



Briefing 09/08

February 2009

# Proposed Local Government (Wales) measure

This briefing provides details of APSE's response to the Welsh Assembly Government on the proposed Local Government (Wales) measure. It is provided to Council Leaders, Chief Executives and service contacts in Welsh authorities and to Scotland, England and Northern Ireland contacts for information.

## Key issues

1. The Welsh Assembly Government launched a consultation on the proposed Local Government (Wales) measure in October 2008 and asked for written evidence from APSE.
2. APSE conducted an e-survey of its membership to formulate the response
3. This briefing paper details APSE's response to the consultation as well as an update from the latest committee report issued from the Welsh Assembly Government in January 2009.

## 1. Introduction

In October 2008, APSE was invited to submit written evidence on the proposed Local Government (Wales) measure. The proposed measure seeks to *"make provision about arrangements by local authorities and other authorities in Wales to secure continuous improvement in the exercise of their functions; to make provision for community strategies; and for connected purposes"* Welsh Assembly Government. The Measure's overall intention is to:

- offer authorities greater flexibility to respond to citizen and community needs with a national context, while clarifying and strengthening the Assembly Government's ability to respond to under-performance;
- create a statutory regime which better integrates long-term strategic planning and shorter term service improvement;

- amend the law better to reflect the distinctive nature and role of local government in Wales;
- build on the experience of authorities and others operating within the current regimes.

In particular, the Measure:

- expands authorities' duties in relation to secure improvement, in particular emphasising that enhancing local wellbeing, sustainability and social equity are as valid as improving quantified service outputs or efficiency;
- create a general power for authorities (including local authorities, National Parks and Fire and Rescue Authorities) to collaborate with each other to secure improvement, and a reserve power for Ministers to direct this;
- confer more scope to use performance data to account to citizens and communities about the levels of service they are providing;
- secure greater collaboration between local government auditors, regulators and inspectors so as to maximise value and minimize burdens (this largely entails placing existing best practice on a statutory basis);
- expand and clarify Ministers' powers to support local authority improvement and to intervene where necessary;
- create a common duty on local service-providers to prepare and deliver a community strategy and associated action plan.

Much of the Measure captures existing non-statutory elements of the WPI and community planning regimes. There would be an implicit challenge for authorities to use the new programmes to optimise local citizen and community outcomes rather than simply to comply with their formal strictures or to continue 'business as usual'; failing that, the Welsh Ministers' new support and intervention powers might well come in to play.

APSE conducted an e-survey to obtain its memberships views of the new measure and formulate a response. APSE responded with written evidence on behalf of its membership in November 2008 and the full response is contained below. In addition, a Stage 1 Committee Report was issued by the Welsh Assembly Government in January 2009, which included further details about the responses received. A short summary of this is provided in section 3 below. Full details of the measure and the Stage 1

committee report can be found at: <http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-lq.htm>

## **2. Replicated below is APSE's response**

The Association for Public Service Excellence (APSE) represents officers and members involved in the management and provision of quality public services. APSE's mission statement positions the organisation as 'networking organisation which consults, develops, promotes and advises on best practice in the delivery of public services'. APSE is currently working with almost 300 authorities within the United Kingdom.

APSE supports the principles of best value and continuous improvement and the inclusion within this of a balanced set of measures including strategic effectiveness, service quality, service availability, fairness, sustainability, efficiency and innovation. The best value duty has been an important part in developing continuous improvement in local government services and in securing best use of resources. APSE supports the retention of a broader duty of continuous improvement which still contains provisions for best value.

Within the continuous improvement duty, there needs to be recognition that each local authority will be at different levels of performance and even though all organisations can continually improve, the level of improvement will vary between authorities who are already good performers compared with authorities who are performing at an average or lower quartile level. Therefore, current performance as well as continuous improvement needs to be measured and assessed.

APSE supports collaboration between local authorities and the Welsh Assembly Government's approach to 'Delivering the connections' and 'A shared responsibility'. However, the collaboration power (and the power for Welsh Ministers to direct this (section 31(2)), may be problematic in terms of political differences between local authorities, practical issues such as duplication of roles and cultural fit between different public sector bodies.

APSE has written to its membership in Wales over the proposed Local Government (Wales) measure and feedback is as follows:

- 70% indicated that they thought that there is a need for legislation to reform the statutory basis for service improvement by local authorities and 78% thought that there a need for legislation to reform community planning and strategies.

