?

A. This will depend on the individual circumstances of the land in question. You may wish to check to see if there are any Parish, Community or Town Council Records indicating that the land has been used by local inhabitants for lawful sports and pastimes as of right. Please also see the guidance notes issued to accompany section 15 of the Commons Act 2006 for the completion of an application for the registration of land as a Town or Village Green as this provides additional detail on the 'use as of right'. The guidance may be found at the following link:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/common/commonsact2006/guidelines-on-the-commons-act-2006/?lang=en>

Q. Can anyone inspect applications made?

- A. Yes, copies of the application and any accompanying documents (evidence) must be made available for inspection at the address published in the notice of the application. This inspection may take place during normal office hours and within the 42 working days (or longer period specified in the notice of the application) ending with the deadline for making representations / objections.

Q. Can anyone make representations / object to my application?

- A. Yes, anyone can make written representation / objection regarding an application. Representations must be made to the CRA and must be made within the deadline specified in the notice of application.

The person making the representation / objection must state his or her name and address, the nature of their interest if they have such an interest (e.g. do they have a legal interest in the land?) and the grounds for making the representation / objection.

The representation / objection must be signed by the person who has made it. Representations / objections may be made by email – if so, no signature is required.

Q. Can the Commons Registration Authority object to my application?

- A. Yes, a CRA may object to your application, however, an objection would normally only be appropriate if the CRA itself has some interest in the matter under consideration. If the CRA is aware of an impediment to granting an application, other than one in which it has an interest, that is a ground for refusal (or for concluding that the application is not duly made), rather than a ground for making an objection.

Where a CRA objects to an application it must consider whether the application should be referred to PINS. In a case where the CRA is objecting to an application it would seem to be clear that the CRA could be considered to have 'an interest in the outcome' of the application, such there is unlikely to be confidence in the CRAs ability to determine it with impartiality. If this is the case, the application must be referred to PINS.

Q. Can I withdraw or change my application?

- A. Neither the 2006 Act nor the 2017 Regulations contain provisions for the amendment or withdrawal of an application. If an application has been made, it is for the CRA to determine whether to proceed with the application. You would need to speak to the CRA telling them that you wish to either withdraw or amend your application. However, the CRA does not have to agree to this, especially if the withdrawal or change would affect the interests of others.

We would expect a CRA to be cautious in accepting the withdrawal of an application that has been made in the public interest, particularly if other people wish to see the application proceed to a determination. The CRA may agree, if for example, it would be fair to let you or if it is to correct something that is clearly wrong (such as an incorrect map). The CRA will need to act reasonably in the circumstances of the particular application and judge each case on its merits.

Q. Can I challenge a decision made by either the CRA or PINS?

- A. There is no specific appeals mechanism if you are unhappy with a decision made by either your CRA or PINS. Decisions by the CRA or PINS may be challenged in the High Court by way of judicial review. You are advised to seek your own independent legal advice before embarking on High Court action.

Q. Can anyone else order a CRA to amend its register under section 19, 22 or Schedule 2?

- A. Yes, a High Court may order an authority to amend the register if it is satisfied that:
- an entry, or information in an entry, was included due to fraud; and
 - It would be just to amend the register.

Q. Who should I go to for help?

- A. In the first instance contact your Commons Registration Authority for advice, however, as part of its role is to determine your application it will need to be impartial so you may want to take your own independent legal advice from a solicitor with experience in this area of law. You may also wish to consider seeking advice from the Farming Unions, the Open Spaces Society or other body.

Contacts

For further enquiries and comments please contact:

The Local Authority in which the land to which the application applies is situated. A list of contact details may be found at the following link:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/commonlandregauthorities/?lang=en>

For enquiries relating to applications that have been referred to the Planning Inspectorate:

The Planning Inspectorate
Crown Building
Cathays Park
Cardiff
CF10 3NQ

e-mail: wales@pins.gsi.gov.uk

or

The Commons Act Team
Agriculture – Sustainability and Development Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

e-mail: CommonsAct2006@wales.gsi.gov.uk

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

20th June 2017

REPORT AUTHOR: County Councillor Rachel Powell
Portfolio Holder for Children's Services

County Councillor Stephen Hayes
Portfolio Holder for Adults' Services

SUBJECT: Powys Safeguarding Childrens' and Adults'
Quarterly update

REPORT FOR: Information

1. Summary

The purpose of this report is to provide cabinet with an update in respect of safeguarding children and adults in Powys for Quarter 3 and Quarter 4 2016/17. This report contains both adults and children's safeguarding information and Regional Update.

To discharge the Mid & West Wales Safeguarding Board's (MAWWS) objectives effectively, there is one Board for Children (CYSUR) and one for Adults (CWMPAS) with cross-cutting issues managed jointly across both. There is a live new website update for public and professionals (www.cysur.wales).

2. Children's Services

2.1 Inspection

There has been no inspections in relation to children's services over this reported period.

2.2 Child Practice Reviews

There have been no new referrals for Child Practice Review over the reporting period.

The outcome of previous referrals will be available in Q1.

