



Briefing 09 -69 December 2009

# Local Government (Wales) Measure 2009 – statutory guidance - Part 1

This briefing focuses on Part 1 of the statutory guidance published by the Welsh Assembly Government on the Local Government (Wales) Measure 2009. It is provided to local authority chief executives, council leaders and all APSE contacts in Wales and to England, Scotland and Northern Ireland contacts for information.

## Key issues

A summary of the guidance on Part 1 -'Reforming the Wales Programme for Improvement (WPI)'

Part 2 guidance on 'Collaborative Community Planning' will follow in a separate briefing paper.

The consultation closes on 15 January 2010, please email responses through to [djohns@apse.org.uk](mailto:djohns@apse.org.uk) by Thursday 14 January 2010.

## 1. Introduction

The Local Government (Wales) Measure 2009 has two substantive parts – Part 1 which deals with improvement and business planning by local authorities and Part 2 which deals with strategic community planning by local authorities and a range of public sector partners. The original consultation on the measure was launched in October 2008 and APSE, following consultation with its membership, responded to the consultation ([click here to view the briefing paper](#)). The measure was passed on 28 April 2009 and received Royal approval on 10 June.

The Assembly has now issued statutory guidance on both Part 1 and Part 2 of the measure. One of the main aims of the measure is to join together improvement and

community planning; that is, improvement should take full account of the strategic vision and community planning should be based on what is deliverable and on continual monitoring of how effective that delivery is. Part 1 of the measure has been summarised in this briefing paper. Part 2 guidance will follow in a separate briefing paper. For a copy of the full consultation documents, please [click here](#).

## **2. Reforming the Wales Programme for Improvement**

The Local Government (Wales) measure builds is based on defining ‘improvement’ more broadly than quantifiable gains in service output or efficiency or the internal effectiveness of an organisation and means anything which enhances the sustainable quality of life and the environment for local citizens and communities. Part 1 of the measure applies in full to county and county borough councils in Wales, National Park Authorities and Fire and Rescue Authorities. Police authorities remain best value authorities subject to the Local Government Act 1999.

### **a) The General Duty to Improve**

Under section 2 of the Measure, authorities are under a general duty to “make arrangements to secure continuous improvement in the exercise of [their] functions.” In discharging this duty, an authority must have regard to the need to improve the exercise of its functions in terms of:

1. making progress towards an authority’s strategic objectives (as set out in its community strategy) especially in terms of:
  - a. the social well-being of the area;
  - b. the economic well-being of the area;
  - c. the environmental well-being of the area;
  - d. the long-term objectives of the area contributing to the achievement of sustainable development in the United Kingdom
2. improving service quality;
3. improving service availability;
4. fairness especially in reducing inequality in accessing or benefiting from services, or improving the wellbeing of disadvantaged groups;
5. exercising functions in ways that contribute to the sustainable development of an area;
6. improving the efficiency of services and functions;
7. innovation and change which contributes to any of the above objectives

In the terms above, the guidance states that ‘efficiency’ may be shown *‘if fewer resources are utilised while maintaining provision of quality services’* page 9. If an authority chooses to alter the manner by which a service is provided (such as integrating services), it will not only be demonstrating efficiency but improved sustainability as well. ‘Innovation’ relates to changes to service design and delivery methods that are intended to yield improvement (the tangible effects of this may not be realised in the same year but in subsequent years).

The guidance states that *‘for an authority to successfully discharge its general duty it should incorporate the seven aspects of improvement into all of its decision-making processes and its assessments of functions and services’*. Page 10

## **b) Improvement objectives**

The guidance states that authorities need to determine their improvement objectives for the forthcoming year and in setting these, an authority will need to consider how they will best protect and enhance sustainable community wellbeing. However, it also recognises the authority's role in reconciling competing needs and aspirations of different individuals and sections of the community. In setting these, authorities need to take account of a wide range of evidence including their community strategy; improvement plans; statutory partnership priorities; performance data; audit reports; analysis of performance compared with previous years and in comparison with others; consultation findings from the previous year; national and international priorities and the global context.

