



AGENDA ITEM: 6

NORTH WALES FIRE AND RESCUE AUTHORITY EXECUTIVE PANEL

17th NOVEMBER 2008

PROPOSED LOCAL GOVERNMENT (WALES) MEASURE

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Purpose of Report

- 1.** To inform members of the Welsh Assembly Government's proposed Local Government (Wales) Measure, and to present a draft response from the Authority to the consultation questions posed by the Assembly's Committee.

Background

- 2** Statutory requirements for improving public services have been in place for several years. This new proposed Measure follows on from a number of existing pieces of legislation and strategies, of which the main ones are:
 - 2.1** The Local Government Act 1999 which introduced the concept of "Best Value Authorities" – including for Fire and Rescue Authorities – and the general duty to secure continuous improvement, having regard to a combination of efficiency, effectiveness and economy.
 - 2.2** The Local Government Act 2000 which introduced a requirement for principal Local Authorities to prepare a community strategy to promote wellbeing in their area.
 - 2.3** The Crime and Disorder Act 1998 which introduced a requirement for local authorities and police to work in partnership to improve public safety. Fire and Rescue Authorities became statutory partners from 2003 as required under the Police Reform Act 2002.

Background (continued)

- 3** In Wales, the Making the Connections programme and the Beecham Review report both emphasised the importance of working collaboratively to deliver public services in Wales.
- 4** The Local Government and Public Involvement in Health Act 2007 introduced reforms of the local government system. It also expanded the legislative competence of the National Assembly for Wales by giving it 'framework powers' to make provision on a range of local government matters in Wales.

Introduction

- 5** The proposed Local Government (Wales) Measure was introduced on 22nd September 2008. A copy of this and an explanatory memorandum are provided at Appendix 1 .
- 6** A Welsh Assembly Government (WAG) committee set up to consider and report on the general principles of the proposed Measure is now seeking evidence to assist in its scrutiny of the proposals by 28th November 2008.

Information

- 7** References to the relevant sections of the proposed Measure are shown in brackets (s._).

Part 1 – Local Government Improvement

- 8** Bodies that would be subject to the Measure - including fire and rescue authorities - would become designated 'Welsh improvement authorities' (WIAs) rather than 'best value authorities' (s.1).

The General Duty

- 9** The Measure would replace the general duty under the best value regime with a new one whereby WIAs would have to secure improvement in the exercise of their functions in terms of at least one of the seven aspects of improvement, these being:
 - a) strategic effectiveness
 - b) service quality
 - c) service availability

- d) fairness
- e) sustainability
- f) efficiency
- g) innovation.

- 10** The first aspect of improvement refers to strategic objectives for fire and rescue authorities that would be any relevant community strategy objectives and any objectives the authority has decided to set itself in response to guidance in the National Framework (s.4(3)(c)).

Consultation

- 11** WIAs would be expected to consult with a range of resident and non-resident service users and stakeholders when deciding on their improvement objectives (s.5). This would be a separate requirement from the 12-week consultation that fire and rescue authorities already undertake when developing their Risk Reduction Plans.

Collaboration and Delegated Powers

- 12** WIAs would be given powers to collaborate with 'any person' for the purpose of securing improvement (s.9). Fire and rescue authorities would be given the same powers of delegation (s.10) as the other WIAs already have in order to execute their powers of collaboration (s.11).
- 13** WIAs would be expected to consider from time to time whether they can use their powers of collaboration to help to discharge their improvement duties, and if so, to act to do so.

Use of performance information

- 14** Welsh Ministers would set performance indicators and performance standards that WIAs would be expected to meet (s.8). For their part, WIAs would be expected to collect performance information and use it to compare their own performance with their own previous performance and with other public authorities (s.13-14).

Accountability

- 15** Public reporting would happen in two parts. Firstly, a description of the WIAs' plans for improvement would need to be published at the start of every financial year. Secondly, WIAs would be expected (s.15) to publish an annual Improvement Plan by 31st October.