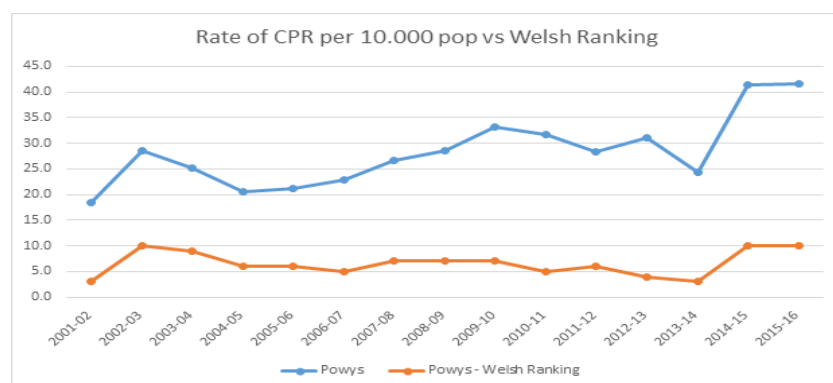
2.3 Quality Assurance

A Quality Assurance and Performance strategy and audit planner has been introduced and implemented. Regular case file and themed audits are undertaken. The findings from these audits are disseminated to enable learning and improvements in practice and service delivery. Monthly

Children's Services management meetings monitor the actions arising from the audit findings.

Multi-agency themed audits are planned for in Q1 2017/18 .The learning from these audits will be disseminated through the Powys Local Operating Group (PLOG).

2.4 Trends in Child Protection (CP) registrations



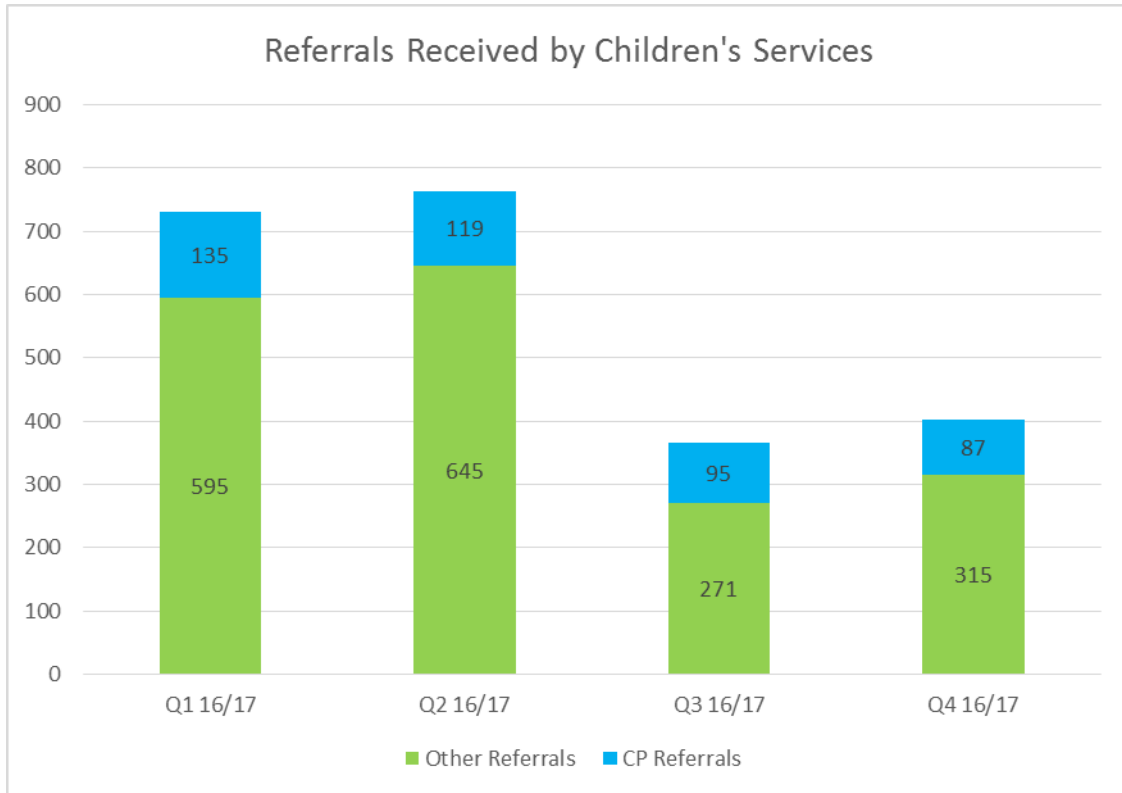
The trajectory of CP registrations in Powys indicates an increasing trend. This increase reflects the national picture from Welsh Government published statistics.