It is recommended that before setting its improvement objectives, an authority should consult citizens and stakeholders; local businesses and, where appropriate, potential businesses; its statutory and other community planning partners; other authorities (especially where any proposed improvement objectives may have an impact upon them); and other bodies with whom collaborative working is taking place or is being planned. Authorities will need to retain evidence of their consultations.

In terms of recording and reporting progress, authorities will need to collect evidence of their progress, which may include performance indicators, qualitative information such as satisfaction surveys, progress in introducing or completing programmes, scrutiny enquiries, reports from regulators and other relevant sources. This should then allow an authority to provide a narrative description of how successful it has been in pursuing its improvement objectives. There is a clear role for scrutiny emphasised in the guidance in terms of discharging the general duty to improve and in setting and monitoring improvement objectives.

## **c) Improvement information**

The guidance states that authorities should look to use a much wider 'basket' of evidence to assess the performance of their services and the impact they are having on the outcomes for citizens and communities. This may include the following:

- performance indicators (whether statutory, standard or local);
- satisfaction data: citizen surveys, views of users', tenants' or citizens' panels or juries (including the National Survey for Wales);
- the number and nature of calls to contact centres or other points of contact with citizens;
- service usage levels;
- the outcomes of service assessments and peer reviews;
- the outputs from an authority's scrutiny process;
- audit, regulatory and inspection findings;
- levels of accreditation to recognised assessment schemes;
- intelligence relating to a need for a project or programme; and
- intelligence relating to a need for a new, or more innovative, means of service delivery.

Authorities are now required to use improvement information that they collect to compare their performance with their own historical performance in previous financial years and with other authorities who provide similar services.

The current performance measurement framework has been in place for the last 4 years and the Assembly will be consulting on further changes to this. The Welsh Ministers

may well use their powers contained in the measure to set national strategic measures (statutory performance indicators). In addition, the Welsh Assembly Government will continue to fund a set of nationally defined performance measures (standard performance indicators).

The guidance states that authorities should continue to develop and use their own local performance measures which reflect their individual circumstances and aspirations, as well as supporting detailed management and operational decisions. In developing and using local indicators, authorities should be willing to share their experiences with their peers.

#### **d) Working together**

The Welsh Ministers have no power to issue guidance on authorities' powers to collaborate under the measure so Chapter 5 of the guidance has no statutory force and is advisory only.

Section 9 of the measure provides authorities with the power to collaborate in order to secure continuous improvement, meet improvement objectives, and/or meet specified performance standards. Under this power, an authority can:

1. provide financial assistance
2. enter into arrangements or agreements
3. cooperate with or facilitate or co-ordinate the activities of another person
4. exercise functions on behalf of another person
5. provide staff, goods, services or accommodation

Authorities are not restricted in terms of who they may collaborate with (other UK authorities, third sector, charitable and businesses based in the UK and/or abroad).

Section 12 requires authorities to consider whether such collaboration would assist in the discharge of their improvement duties. If so they must seek to exercise that power. Sharing experiences and indicator information is likely to fall within these provisions. Other examples highlighted in the guidance include when formulating improvement objectives.

#### **e) Accountability for improvement**

The first stage of reporting should cover an authority's plan for that year, including:

- a general statement outlining the nature the authority's improvement objectives for the year;
- an explanation of why they were chosen and the outcomes that communities should expect if they are achieved;
- a statement on the process followed on the consultation on improvement objectives and any issues that arose from the consultation;
- the evidence (including but by no means limited to performance indicators and targets) that the authority has set for itself in order to monitor its delivery of its improvement objectives;
- information on how communities or stakeholders may propose new improvement objectives during the year.

This information is to be published as soon as reasonably practical after the start of the financial year.

The second stage involves reporting past performance and this needs to be published before 31 October in the financial year after the year to which the information relates. Neither the measure nor the guidance requires authorities to publish information in a particular way or in a particular format. However, authorities should have regard to making them as assessable to citizens and stakeholders as possible. The guidance states that a summary version may be produced for wider public engagement and authorities should ensure that the citizens and communities they serve are aware of the existence of the plan and summary.

