



May 2005

Briefing 05/33

To: All Chief Executives, Main Contacts, and email contacts in Wales

To: Chief Executives and Main Contacts in England, Scotland and Northern Ireland for information

Welsh Assembly Government Consultation: Local Authority Trading Powers

Key Issues:

- *For the majority of trading arrangements that Local Authorities will want to undertake, the existing powers provide a sufficient basis.*
- *APSE welcomes the fact that the overall Council performance on WPI is not linked to whether or not Councils in Wales can trade under section 95.*
- *APSE would welcome clear guidance from the Assembly in relation to the linkages that WPI has with any trading activities.*

The Association has recently responded to the Welsh Assembly Governments consultation document on '**Local Authority Trading Powers**', further to APSE briefing 04/70. The full consultation is available from the APSE office on request (email: djohns@apse.org.uk).

This briefing outlines the APSE response to the relevant sections of the consultation. If you want to discuss any issue further please contact Debbie Johns at the APSE Secretariat on 0161 772 1810.

RESPONSE TO THE WELSH ASSEMBLY GOVERNMENT:

- It is APSE's view that for the majority of trading arrangements that Local Authorities will want to undertake, the existing powers provide a sufficient basis for this, namely:
 - The Local Authority (Goods and Services) Act 1970
 - S111 of the Local Government Act 1972
 - S2 Local Government Act 2000 (Power of Well Being)
 - and express powers in other legislation:-
 - Civic Restaurants Act 1947
 - Local Government Miscellaneous Provisions Act 1976
 - and the new power to charge for discretionary services under S 93 of the Local Government Act 2003

However, this list is non-exhaustive.

- APSE supports a revision of the definitions in Part V of the Local Government and Housing Act 1989. The introduction of the prudential borrowing regime has superseded Part V and therefore, this should be either amended or repealed as appropriate.
- APSE welcomes the fact that the Welsh Assembly Government are not linking overall Council performance on WPI to whether or not Councils in Wales can trade under section 95 of the Local Government Act 2003. In England, the link between CPA and trading powers could result in a degree of uncertainty for both the Local Authority and the body that they trade with. This is because of the 'two-year rule', which means that if an authority were to lose its CPA rating to less than 'fair' its trading activities derived by virtue of the LGA 2003 must cease within 2 years of the revised rating. It is also true that Local Authorities can excel in some services and not in others.
- APSE would welcome clear guidance from the Assembly in relation to the linkages that WPI has with any trading activities (in including this within the risk assessment and in the improvement plans). We welcome an approach around rigorous business planning and risk assessment.

Thank you for giving APSE the opportunity to submit evidence on this subject. I would also be grateful if you could include APSE on the mailing for all local government consultations.

If you require any further information on this or any other topic do not hesitate to contact Debbie Johns on the above telephone number or by email djohns@apse.org.uk.

Cllr Malcolm Jones, Chair APSE Wales