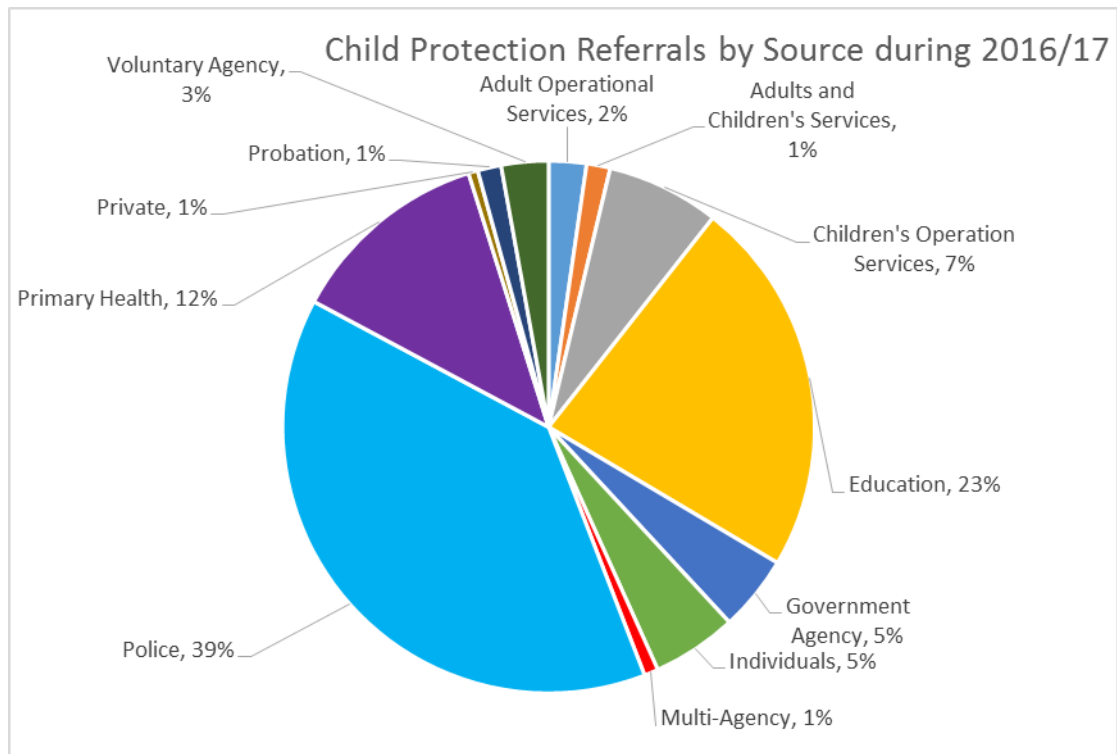
We are investigating this trend and reviewing through a range of measures including working with CYSUR on clarifying levels of needs to inform the actions moving forward. This will ensure that we provide a service that safeguards children with the intention to continually review the rationale for those children on the child protection register.

2.5 Safeguarding Children

The total number of referrals received into children's services from 1st April 2016 to 31st March 2017 is 2262. This is a decrease on previous years and a clear reduction in the last two quarters of the year. This may suggest that the introduction of the care and well-being assessment into Powys People Direct, as well as additional collaborative work and alternative support mechanisms with partner agencies in supporting vulnerable families, may have prevented escalation and the need for intense intervention.

The highest number of child protection referrals continue to be from the Police, they referred 39% of all child protection referrals during the year, followed by education with 23%.





The numbers of Section 47 (Child Protection) enquiries remains steady with 182 being completed in Q3 and 165 in Q4.

2.6 Categories of registration

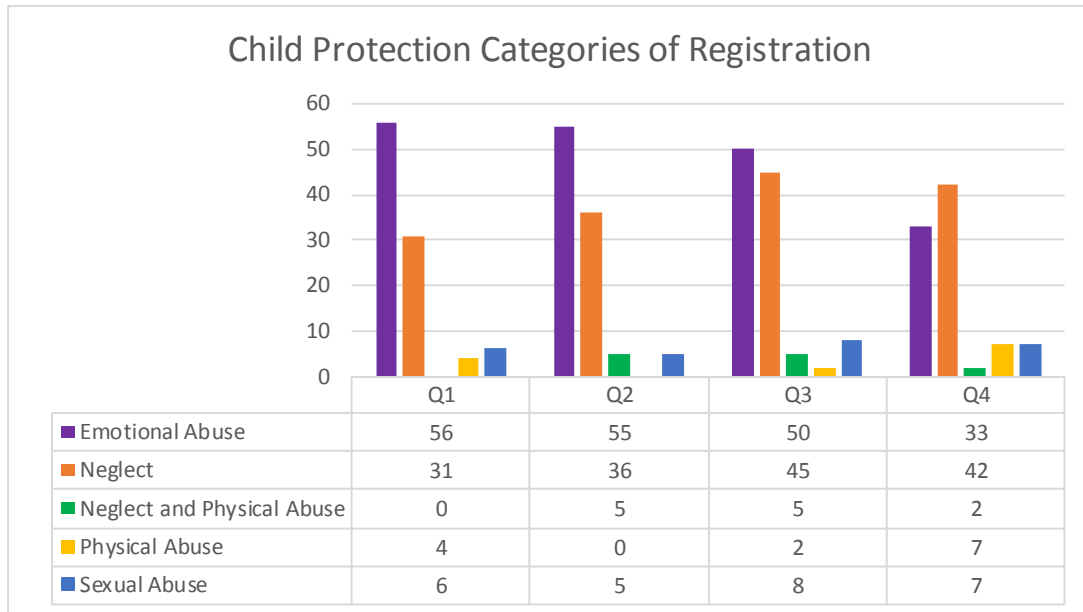
The table below shows child protection registrations on a quarterly basis.

