

Annex B: Partial Business Regulatory Impact Assessment

Title of Proposal

Mandatory Training on Planning for Elected Members

Purpose and Intended Effect

The aim is to implement the provisions in the Planning (Scotland) Act 2019 requiring the mandatory training of elected members before they can undertake planning functions on behalf of the local authority.

The intention is to provide elected members who are involved in decision-making on planning applications a minimum level of understanding of the planning system and their role within that in order to help participate in the decision-making process in a fair and just manner.

Background

Elected Members have a crucial role in the decision-making process within the planning system, being a vital part of our democratic process by carrying out specific planning functions including determining certain planning applications. Elected members do not necessarily have a planning background and it is vital that adequate training is provided to ensure that elected members have the knowledge and understanding to help them make decisions that are robust and sound in planning reason.

An independent review of the Scottish planning system 'Empowering planning to deliver great places' was published on 31 May 2016. The independent Panel recommended that 'training of elected members should be mandatory, monitored and enforced'. The subsequent public consultation and June 2017 Position Statement indicated broad support for mandatory training for elected members. The position statement explained that there was strong consensus that mandatory training was for all local elected members who are involved in a planning committee or any other body as it was highlighted that the training could help to improve consistency within decision-making.

Mandatory training for elected members was included in the Planning (Scotland) Act 2019, alongside a package of measures to improve the performance of the planning system as a whole. Section 45 of the Planning (Scotland) Act 2019 prohibits elected members from carrying out certain planning functions (e.g. determining planning applications) if they have not completed the training specified by Scottish Ministers.

At present, elected members undertake training on a voluntary basis and as the content and volume of current training for Elected Members is not prescribed or monitored by legislation, the Scottish Government or any other individual body, current practice varies across Scotland.

Rationale for Government Intervention

The implementation of Elected Member Training will benefit the wider planning system by giving the opportunity to those involved in the decision-making process to have an increased understanding of their role and the role of the planning system. This could lead to more consistent decisions increasing trust in the planning system,

and ensuring that planning decisions across Scotland are robust and grounded in an understanding of relevant planning principles, policies and legislation.

The planning system has an important role in helping us to deliver on our ambitions for Scotland. It supports the delivery of a range of cross-portfolio objectives to deliver the Scottish Government's *Strategic Priorities* and *National Outcomes*. The recently adopted National Planning Framework 4 (NPF4), which is Scotland's long-term national spatial strategy looking to 2045 that guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities, places the National Outcomes at its centre. It highlights that Planning has a unique role in contributing to all of the national outcomes.

We consider that implementation of mandatory training for elected members will contribute to achieving these ambitions. In particular this will be achieved by ensuring that elected members are trained in planning principles before they undertake any decision making role contributes to the national outcomes for Human Rights (Quality Public Services and Influence over Local Decisions) and International (Trust in Public Organisations and Scotland's Reputation).

Public Consultation

Stakeholder workshops were carried out across two weeks in November 2022. The workshops included speaking to local authorities and representatives from the private and community sectors. The information gathered helped to inform our approach going forward.

The workshops were structured around three main discussion points:

- Current practice and key issues –what type of training is currently provided and the current process for conducting the training, current levels of participation and engagement and relationship with elected members.
- Content to be included in mandatory training –what content should be included in mandatory training, understand what policy and legislation was not properly understood and identify topics that would be considered locally specific and not applicable across all authorities.
- Delivery and monitoring of mandatory training –how should the training be delivered and monitored focusing on the best way to implement the training, who should be involved and how often should the training be undertaken.

Overall the proposed enactment of mandatory elected training was unanimously supported. Three key concerns were consistently highlighted throughout the workshops:

- Current level of take up of existing training opportunities by elected members
- Perceived gaps in understanding of the planning system
- A need to support greater consistency of planning decision-making

The following organisations attended the workshops:

- RTPI
- Improvement Service

- SOLAR
- Aberdeenshire Council
- East Renfrewshire Council
- Fife Council
- Perth and Kinross Council
- Homes for Scotland
- Scottish Renewables
- Planning Democracy
- 5 Community Councils across different local authorities in Scotland
- Key Agencies Group
- Dundee City Council
- Edinburgh City Council
- Glasgow City Council
- Stirling Council
- Scottish Property Federation
- Salmon Scotland
- Planning Aid Scotland

Business

As stated above, we spoke to a range of cross-sector stakeholders during the workshops which included some private sector organisations. These were as follows:

- Miller Homes
- Homes for Scotland
- Persimmon Homes
- Taylor Wimpey
- CALA
- Muir Homes
- Barratt Homes
- Colliers
- Turleys
- SSE Renewables
- Scottish Renewables
- Scottish Property Federation
- Salmon Scotland

Options

Do Nothing

'Do Nothing' would mean the provisions set out in the Planning (Scotland) Act 2019 would not be implemented. This would effectively mean business as usual. The current practice of elected members being provided training by local authorities on a voluntary basis would continue and the perceptions of inconsistency of the training content and uptake would remain.

The perception of inconsistency in decision-making, highlighted in the independent review of the Scottish planning system 'Empowering planning to deliver great places' in 2016 and the evidence gathered through initial stakeholder workshops in November would not be resolved.

Implement provisions making the training of elected members mandatory

The implementation of mandatory training for elected members will implement the provisions set out in the Planning Act (2019) and help address the perceptions of inconsistency of decision-making which was highlighted through the initial review of the planning system in 2016.

