



AGENDA ITEM: 18

NORTH WALES FIRE AND RESCUE AUTHORITY

15th March 2010

CONSULTATION ON POLITICAL STRUCTURES BY WELSH ASSEMBLY GOVERNMENT

Report by Colin Everett, Clerk to the Authority

Purpose of Report

- 1 To note the consultation document of the Welsh Assembly Government on political structures and provide a response.

Background

- 2 In December the Welsh Assembly Government (WAG) issued a consultation paper on scrutiny and political structures in Local Government. Using the framework powers granted to the national Assembly for Wales in the Local Democracy, Economic Development and Construction Act 2009, WAG intends to introduce a measure on scrutiny and political structures. The consultation period ends on 17th March, 2010. Attached as Appendix 1 is an extract of the consultation document.

Information

- 3 Members' attention is drawn to paragraph 15 (ministerial powers) and 16-18 (community links) of the extract. The Authority is advised to respond to WAG that ministerial powers of intervention should only be used in extreme cases and as a last resort and according to clear protocol (para. 15). The Authority is further advised to respond that it will co-operate with other public bodies, such as unitary authorities, in

effective scrutiny and community involvement provided in arrangements which are manageable and proportionate. Under paragraph 14 the Authority has recently appointed an Audit Committee and would comply with this requirement.

Recommendation

- 4 That the Authority notes the contents of the consultation document and provides a response to the Welsh Assembly Government.

Review of political structures and council organisation

10. Options for political structures

We have now had more than 7 years of formal experience of the political structures introduced through the Local Government Act 2000. There has been little support for mayoral models in Wales and none expressed for the option of elected mayor plus council manager, recently removed as an option in England by the Local Government and Public Involvement in Health Act 2007.

The Fourth Option (“alternative arrangements”) has operated in three councils since the introduction of the option in 2002. Although, as yet, no formal approach has been made to the Assembly Government by any of the three councils to change, the structure has not always been comfortable. Difficulties have arisen at various times in relation to the creation of coherent leaderships, the relationship between the board and full council and the relationship between boards and area committees. The Assembly Government is not convinced that the Fourth Option has clearly demonstrated an improvement in transparency and effectiveness and it seeks to provide for the possibility of executive models being made sufficiently flexible to suit all principal councils. For instance, the current restrictions on the maximum size of area committees under executive arrangements, (that they must not represent more than 40 percent of either the area or the populations of an area) could be revisited.

The Assembly Government proposes to remove the “mayor and council manager” option. We will make it easier for local authorities to change their political models (subject to this not happening more than once every four years. All political models will need to include a leader or elected mayor plus a cabinet/executive, though this may include the possibility of a politically balanced cabinet. (Note: In this case, the executive would reflect the balance immediately following the four-yearly full council elections and be in place for the full term of the council)

It is proposed to introduce greater flexibility in the rules governing the establishment of area committees compared to existing executive models.

11. Functions and responsibilities

At present, complex regulations¹ specify the statutory functions of local authorities which must not, or may not, be the responsibility of executives or boards. The general principle is that core council functions should be the responsibility of the executive or board and responsibility for functions should also be transparent.

The Assembly Government intends to simplify the current system, so that “fields” of activity would be stipulated which would not be appropriate for executive responsibility, allowing authorities themselves to decide on fine detail and allowing more functions to be subject to local choice. Welsh Ministers would have a fall-back power of direction in relation to this matter.

¹ The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007
The Local Authorities (Alternative Arrangements) (Wales) Regulations 2007

12. Delegation of functions

The introduction of Local Service Boards opens the way by which decisions might be reached by those boards. There are already arrangements available which allow local authorities to form joint committees with other local authorities and delegate decision-making functions to those committees. The same does not apply, however, to committees formed with other public bodies which are not county or county borough councils.

It is proposed that local authorities will be able to delegate decision-making powers to executive members representing them on Local Service Boards or other partnerships. Any such decisions will need to be recorded and published in the same way as other executive decisions.

13. Forward planning

The research report on the Role and Functions of Elected Members recommended that executives should be obliged to publish forward plans of their work programme for the period ahead. This would enable the more efficient organisation of scrutiny as well as enabling greater public transparency.

The Assembly Government proposes to make it a requirement that executives should publish forward plans on their websites. These should be rolling documents covering a period of six months ahead and subject to quarterly update. Guidance would make reference to the extent of detail required.

14. Audit committees

The Assembly Government has endorsed CIPFA's 2005 guidance to local authorities on the establishment of audit committees, as distinct bodies from the executive or scrutiny function. This recognises the complexity of local authorities as multi-million pound service delivery organisations. Audit committees are seen as an essential check on financial propriety and may also identify opportunities for efficiencies.