30/06/2016	30/09/2016	31/12/2016	31/03/2017
97	101	110	91

The table below further analyses the register as at 31st March 2017 and shows breakdown by allocated team.

Team	No.
Welshpool	30
Newtown	14
Radnor	20
Brecon	24
Children with Disabilities	3

The chart below displays the number of children on the register as at 31st March 2017 split by category of registration



Emotional abuse continues to be the highest category of registration, followed by neglect. These two factors are often closely linked. In Q3 and Q4 you can see a shift towards a decrease in the number of children registered under emotional abuse and an increase in the number being registered under the category of neglect. We will undertake an audit to further investigate the shift between categories.

During Q3 there were 41 Initial Child Protection Conferences and 85 Review Child Protection Conferences. Quarter 4 was a similar picture with 40 Initial Child Protection Conferences and 89 Review Child Protection Conferences.

2.7 Missing Children and Child Sexual Exploitation (CSE)

A regional and local multi-agency CSE action plan has been developed and monitored through CSE working group and reported through the Local Operational Group and to the Regional Safeguarding Board.

The Multi Agency Child Sexual Exploitation (MACSE) meetings chaired by the local authority are now meeting on a bi-monthly basis to monitor SERAF's and those children and young people identified as potentially at risk of sexual exploitation.

3. Adults Services

3.1 Inspection

Adult safeguarding was inspected last October, the service received positive feedback. The service continues to build and strengthen a robust Safeguarding procedure which is legislation compliant. This will include reviewing and improving our processes as well as sharing good practice and working alongside regional partners.

3.2 Adult Practice Reviews

The Welsh Assembly Government has issued new guidance in relation to practice reviews. The guidance sets arrangements for multi-agency adult practice reviews in circumstances of a significant incident where abuse or neglect of an adult at risk is known or suspected.

No cases to date have been referred from Powys during this reporting period.

3.3 Adult Protection Support Orders (APSOs)

Two officers including one legal representative attended a one day training course aimed at enabling authorised officers and legal officers to act lawfully in the spirit of the Act to use APSOs for the benefit of adults' at risk in Wales.

The officers are now equipped to apply for an order if this is deemed to be an appropriate course of action.

No orders have been applied for in Powys during this reporting period.

3.4 Quality Assurance

Quarterly reports are being reviewed in line with new regional Quality Assurance framework. This new data collection framework will provide information which will inform future cabinet reports.

3.5 Handling Individual cases (Welsh Assembly Guidance)

The consultation for this document has now closed, Powys provided feedback.

3.6 Operation Jasmine

Powys had previously compiled a comprehensive plan with regard to implementation of the action arising from Operation Jasmine and is currently reviewing its progress. Leads have been determined in relation to this piece of work.

Progress update will be received at the next PLOG, along with a cross matching and status report in relation to actions agreed on the new regional plan.

3.7 Data - Q3 and Q4 Analysis

The following data is relevant to the day to day business of the Safeguarding team who continue to work with Powys People Direct to manage all Safeguarding enquiries. We are working closely with our regional partners to establish consistency in relation to how data is captured which will in turn enable consistency of future statistics going forward.

The data presented forms part of the data we are required to report on by Welsh Government.

The data follows trends we expected to see as a result of the Social Services Well Being Act. The increase in reports received was anticipated in line with our new duties as custodians of Adult Safeguarding Enquiries.

Following the implementation of Welsh Community Care Information System (WCCIS) we have a new enquiry form which will allow us to be more precise when capturing required data.

The overall number of strategy meetings fell which was predicted as more enquiries were completed without the need for a formal strategy meeting. This was one of the intentions of the Social Services Well Being Act.

Referrals Received

The following tables detail the number of referrals that were received during Quarter Three and Four across the County. The Population for each shire has also been included and used as a basis to establish the rate of Adult Protection referrals per 1000 population.

	Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
	15/16 Year	Q3	15/16 Year	Q3	15/16 Year	Q3	15/16 Year	Q3
Inappropriate Referral – No Further Action	7	11	9	25	8	6	24	42
Inappropriate Referral – Action Required	14	5	8	10	19	7	41	22
Appropriate Referral – No Strategy Meeting	15	15	13	42	16	26	44	83
Appropriate Referral – Strategy Meeting	68	78	59	76	77	70	204	224
Referred to DLM for Decision	1	12	1	4	-	5	2	21
Threshold Not Recorded	-	-	-	-	-	-	-	-
Total	105	121	90	157	120	114	315	392
Population	50,655		26,064		29,901		106,620	
Referrals per 1000 18+ population (Q3)	2.38		6.02		3.81		3.68	
Appropriate referrals per 1000 18+ population (Q3)	1.84		4.53		3.21		2.88	

	Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
	15/16 Year	Q4	15/16 Year	Q4	15/16 Year	Q4	15/16 Year	Q4
Inappropriate Referral – No Further Action	7	19	9	48	8	16	24	83
Inappropriate Referral – Action Required	14	19	8	32	19	17	41	68
Appropriate Referral – No Strategy Meeting	15	20	13	63	16	36	44	119
Appropriate Referral – Strategy Meeting	68	93	59	75	77	69	204	237
Referred to DLM for Decision	1	9	1	2	-	5	2	16
Threshold Not Recorded	-	0	-	0	-	0	-	0
Total	105	160	90	220	120	143	315	523
Population	50,655		26,064		29,901		106,620	
Referrals per 1000 18+ population (Q3)	3.16		8.44		4.78		4.91	
Appropriate referrals per 1000 18+ population (Q3)	2.23		5.29		3.51		3.34	

The following two tables break down the appropriate referrals closed during the reporting period from the table above and identify the place and type of abuse.

