



APSE response on the National Assembly for Wales (Legislative Competence) (Culture and other fields) Order 2009

This briefing provides details of APSE's response to the National Assembly for Wales consultation on the 'Legislative Competence (culture and other fields) order 2009. This briefing is provided to local authority chief executives, council leaders and all APSE culture contacts in Wales and to England, Scotland and Northern Ireland contacts for information.

Key Issues:

- This APSE briefing includes APSE's written response on the National Assembly for Wales consultation
- The aim of the order is to make new laws for Wales by Measure in relation to the promotion and delivery by local authorities of cultural services and activities across Wales.
- APSE was also called for evidence and a copy of the evidence is available to download from the Assembly website.

1. Introduction

The draft order aims to make new laws for Wales by Measure in relation to the promotion and delivery by local authorities of cultural services and activities across Wales. The National Assembly for Wales (Legislative Competence) (Culture and other fields) Order 2009 proposes enhancing the National Assembly's current legislative competence by inserting 3 new matters into Schedule 5 of the Government of Wales Act 2006:

i) Matter 2.1 (ancient monuments and historic buildings): The functions of local authorities in the support, improvement and promotion of the appreciation by the public of archaeological remains, ancient monuments, buildings and places of historical or architectural interest, and historic wrecks.

ii) Matter 3.1 (culture): The functions of local authorities in the support, improvement and promotion of museums, galleries and libraries, arts and crafts, archives and historical records, and cultural activities and projects.

iii) Matter 16.4 (sport and recreation): The functions of local authorities in the support, improvement and promotion of sport and recreational activities.

The full consultation is available by clicking on the following link: <http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-legislative-competence-orders/bus-legislation-lco-culture-2009.htm>. A copy of APSE's written response is included below. Following on from this written response, APSE were called for evidence and the Principal Advisor for Wales together with John Pearse, Operational Manager for Cardiff Council represented APSE at this committee. A copy of the full transcript is available by clicking on the following link: <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-lc4-agendas.htm?act=dis&id=145648&ds=10/2009>

2. APSE written response to the National Assembly for Wales

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 and all 22 councils in Wales are members of APSE. APSE has consulted with its membership and has included their comments within this submission.

Question 1: What are your views on the general principle that legislative competence in the areas identified in Matters 2.1, 3.1 and 16.4 be conferred on the Assembly?

APSE recognises the contribution that culture makes to enhancing the quality of life of residents – socially, economically and in improving the environment. APSE recognises the value of the Order in acknowledging the importance it gives to culture in delivering these

outcomes. Cultural activities are often perceived as a luxury and thereby not appreciated or prioritised as highly as current statutory services within local government. APSE supports moves to enhance the role of the Welsh Assembly Government through devolving legislative powers, as this enables Wales to achieve those outcomes within a context relevant to Wales. In addition, APSE agrees that the Order should recognise the need to preserve local flexibility of individual local authorities to determine and meet the cultural service needs of their own communities.

APSE supports greater priority for investment in and maintenance of accessible sporting and cultural facilities within all communities and believes that policies dedicated to and promoting Healthy Lifestyles should be central to all local government services. APSE agrees with the Welsh Assembly Government's statement that 'low income, background or where people live should not be a barrier to access and participation to high quality cultural experiences'.

APSE also supports the laudable aims of the Order to improve cultural service provision by local authorities over time and bring the poorer performers in line with the better performers. APSE's performance networks benchmarking service is an improvement tool used by around 200 local authorities in the UK (including 19 of the 22 councils in Wales) in order to identify and share good practice and to learn from comparable services in other local authorities. Data for cultural services, sports and leisure and parks and play has been collected over the last 10 years and there is strong evidence of improvement in local authority services. For instance, average usage per opening hour for local authority directly run facilities has increased over the past 3 years. APSE is happy to share data trends from performance networks with the Welsh Assembly Government.

APSE consulted with its membership on the proposed Order and the majority of our members agreed that legislative competence should be conferred on the Assembly in relation to Matters 2.1 and 3.1. In relation to Matter 16.4 (the functions of local authorities in the support, improvement and promotion of sport and recreational activities), APSE received mixed responses from its members. Comments included that this should be done in conjunction with the various sporting bodies as well as local authorities.