We propose to make the establishment of audit committees a requirement and that the arrangements for appointment of members should be a function of the full council. It is proposed that the Chair of the audit committee be a lay person, as in the case of standards committees, and that a maximum of one third of the membership also be lay appointees.

15. Welsh Ministers' powers

The Welsh Ministers' powers of intervention in the operation of a local authority are largely confined to instances where there is a threat to the delivery of essential public services. There are very limited powers in the event of political impasse or breakdown.

There may be circumstances in which political impasse prevents the authority from making decisions or otherwise making effective governance possible.

It is proposed that Welsh Ministers be empowered to intervene in the operation of a local authority when there is an actual or perceived threat to the effective discharge of functions, as identified within a report of an inspector/regulator.

Strengthening the links with the Community

16. Duty to consult

Following the recommendation of “Beyond Boundaries: Citizen-Centred Local Services for Wales” to develop citizen-centred scrutiny, a number of options for involving the citizen in the scrutiny process have been discussed and piloted in various councils. Local authorities are already under obligations to consult as part of the development of their strategic plans.

It is proposed that scrutiny committees should be placed under an obligation to provide the public an opportunity to contribute to policy reviews by scrutiny committees.

17. Councillor/community calls for action

The Local Government and Public Involvement in Health Act 2007 introduced the provisions necessary for the operation of community, or councillor, calls for action (CCfAs) in England.

A further form of CCfA was introduced for the scrutiny of crime and disorder matters, under the provisions of sections 19 and 20 of the Police and Justice Act 2006 in April 2009 for England and in October 2009 for Wales. In essence, CCfAs under the Police and Justice Act 2006 empower local communities and local councillors. Should a local community feel they have a crime and disorder problem which falls within the responsibility of their local authority, they may raise it with their local member. The local member could be empowered, through a delegation of budgets and responsibility, to remedy the problem themselves if practical to do so. If that is not practical, he could ensure that the matter was discussed at the relevant scrutiny committee, who, in turn, could require the executive/board to investigate and produce a report on the matter. This would be fed back to the community through the local member.

The Assembly Government proposes to introduce the provisions enabling CCfAs in policy areas beyond that of crime and disorder. Such provisions would be supported by guidance as to how to deal with frivolous or repetitive bids. Local authorities would be empowered to provide for functions and budgets to be delegated to councillors for use within their local community area.

18. Promotion of democracy and petitions

The 2009 Act includes provisions in relation to Petitions and the Promotion of Democracy. It imposes duties on local authorities to promote understanding of the opportunities for members of the public to influence the work of local authorities and other local public bodies. The provisions apply to England and Wales but Welsh Ministers have discretion as to when they are commenced in Wales.

In brief, the provisions place a duty on local authorities to promote understanding of their functions, their democratic arrangements and how members of the public can take part and what taking part is likely to involve.

In addition, there is a duty on principal local authorities to promote understanding of public bodies (referred to as 'connected authorities') which cover the authority's area, explaining what they do and their democratic arrangements, and how members of the public can take part and what this is likely to involve. Allied to this is a duty to promote understanding among local people of courts boards, independent monitoring boards for prisons and immigration removal centres, Youth Offending Teams and lay justices and how local people might play a role in these. The 2009 Act places duties on councils in relation to electronic petitions signed by those who live, work or study in the local area. They must make, publicise and comply with a scheme for handling both paper and electronic petitions, so that local decision-making about petitions is more transparent, by requiring them to publicly respond to petitions which meet certain criteria.

The provisions give an automatic right for the matter raised in a petition to be debated by the full council if more than a specified number of people have signed it. Welsh Ministers have the power to issue guidance as to the threshold figure which is appropriate and to specify by order a threshold figure applicable to all principal authorities, or to direct a principal authority to amend its petitions scheme, including the threshold specified in it.

Under the 2009 Act, certain senior council officers could, as a result of a petition, be called to account at a scrutiny meeting, though councils could determine which of their officers are liable to be called to account.

The Welsh Ministers have power to issue guidance in relation to the petition function. This includes a power to create a model petitions scheme which authorities will be able to adopt and a power to direct an individual authority to amend its petition scheme.

The Assembly Government proposes to commence these provisions so as to come into force at the same time as provisions in the Assembly Measure. We will consult on guidance on the promotion of democracy and on petitions. We will also consult on whether other local authorities (community councils, national parks, fire and rescue authorities) should be subject to petition schemes.