Place of Abuse

		Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
		15/16 Year	Q3	15/16 Year	Q3	15/16 Year	Q3	15/16 Year	Q3
Care Settings	Residential Home	13	2	7	11	7	9	27	22
	Nursing Home	10	7	5	11	4	14	19	32
	Hospital–Independent	2	1	0	1	0	0	2	2
	Hospital–NHS	6	3	3	4	3	1	12	8
	Day Care	1	2	0	0	0	1	1	3
	Educational Est.	0	0	0	0	0	0	0	0
	Supported Tenancy	13	7	0	0	12	11	25	18
	Other	1	0	0	1	0	1	1	2
Own Home/Community	Own Home	157	19	16	26	26	24	199	69
	Sheltered Accom.	0	0	0	0	0	0	0	0
	Relatives Home	1	0	0	2	2	1	3	3
	Home of alleged perp.	3	0	0	1	0	1	3	2
	Public Place	1	2	1	0	4	1	6	3
Not Recorded	22	6	74	8	40	3	136	17	
Total	147	49	106	65	98	67	434	181	

		Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
		15/16 Year	Q4	15/16 Year	Q4	15/16 Year	Q4	15/16 Year	Q4
Care Settings	Residential Home	13	3	7	19	7	15	27	37
	Nursing Home	10	13	5	32	4	30	19	75
	Hospital–Independent	2	2	0	1	0	0	2	3
	Hospital–NHS	6	3	3	6	3	0	12	9
	Day Care	1	1	0	1	0	1	1	3
	Educational Est.	0	0	0	0	0	0	0	0
	Supported Tenancy	13	9	0	0	12	13	25	22
	Other	1	0	0	1	0	1	1	2
Own Home/Community	Own Home	157	27	16	54	26	27	199	108
	Sheltered Accom.	0	0	0	0	0	0	0	0
	Relatives Home	1	2	0	1	2	0	3	3
	Home of alleged perp.	3	0	0	2	0	1	3	3
	Public Place	1	2	1	1	4	3	6	6
Not Recorded	22	0	74	0	40	0	136	0	
Total	147	62	106	117	98	90	434	269	

**Please note that each referral can have multiple places and types of abuse, therefore totals will not match the number of appropriate referrals completed in the period in the tables above and below.*

Type of Abuse

	Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
	15/16 Year	Q3	15/16 Year	Q3	15/16 Year	Q3	14/15 Year	Q3
Emotional	10	8	5	8	13	14	28	30
Financial	20	3	10	13	12	10	42	26
Neglect	151	19	14	29	20	21	185	69
Physical	29	16	6	8	11	24	46	48
Sexual	4	1	0	1	7	3	11	5
Not Recorded	21	6	74	8	40	3	135	17
Domestic	0	2	2	2	3	0	5	4
Racial	0	0	0	0	0	0	0	0
Total	235	55	111	69	106	75	452	199

	Montgomeryshire		Radnorshire		Brecknockshire		Powys Total	
	15/16 Year	Q4	15/16 Year	Q4	15/16 Year	Q4	14/15 Year	Q4
Emotional	10	12	5	12	13	12	28	36
Financial	20	8	10	21	12	10	42	39
Neglect	151	26	14	53	20	42	185	121
Physical	29	20	6	21	11	31	46	72
Sexual	4	3	0	2	7	4	11	9
Not Recorded	21	0	74	0	40	0	135	0
Domestic	0	5	2	7	3	0	5	12
Racial	0	0	0	0	0	0	0	0
Total	235	74	111	116	106	99	452	289

Referral Completion Length

The tables below gives the total time taken from start date to end date of all referrals completed within the reporting period.

	Appropriate Referral – No Strategy Meeting		Appropriate Referral – Strategy Meeting	
	15/16 Year	Q3	15/16 Year	Q3
Under 1 Week	9	22	14	12
1 – 2 Weeks	3	11	7	6
3 – 4 Weeks	3	6	16	6
5 – 8 Weeks	1	10	30	10
9 – 12 Weeks	1	3	26	16
13 – 26 Weeks	6	5	37	30
27 – 52 Weeks	5	2	30	18
53 Weeks +	17	1	29	12
Total	45	60	189	110

	Appropriate Referral – No Strategy Meeting		Appropriate Referral – Strategy Meeting	
	15/16 Year	Q4	15/16 Year	Q4
Under 1 Week	9	28	14	14
1 – 2 Weeks	3	17	7	7
3 – 4 Weeks	3	13	16	7
5 – 8 Weeks	1	17	30	15
9 – 12 Weeks	1	6	26	33
13 – 26 Weeks	6	17	37	41
27 – 52 Weeks	5	11	30	21
53 Weeks +	17	1	29	12
Total	45	110	189	150

The referral completion data is influenced by a number of different factors. The data is counted on the day the administrative process is completed this can differ from the date the enquiry was actually completed. This attributes to the apparent length of time a referral has taken to complete.