#### **f) Assessment, regulation and inspection**

The main piece of work for the Wales Audit Office (WAO) and relevant regulators under the Wales Programme for Improvement is an annual Improvement Assessment for each authority to determine whether the authority is likely to comply with the requirements of Part 1 of the measure. The WAO will also undertake an improvement information and planning audit.

In order to fulfil these requirements, the WAO will undertake the following annually:

- **Corporate Assessment** - a forward-looking assessment of an authority's likelihood to comply with its duty to make arrangements to secure continuous improvement. This includes consideration of the authority's published improvement plan. The Auditor General's report is likely to be published between April and June (depending on when the authority finalises their improvement plan) and will state whether he believes that the authority is likely to comply with the statutory duty to make arrangements to secure continuous improvement during the current financial year, he may also comment on whether the authority is likely to comply in subsequent years.
- **Performance Assessment** – a retrospective assessment of whether an authority has achieved its planned improvements in order to inform a view as to the authority's track record of improvement. This will include consideration of the authority's own published assessment of performance and the findings from any work undertaken by the WAO. The performance assessment will be reported in the Auditor General's Annual Improvement Report (which will be published by 30 November each year).

It will undertake authority-wide reviews of relevant governance and management arrangements, supplemented where necessary by reviews of specific functions and activities. Where appropriate, the assessment will involve gathering and reviewing information from members of the public and other stakeholders, as well as information from within the authority.

The Auditor General may also in some circumstances carry out Special Inspections, such as where he thinks that an authority may fail to comply with the requirements of the measure.

### **3. APSE comment**

APSE generally welcomes the guidance contained in Part 1, which includes further emphasis on a number of issues APSE raised as part of the consultation process. This includes the use of performance measures which are relevant to local circumstances and that regulatory functions will be co-ordinated to reduce the burden on local authorities. APSE also supports the approach taken by the Assembly to look at current comparative performance as well as performance over time.

The guidance highlights that there will be a much stronger emphasis on the range and quality of information that councils provide about how they are performing and improving. This is welcomed by APSE as local authorities have developed comprehensive systems to manage performance over the past 11 years which should be used and this will ultimately lead to a reduction in duplication. As a result, systems that have been developed and refined over the years by local authorities such as APSE's performance networks will be an invaluable tool in the reformed Wales Programme for Improvement (<http://www.apse.org.uk/performance-network.html>).

APSE welcomes that the guidance does not stipulate what authorities' priorities for improvement are, it states '*authorities themselves should determine their own priorities for improvement based on a thorough understanding of local needs and their capacity to address them*' page 5. APSE also agrees that authorities should be able to draw on a 'basket' of evidence to assess the performance of their services. A combination of measures which assess council services in relation to past performance (trends) and comparisons with like-for-like organisations should be used to assess both positional and improvement information. A key part of any performance framework is to learn from the information, to identify best performers and to disseminate this; therefore, APSE supports the need for disseminating good practice and using this as a tool for improvement.

Key components for the revised WPI are the corporate assessment and performance assessment. The guidance does not give great detail in terms of how these assessments will be reported in terms of whether there will be a categorisation of councils in terms of their likely ability to comply with the statutory duty and assessment of performance. APSE would urge the Welsh Assembly Government to learn from the lessons of Comprehensive Area Assessment in England that there are dangers in using crude labels such as the demoralising effect that these have on councils who were labelled as 'weak' plus the problems associated with basing this score on a limited number of council services. However, on the other hand, this approach in England has probably helped drive and recognise improvement in England, the results of which by 2006, 79% of councils reached the top two star rating categories.

In relation to citizen engagement, APSE is committed to a partnership between the local council, its employees and the community and welcomes the involvement of relevant stakeholders. APSE also welcomes the Assembly's recognition of the need for authorities to ensure that this is centred on a balanced assessment of the needs of the community as a whole, rather than a particular organisation or interest group within it.

APSE also agrees that the power to collaborate could be useful for authorities, although there are a raft of other powers which can be used by authorities to work together such as Local Government Act 2000 and the power to promote or improve economic, social or environmental well-being, which was brought into effect in Wales in 2001. However, the new power to collaborate clearly links this to the duty to improve.

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