The proposed Order is specifically focused on placing all local authority cultural services and activities on a statutory footing to improve service provision, better promotion of services, increase access to and participation in services/activities and the greater use of partnerships.

However, the explanatory memorandum is limited in terms of what resources are going to be provided to meet these aims. If the Order includes additional commitments expected of local authorities, then these would need to be adequately resourced. It is also worth noting many of the aims of this proposal could be achieved by properly directed grants, rather than by compulsion, enshrined in legislation.

APSE would also welcome further clarity on whether any duties/resources will be transferred to local government as a result of the Order, particularly in relation to Matter 2.1. One APSE member commented that the areas in Matter 2.1 (ancient monuments and historic buildings) are currently outside the core mainstream services and current expertise would be greater in Matters 3.1 and 16.4. At present archaeology is largely the responsibility of the four Welsh Archaeological Trusts, if the agenda is to move towards council based archaeologists then this needs to be made explicit.

Question 2: What are your views on the terms of the proposed Order? For example, are they too narrowly or too broadly drawn?

Our members had mixed opinions in relation to this question. Some members thought that by reducing the Matters to ancient monuments, historic buildings, culture and sport and recreation, this is too narrowly drawn and comments included that the interface with Health, Culture and Wellbeing should be further developed. The functions listed in the Order may not cover all of the benefits identified in paragraph 7 of the explanatory memorandum; for instance creative industries and cultural tourism. Therefore, the benefits listed in paragraph 7 and the functions need to be more closely aligned.

Matter 16.4 (sports and recreational activities) needs greater clarity in terms of what this includes; for instance, does this include children's play and parks? If play and parks are excluded from the definition, then the definition is too narrow.

Matter 3.1 refers to some cultural venues such as museums and art galleries but not others such as theatres which provide equally valuable cultural activities. Therefore, greater clarity is needed on what is included and excluded from the Matter. There is also a risk that cultural venues which are excluded by the definition would become secondary in terms of priority for funding and importance.

Some of our members thought that the Order is too broad in terms of the range of disciplines that it is trying to cover; from archaeology to sport, particularly as these address different outcomes. Further clarification is also needed in terms of the function of 'supporting, improving and promotion'. In addition, would local authorities be required to fund the promotion of any of the services listed in the 3 Matters which are outside the management of the local authority?

Question 3: What are your views on the specific exclusions to Matter 2.1 and Matter 3.1, and the exceptions contained in Article 3?

In relation to the specific exclusions to Matters 2.1 and 3.1, feedback from APSE members was generally positive in that our members agreed with these. However, there were mixed views from our members in relation to the exceptions contained in Article 3. One member commented that the Assembly should lay down the standard for everyone to follow, and not have different rules for different areas.

Question 4: Do you have any additional comments relating to the proposed Order?

In paragraph 8 of the explanatory memorandum, "The Welsh Assembly Government's aim is to widen participation to the full range of arts, cultural, sport and recreational services and activities." It would be useful to clarify whether it is the aim to 'increase' as well as 'widen' participation, as widening infers changing the profile of the residents benefiting from culture rather than increasing participation to all.

It is unclear how the power will be used and what remedial action would be taken if local authorities were considered to be breaching this. In measuring whether councils are achieving these aims, what performance mechanisms will underpin the functions? For example, will there be cultural standards along the same lines as those developed for libraries. If standards are developed, these should be driven by local needs for services and with the necessary professional and practitioner input. In addition, the nature of local authorities in Wales needs to be taken into account if the Welsh Assembly Government is intending to set minimum standards or targets as this needs to be balanced against resources and circumstances/demographics. Having a similar requirement in an urban, highly populated city council such as Cardiff compared to a rural authority such as Powys is simply not practical.

APSE would welcome being involved in any working parties set up to further clarify this Order or in setting the performance framework to accompany the Order. Please contact Debbie Johns, Principal Advisor for APSE on 0161 772 1810 or email djohns@apse.org.uk to progress this.

Thank you for the opportunity to respond to this consultation.

Debbie Johns
Principal Advisor