We continue to review our process to ensure we close referrals in a timely manner.

Some data is as a result of criminal investigations which can often take many weeks to conclude.

National Strategic Indicator – SCA/019 The percentage of adult protection referrals completed where the risk has been managed

From the information above we calculate the following Performance Indicator. This is a National Strategic Indicator, which means there is a statutory duty to report to Welsh Government on an annual basis.

	Result	Comparison with target	Comparison with previous year's result	Comparison with Previous Year's Welsh Average
2011/12	65.7%	80%	61.22%	88.02%
2012/13	86.3%	80%	65.7% (2011/12)	88.02% (2011/12)
2013/14	93.5%	90%	86.3% (2012/13)	91.8% (2012/13)
2014/15	89.3%	90%	93.5% (2013/14)	-
2015/16	92.41%	90%	89.3% (2014/15)	-
2016/17 Q4	98.56	90%	92.41%	-

4. Regional Safeguarding Board and National Update

Key themes:-

4.1 Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV)

The current MAWWS Executive Board will fulfil the function of the VAWDASV Executive Board and VAWDASV business will be incorporated into the overarching cross-cutting section of the MAWWS Executive Board meeting and agenda. Any plan developed by the strategic group and its implementation will be monitored and overseen by the VAWDASV Executive Board.

4.2 Policies & Procedures Sub Group Update

Two regional development days have taken place to draft a regional threshold document, designed to establish a consistent response to children and families in need across the region and to provide the 'right help at the right time'. The document is currently out for consultation with service users.

It has been agreed a similar exercise will be undertaken in respect of developing a regional document for adult safeguarding services and responses.

A number of other regional documents are in the process of being completed including a regional protocol for children who are electively home educated, a protocol for parents who have identified mental health problems and a regional Deprivation of Liberty Safeguards (DoLS) protocol, as well as other documents identified as a priority.

4.3 Training Sub Group Update

Two very productive all-age regional training sub group meetings have taken place. As this is a newly formed group incorporating a very wide and complex strategic agenda, an interim short term plan has been agreed for the coming months.

4.4 Welsh Government Update

- A new Working Together document 'Handling Individual Cases' has been consulted upon.
- NHS Decision tree which will give guidance on appropriate pathways that should be followed when concerns are identified or raised about adults' who may be at risk. It is not clear yet if this will be as a lone document or an annex to the All Wales Procedures or Handling Individual Cases document.
- Cardiff and the Vale have been commissioned by Welsh Government to rewrite and update the All Wales Child and Adult Protection Procedures.
- The CASCADE research unit attached to Cardiff University has been commissioned by WG to undertake a review of the current CSE guidance, including definition as well the SERAF tool. A regional focus group has been arranged to support this piece of work, which will take place on 30th March at Police HQ led by Dr Anne Cowley from CASCADE.
- New Independent Child Trafficking Advocates (ICTA) Guidance has been issued by the home office for children who may have been trafficked. See link for details:
<https://www.gov.uk/government/publications/child-trafficking-advocates-early-adopter-sites>

4.5 Child Practice/Adult Practice Review Protocol

The Regional Board has commissioned support to write and develop a regional protocol to compliment the new CPR guidance to ensure consistency of approach.

4.6 Regional Quality Assurance Reporting

The Regional Board has agreed and implemented a new Quality Assurance reporting tool which will provide consistency of reporting across the region and identify trends. From Q1, data will be presented to Cabinet in this format.

The Mid & West Wales Safeguarding Children (CYSUR) and Safeguarding Adults' (CWMPAS) Annual Plans for 2017-18 are available on their website (www.cysur.wales).

5. Proposal

5.1 Not applicable.

6. Options Considered / Available

6.1 Not applicable.

7. Preferred Choice and Reasons

7.1 Not applicable.

8. Impact Assessment

8.1 Is an impact assessment required? Yes/No

8.2 If yes is it attached? Yes/No

9. Corporate Improvement Plan

9.1 Safeguarding is everybody's business and links to objectives within the Corporate Improvement plan.

10. Local Member(s)

10.1 Not applicable.

11. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council? Yes/No

If so please provide their comments:-

The Powys Local Safeguarding Group engages with frontline staff/services through its child protection fora. Both the PLOG and PLOGA have active training programmes co-ordinated by the local authority and attended by staff from all agencies. The Safeguarding team give

advice and information to managers and staff working with children and adults' at risk from all sectors.

12. Communications

Have Communications seen a copy of this report? Yes/No

Have they made a comment? If Yes insert here.

13. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

13.1 Legal - Legal Services continue to support Front Line Services and note the content of the report.

13.2 Finance - The Finance Business Partner notes the content of the report regarding Safeguarding children's and adults' in Powys.

13.3 Corporate Property (if appropriate)

13.4 HR (if appropriate)

13.5 ICT (if appropriate)

14. Scrutiny

Has this report been scrutinised? Yes / No?

If Yes what version or date of report has been scrutinised?

Please insert the comments.