However, comments included that this should only be light touch and empowerment rather than prescription. Comments also included that local government should be the responsibility of local representatives and English Authorities often find their performance indicators act as inhibitors.

- In relation to how the proposed Measure will change what organisations do currently, comments included that it will introduce consequences for not delivering high quality effective services, that the legislation should help direct organisations down the best route for both service users and local authorities, that it will improve strategic planning and better coordination and it may redefine and broaden service area responses.
- When asked what impact any such changes will have in terms of service improvement and community planning, APSE membership thought that this may introduce quality and customer focus awareness to delivering services, better target available resources and will help to work beyond service area boundaries. However, some individuals may have doubts on extent of the impact the changes will make.

In relation to the performance indicators and guidance (section 8), APSE would like further clarification on whether the performance standards will be set as minimum standards and how these will be set. For instance, will these be on an individual local authority basis, based on a quartile mark for what is expected from similar authorities or will these be set based on past performance? In addition, as different local authorities will have their own local priorities, the performance measures and standards that are set need to be relevant to the local circumstances.

APSE would welcome better co-ordination in the exercise of regulatory functions to reduce the burden on local authorities. APSE is committed to the independent audit and inspection of public services and believes that any inspection system should lead to a reduction in its role and ultimately the development of a self-inspection regime with light touch external audit.

APSE supports the principle that informal support should be a prerequisite of formal intervention. APSE would support the further use of peer support and identifying and using the support of the local government community.

Thank you for the opportunity to respond to this consultation. APSE would be prepared to give oral evidence to the Committee.

### **3. Stage 1 Committee Report**

The Stage 1 Committee Report issued by the Welsh Assembly Government in January 2009 demonstrates that:

- There was a general consensus in favour of the need for the proposed measure. The Committee agree that the proposed Measure provides the right framework to deliver continuous improvement (Part 1) and effective community planning (Part 2), and for overcoming shortcomings and weaknesses that have been identified in existing regimes.
- There were concerns raised with the level of detail and prescription contained in the proposed measure and subsequent inflexibility that could arise from this. They consider that it would be sensible for the Minister to review this and to bring forward appropriate amendments where he considers it sensible to do so.
- They recommend that the Minister brings forward an amendment to ensure that an improvement authority must make 'effective arrangements' to secure continuous improvement in the exercise of its functions.
- They recommend that accompanying guidance on improvement clearly explains how the concept of economy fits in with the seven aspects of improvement contained in the proposed Measure.
- They agree that a duty for authorities to collaborate could be unworkable and recognise that the enabling power in section 9 of the proposed Measure seeks to strengthen existing practice of collaboration and has been welcomed. To this end, they are content with the enabling power provided for in section 9.
- They consider that the provisions for collecting, using and publishing information in sections 13 to 15 of the proposed Measure are broadly appropriate.
- They have considered carefully the comments that a duty to compare performance should not be included on the face of the proposed Measure. However, they consider that comparing performance is a valuable duty for improvement authorities.
- In relation to the publication of collaboration information, they acknowledged that there is a danger that this could be burdensome and therefore they recommend that there should be guidance to provide clarity on this.
- They recommend reconsidering the timetabling arrangements.
- They consider that the overall regulatory and inspection framework is appropriate.

- They recommend that the Minister considers establishing a concordat to clarify the circumstances in which the power under section 29 is to be exercised and also consider providing a duty to consult improvement authorities before exercising the powers.
- They consider that the powers to direct collaboration in sections 30(2)(c) and 31 are appropriate.
- The community planning provisions have been broadly welcomed and they recommend that the leadership role of local authorities in the community planning process is asserted through guidance.
- They recommend that the provision under section 44 should be strengthened to include 'representatives of relevant public bodies' as a person listed to consult with.
- Under section 39, the committee thought that there should be a statutory obligation placed on a local authority to consult with community planning partners once a draft of the community strategy has been prepared.
- There were concerns raised that so little information about the costs associated with the proposed measure has been provided. They recommend that the Assembly Government monitors the financial implications and provides appropriate funding to authorities if and when required as a means of ensuring that the objectives of the proposed measure are successfully delivered.

Following the Assembly's agreement of the general principles of the proposed Measure, Stage 2 commenced on 4 February 2009. Amendments may now be tabled to the proposed Measure.

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