Based on current practice and long-term feasibility we have set out possible approaches in the consultation paper. The approaches proposed will seek to ensure that elected members have a minimum level of understanding of the planning system, and their role within that, in order to help provide a minimum level of training to elected members so they can participate in the decision-making process in a fair and just manner.

Sectors and Groups Affected

Elected Members

If we do nothing, elected members will continue to be involved in the determination of planning applications with no commitment to undertaking training. It will be voluntarily up to elected members to undertake training which is provided by Local Authorities. There will continue to be a perception that there is inconsistency with decision-making within the planning system.

If mandatory training proposals are implemented, elected members will be prevented from being involved in the decision-making process of planning applications until they have satisfied the specified training requirement. It is proposed that the training will provide all elected members involved in the decision-making process with a minimum level of understanding of the planning system.

Local Authorities

If we do nothing, local authorities will continue to provide training to elected members on a voluntary basis. Local authorities may not be able to force elected members to attend.

If the mandatory training proposals are implemented, local authorities will still be able to carry out additional training on a voluntary basis to cover local level planning considerations and policies. However, the mandatory provisions would ensure that all elected members making decisions within a local authority would have a minimum understanding of the planning system.

Users of the Planning System

Applicants

Applicants would benefit from the implementation of mandatory training as this would ensure when applications are being determined by elected members, there is an understanding that all members have had an appropriate minimum level of training.

Elected members

Elected members would benefit from the implementation of mandatory training as they would give the opportunity to those involved in the decision-making process to have an increased understanding the role of the planning system and of their role within that.

Communities

Communities would benefit from the implementation of mandatory training as it could lead to an increase in trust across the wider planning system that the decisions being made are grounded in an understanding of relevant planning principles, policies and legislation.

Costs

It is expected that the implementation of mandatory training will be cost-neutral for local authorities. Elected members, applicants (businesses) and the community should not incur any additional costs. It is intended that the Scottish Government will provide the funding for the implementation of mandatory training.

Regulatory and EU Alignment Impacts

Intra-UK Trade

Is this measure likely to impact on intra-UK trade? No

International Trade

Is this measure likely to impact on international trade and investment? No

EU Alignment

Is this measure likely to impact on the Scottish Government's policy to maintain alignment with the EU? No

Scottish Firms Impact Test

As stated above, consultation with private sector organisations took place during stakeholder workshops which were conducted in November 2022. The workshops were conducted virtually via Microsoft teams.

We asked the private sector attendees various questions around current experience, content discussion and delivery methods/monitoring.

Competition Assessment

N/A – The mandatory training being implemented will not impact upon competition in business. The suppliers in this case would be users of the planning system. The planning system is not seen as a competitive market and therefore proposals do not impact upon the number of users using the system.

Consumer Assessment

N/A - The mandatory training being implemented will only impact upon the role and functions of Elected Members within the planning system.

Test Run of Business Forms

No new forms will be introduced for businesses to complete.

Digital Impact Test

The mandatory training for elected members may be implemented as either an in-person or online training course. This will be shaped by the information gathered through the consultation.

The implementation of the training is a new process so will ensure that the method of delivery is accessible and convenient to all intended users. In terms of planning, the training will not add or change current practices around current processes for submitting planning applications and therefore will not disrupt businesses who currently engage in the planning system.

Legal Aid Impact Test

Mandatory training for elected members will not create new criminal sanctions or civil penalties.

Enforcement, Sanctions and Monitoring

In order to demonstrate that elected members have fulfilled the training requirements and so are not prohibited from exercising specified planning functions we will ensure that there is a mechanism to establish and evidence that the specified training has been completed. Local Authorities will be responsible for ensuring that elected members who have not fulfilled the necessary training requirement do not participate in taking decisions on planning applications.

Implementation and Delivery Plan

Following public consultation, the next steps are as follows:

1. Take account of the public consultation responses. If proceeding we will finalise the proposal.
2. Develop course content
3. Identify method of delivery
4. Identify training provider
5. Commence provisions and agree transitional arrangements

Post-implementation Review

The Scottish Government will work with local authorities and other relevant stakeholders to monitor the long-term effectiveness of the mandatory training and identify any further improvements.

A review of the effectiveness of the implementation of mandatory training will be undertaken within the statutory timescale of 10 years.

Summary and Recommendation

In summary, the implementation of mandatory training on planning for elected members is intended to contribute to improving the performance of the planning system. The measures are set out in the Planning (Scotland) Act 2019 and as such we are seeking to implement.

The implementation of mandatory training for elected members is intended to benefit the wider planning system by giving those involved in the decision-making process an increased understanding of the role of the planning system and their role within that. This could lead to more consistent decisions, increasing trust in the planning system, and ensuring that planning decisions across Scotland are robust and grounded in an understanding of relevant planning principles, policies and legislation.

The planning system has an important role in helping us to deliver on our ambitions for Scotland. It supports the delivery of a range of cross-portfolio objectives to deliver the Scottish Government's *Strategic Priorities* and *National Outcomes*. The recently adopted National Planning Framework 4 (NPF4), which is Scotland's long-term national spatial strategy looking to 2045 guides spatial development, sets out national planning policies, designates national developments and highlights regional spatial priorities and places the National Outcomes at its centre. It highlights that Planning has a unique role in contributing to all of the national outcomes. We consider that the implementation of mandatory training for elected members will contribute to us achieving these ambitions.

Declaration and publication

I have read the partial Business and Regulatory Impact Assessment and I am satisfied that given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of the businesses in Scotland.

Signed:

Date:

Minister's name: Joe Fitzpatrick MSP

Minister's title: Minister for Local Government, Empowerment and Planning

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