What changes have been made since the date of Scrutiny and explain why Scrutiny recommendations have been accepted or rejected?

15. Statutory Officers

15.1 The Strategic Director Resources (S151 Officer) notes the comments made by finance.

15.2 The Solicitor to the Council (Monitoring Officer) notes the legal comment and has nothing to add to the report.

16. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
That Cabinet accepts the safeguarding update in line with its safeguarding responsibilities.	Safeguarding is everyone's business and this report provides assurance to Cabinet of work that is underway both locally and regionally on important safeguarding matters.

Relevant Policy (ies):	
Within Policy:	Y
Within Budget:	Y

Relevant Local Member(s):	All
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Person(s) To Implement Decision:	Agency representatives
Date By When Decision To Be Implemented:	N/A

Contact Officer:	Jax Davies - Interim Safeguarding Lead for Children Karen Arthur – Safeguarding Lead for Vulnerable Adults’
Tel:	Jax Davies - 01597 827094 Karen Arthur - 01686 617637 (5637)
Email:	jacqueline.davies@powys.gov.uk karen.arthur@powys.gov.uk

Background information:-

<http://gov.wales/docs/statistics/2016/161129-local-authority-child-protection-registers-2016-en.pdf>

<https://stats.wales.gov.wales/Catalogue/Local-Government/National-Strategic-Indicators-of-Local-Authority-Performance/nationalstrategicindicators-by-indicator-year>

Title: National Strategic Indicators

Last Update: 7th September 2016

Publishing Organisation: Welsh Government

Source 1: National Strategic Indicators (NSI) data collection, Welsh Government

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Delegated Decision List

10 April	Portfolio Holder for Property Buildings and Housing	Approval to consult on the Rental Exchange Scheme and if the consultation is positive to adopt the scheme. Approval to authorise publication of the Local Housing Strategy. Approval to acquire 11 Burgess Croft, Welshpool.
13 April	Portfolio Holder for Finance	Approval of the Local and Operational Capital Bids Programme.
20 April	Portfolio Holder for Property Buildings and Housing	Approval of budget virement for the Energy Saving Project RE:FIT.
20 April	Portfolio Holder for Adult Social Care	Approval to appoint a consultant to provide project support.
20 April	Portfolio Holder for Environment & Sustainability and Portfolio Holder for Finance	Approval to proceed to appeal a High Court judgement in the Court of Appeal and for the appeal to be funded corporately.
27 April	Portfolio Holder for Property Buildings and Housing	Approval of budget virement
28 April	Portfolio Holder for Environment & Sustainability	Letting of the tenancy of the county farm at Severnside, Forden.
28 April	Portfolio Holder for Finance	Approval to commission Syzergy to provide support for the further development of the new Resources model and savings delivery.
5 May	Portfolio Holder for Property Buildings and Housing	Approval of budget virements in respect of Housing Service budget roll forwards.
8 May	Portfolio Holder for Property Buildings and Housing	Approval of the Council Housing Repairs and Maintenance Policy, the Housing Fire Safety Policy, the Housing Estate Management Policy, the Housing Anti-Social Behaviour Policy, the Income Collection and Recovery Policy for HRA property, the Adaptations Policy for Council Tenants and the purchase of 13 Woodside, Welshpool.

8 May	Portfolio Holder for Property Buildings and Housing	Approval of the Community Asset Transfer of the freehold of Llangammarch Wells Playground and adjacent land to Llangammarch Community Council.
8 May	Portfolio Holder for Highways	Approval of version 2 of the Residents Parking Policy
9 June	Portfolio Holder for Regeneration and Planning	Approval to roll forward REFFCUS budgets.
9 June	Portfolio Holder for Property and Waste	Approval to sell 84 square metres of land at Prospect Close, Brecon
12 June	Portfolio Holder for Education	Approval of budget virement in respect of alterations at Ysgol Trefonnen to create an enlarged 3 year old setting.
12 June	Portfolio Holder for Adult Social Care	To approve the commissioning of short-term external support to review the Council's Open Book process, and to make recommendations for changes to fee setting processes, if the Open Book process is found to no longer represent best practice.
12 June	Portfolio Holder for Regeneration and Planning	Approval of the roll forward of budgets in respect of Knighton Community Centre roof, Gurnos land purchase, office accommodation and capital remedial fund.

Cabinet Forward Work Programme

Cabinet/ Management Team	Cabinet	Matter for Decision	Portfolio Holder/ Officer	Decision Maker Cabinet Portfolio Holder	Pre- Scrutiny	Comments
	June/July	Domiciliary Care Future Commissioning of External Services	Portfolio Holder for Adult Social Care Lee Anderson	Portfolio Holder		
27 June	11 July	Home to School Transport policy	Portfolio Holder for Education Gareth Jones	Cabinet	Pre Scrutiny February	
27 June	11 July	Outcome of consultation on supply teachers pay and conditions	Portfolio Holder for Education Gareth Jones	Cabinet		Deferred from December to await Welsh Govt guidance.
27 June	11 July	21 st Century Schools Programme – Investment in School Buildings at Carno, Glantwymyn and Llanbrynmair Federation	Portfolio Holder for Education Marianne Evans	Cabinet		
27 June	11 July	Llanbister and Llanfihangel Rhydithon CP Schools	Portfolio Holder for Education Marianne Evans	Cabinet		
27 June	11 July	Consideration of initial Business Case re North Powys Secondary Welsh-medium Review	Portfolio Holder for Education Marianne Evans	Cabinet		
27 June	11 July	21 st Century Schools Consideration of Band B Strategic Outline Programme	Portfolio Holder for Education Marianne Evans	Cabinet		
27 June	11 July	Consideration of Feasibility Study re Special Schools review	Portfolio Holder for Education Marianne Evans	Cabinet		