Regulators

- 16** The Measure defines the functions of the Auditor General for Wales (AGW) in terms of improvement audits and assessments (s. 17 –28) and also identifies ‘relevant regulators’ (s.16), of which three relate directly to fire and rescue authorities, namely:
- i) a person appointed under section 28 of the Fire and Rescue Services Act 2004 (inspectors);
 - ii) the Welsh Language Board in the exercise of its functions under section 17 of the Welsh Language Act 1993 (investigations); and
 - iii) an auditor appointed under section 13 of the Public Audit (Wales) Act 2004 to audit the accounts of a Welsh improvement authority.
- 17** The AGW would assess and report on the level of each WIA’s performance improvement and compliance, and the likelihood that it would be able to comply with Part 1 of the Measure in future (s.18-20). Other regulators could be required to contribute to this assessment (s.19).
- 18** The AGW would co-ordinate regulatory activity in the WIA (s.24), and produce an audit timetable for each authority (either annually or for more than one year). The principles of consistency between authorities, the independence of appointed auditors, proportionality and supportiveness are also stated (s.26).
- 19** Each WIA would be the subject of an annual improvement report by the AGW (s.25) that summarises or reproduces reports issued during that financial year regarding the authority’s improvement, compliance and recommendations.

Special Inspections

- 20** Welsh Ministers could direct the AGW to conduct an inspection. Where either the AGW or other regulators consider that a WIA may fail to comply with Part 1 of the Measure, the AGW may decide to conduct a special inspection (s.22).

Intervention

- 21** The AGW would give an opinion as to whether the Welsh Ministers should either provide assistance (s.29) or give direction (s.30), and if so, what type of direction.

- 22** In cases of support, the Welsh Ministers would have powers to 'do anything which they consider is likely to assist a WIA to comply with the requirements of this part'. Examples are given of the types of support that might be provided (s.29).
- 23** In urgent or serious cases, where support had not had the desired effect, or where WIAs did not co-operate, the Welsh Ministers would have powers of direction. The types of direction are listed (s.30).
- 24** As well as having powers to direct WIAs that are currently or potentially failing, the Welsh Ministers would have powers (s.31) to direct WIAs that were not in those categories to collaborate with WIAs that were.
- 25** Welsh Ministers would also have powers to modify enactments and confer new powers on all or some WIAs (s.32-33).

Fees

- 26** The AGW would prescribe scales of fees for audits, assessments and special inspections, having first consulted with the Welsh Ministers and representatives of affected authorities (s.28). Fees could change where work was substantially different from what had been envisaged.

Part 2 of the Measure – Community Strategies and Planning

- 27** This part of the Measure would require local authorities to initiate, maintain, facilitate and participate in community planning for their area. Community planning partners (CPPs) would have to participate and assist (s.37-39). Fire and rescue authorities would become CPPs alongside community councils, local health boards, NHS trusts, national parks authorities, police authorities and chief constables.

Monitoring and Review

- 28** Community Strategies would need to be reviewed at least every four years (s.40) - the Measure outlines the process for monitoring (s.42) and reviewing (s.41) them. CPPs would exercise their duties only in relation to matters connected with their own functions.

Accountability

- 29** A report of progress in relation to Community Strategies would need to be published by local authorities at least every two years (s.42), with each CPP being expected to contribute relevant information to this report.

Consultation

- 30** In relation to the production, delivery and review of Community Strategies, the Measure would require local authorities and CPPs to provide opportunities for residents, non-resident service users, representatives of voluntary organisations (including registered social landlords), representatives of businesses and other stakeholders in the area's social, economic or environmental well-being to express their views (s.44).

Role of the Welsh Ministers

- 31** The Measure would require the Welsh Ministers to promote and encourage community planning so far as is reasonably practicable in exercising functions (s.46), and to issue guidance (s.45).

Part 3 of the Measure – General

- 32** This part links to the schedules, and relates to the issuing of guidance, directions, orders and regulations by the Welsh Ministers; consequential legal amendments, transitional and saving provision, repeals and commencement.

Recommendations

- 33** That Members agree to respond to the consultation on the Proposed Local Government (Wales) Measure before the 28th November 2008 deadline.
- 34** That Members approve or amend the draft response to the consultation questions (Appendix 2).