Cabinet/ Management Team	Cabinet	Matter for Decision	Portfolio Holder/ Officer	Decision Maker Cabinet Portfolio Holder	Pre- Scrutiny	Comments
27 June	11 July	S33 Road Traffic Act authorisation for motor vehicle events	Mark Stafford-Tolley	Cabinet		
27 June	11 July	Treasury Management Quarter 4	Portfolio Holder for Finance Ann Owen	Cabinet		
27 June	11 July	Director of Social Services Annual Report	Carol Shillabeer	Cabinet		
27 June	11 July	Rights of Way Improvement Plan	Mark Stafford-Tolley	Cabinet		
27 June	11 July	Report back on implementation of HWRC commercial vehicle restrictions	Portfolio Holder for Property & Waste Nigel Brinn	Cabinet		
27 June	11 July	Schools Budgets	Portfolio Holder for Education Marie James	Cabinet		
27 June	11 July	Financial Overview and Forecast Report	Portfolio Holder for Finance Jane Thomas	Cabinet		
	July	Bid to deliver animal health to Torfaen	Portfolio Holder for Environmental Health	Portfolio Holder		
5 September	19 September	Treasury Management Review 2016/17	Portfolio Holder for Finance Ann Owen	Cabinet		
5 September	19 September	Treasury Management Quarter 1	Portfolio Holder for Finance Ann Owen	Cabinet		
5 September	19 September	Consideration of new schools reorganisation proposals	Portfolio Holder for Education Marianne Evans	Cabinet		

Cabinet/ Management Team	Cabinet	Matter for Decision	Portfolio Holder/ Officer	Decision Maker Cabinet Portfolio Holder	Pre- Scrutiny	Comments
5 September	19 September	School Modernisation Progress Report	Portfolio Holder for Education Marianne Evans	Cabinet		
5 September	19 September	Churchstoke Housing Development	Portfolio Holder for Property & Waste Natasha Morgan	Cabinet		
5 September	19 September	Residential care fee setting arrangement	Portfolio Holder for Adult Social Care Lee Anderson	Cabinet		
5 September	19 September	Children's and Adult Services Quarterly Safeguarding report	Portfolio Holder for Adult Social Care Portfolio Holder for Children's Services	Cabinet		
5 September	19 September	Financial Overview and Forecast Report	Portfolio Holder for Finance Jane Thomas	Cabinet		
12 September		Corporate Improvement Plan Tracker	All Portfolio Holders	Strategic Overview Board		
12 September		Risk Register	Caroline Evans	Strategic Overview Board		
12 September		Regulatory Recommendation tracker	Tom Yeo	Strategic Overview Board		
	October	Licensing - Conditions for Taxi Cabs	Portfolio Holder for Licensing	Portfolio Holder		
26 September	10 October	Review of the Schools funding formula	Portfolio Holder for Education	Cabinet		

Cabinet/ Management Team	Cabinet	Matter for Decision	Portfolio Holder/ Officer	Decision Maker Cabinet Portfolio Holder	Pre- Scrutiny	Comments
26 September	10 October	Consideration of consultation reports re new recommendations for Llanbister and Llanfihangel Rhydithon CP Schools	Portfolio Holder for Education Marianne Evans	Cabinet		
26 September	10 October	Office Accommodation – North Powys Review	Portfolio Holder for Property & Waste Natasha Morgan	Cabinet		
26 September	10 October	Financial Overview and Forecast Report	Portfolio Holder for Finance Jane Thomas	Cabinet		
24 October	7 November	Treasury Management Quarter 2	Portfolio Holder for Finance Ann Owen	Cabinet		
24 October	7 November	Cemeteries Review Outcomes	Nia Hughes	Cabinet		
24 October	7 November	HTR Commissioning Project Full Business Case	Portfolio Holder for Highways Lisa Griffiths	Cabinet		
24 October	7 November	Children's and Adult Services Quarterly Safeguarding report	Portfolio Holder for Adult Social Care Portfolio Holder for Children's Services	Cabinet		
24 October	7 November	Financial Overview and Forecast Report	Portfolio Holder for Finance Jane Thomas	Cabinet		
	28 November	Council Tax Base	Portfolio Holder for Finance Andrew Griffiths	Cabinet		
21 November	5 December	Financial Overview and Forecast Report	Portfolio Holder for Finance Jane Thomas	Cabinet		

Cabinet/ Management Team	Cabinet	Matter for Decision	Portfolio Holder/ Officer	Decision Maker Cabinet Portfolio Holder	Pre- Scrutiny	Comments
	April 2018	Review of protocol for authorising Motor Vehicle Events		Cabinet		

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