

Legislation Committee 1

LC1(3)-05-09(p.1): 26 February 2009

Proposed Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure

Written evidence from One Voice Wales (originally submitted in response to Dr Dai Lloyd AM consultation)

On behalf of One Voice Wales, the representative body for community and town councils in Wales, I am pleased to submit this response to Dr Dai Lloyd's proposed Measure. In view of the timescale for this consultation, it has not been possible to carry out an internal consultation with our member councils (of which there are in excess of 500 across Wales) and so these comments are provisional in nature. However, we understand that there will be further opportunities to comment in the autumn following the introduction of the Measure to the Assembly Committee procedure.

One Voice Wales recognises fully the concerns expressed in the consultation regarding the need to ensure there is adequate provision of opportunities for physical exercise in our communities. Indeed the majority of community councils will be actively engaged in developing and maintaining such facilities, either as the owner of the facility themselves or, more often, through lobbying of the relevant unitary authority to ensure proper maintenance is carried out and opportunities to maximise usage are exploited fully.

Community and town councils, as the unit of government that is closest to our individual communities, are also best-placed to understand the potential impact that disposal of a playing field might have on their community. Consequently, we are pleased to see that community and town councils are included in the list of statutory consultees for a proposed disposal.

Notwithstanding our overall support for the objectives of the Measure, we are concerned about exactly how it would be implemented in those instances where it was the community or town council that was proposing to dispose of the facility. Due to the fact that community councils are so close to the communities they serve, they are relatively small and would not be in a position to carry out an impact assessment as envisaged by the legislation, especially to the extent that it refers to impacts beyond its area. Since we are not aware of any recent cases where a community council has sought to dispose of a playing field (indeed it is far more likely that a community or town council would be campaigning to establish or preserve such a resource), we therefore feel that consideration should be given to excluding the sector from this legislation.

If exclusion of the sector is not found to be an option we believe that, bearing in mind the vast difference in resources available to unitary authorities as opposed to community and town councils, there could not be a 'one-size-fits-all' approach to the implementation of the Measure, and in particular the nature of the impact assessment to be carried out (e.g. community councils would not be in a position to pay for external consultants to carry out such an assessment). We recognise that community councils should of course consider the impact on their local community of any disposal and there is no doubt that this would be uppermost in the mind of community councillors in such a situation. In this context it might well be worth adopting a similar approach to that employed by the equality and human rights legislation, whereby all public bodies (including community and town councils) are obliged to abide by the general duty to promote equality but only larger/listed bodies are required to adopt detailed policies and monitoring arrangements. It is envisaged that such a general duty might be placed on all local authorities to have regard to the impact that any disposal might have on the local community (and be able to demonstrate that this was done) but that only unitary authorities would be bound by the requirement to undertake a full impact assessment with the associated publication of notices in newspapers (of itself a costly exercise for smaller councils) and circulation to the listed consultees. Alternatively, if the full impact assessment was required then we believe that this should be funded/resourced externally, either by the unitary authority or the Assembly Government, on behalf of the community council.

In addition to the above comments, please find below our responses to the specific questions asked in the consultation:

Q1 Do you agree with the principle of the Proposed Measure? Please give reasons for your view and what impact you consider that the proposals will have.

One Voice Wales agrees with the principle of the proposed Measure, subject to the concerns identified above.

Q2 Do you agree with the principal definitions used in section 2 of the Proposed Measure? If not, please explain why and provide any alternative suggestions.

One Voice Wales agrees with the principal definitions in section 2, with the exception that consideration should be given to excluding community and town councils from the scope, or full scope, of the legislation for the reasons described above.

Q3 Do you agree with the proposed contents of the impact statements? Please provide an explanation for your views.

The content is reasonable but we have a concern regarding the expectations of detail and professional input expected in the statement. Community and town councils have very limited resources available to them compared with unitary authorities and would inevitably need to employ external consultants to produce an equivalent statement to that which might be expected of a unitary authority. External resources would need to be made available to community and town councils if equivalent statements were to be required since otherwise the considerable cost would end up being borne by the individuals in the community through the precept. There is an

important issue of proportionality here. We also have a reservation regarding the feasibility of community councils being able to undertake an assessment of the impact beyond their council area, again for reasons of the resources potentially required to do so. We would also point out that the majority of community councils do not have a formal office at which any impact assessment could be viewed since the majority of clerks work part-time from their home.

Q4 Are the provisions regarding consultation appropriate? Please explain your viewpoint.

As mentioned above, there could be difficulties in community councils being able to make individuals living outside its area aware of the consultation.

Q5 Are the consultees listed in the Schedule appropriate? Should less specific consultees be identified? If so, how should consultees be identified?

The listed consultees are appropriate in that community and town councils are included as consultees in the event of a unitary authority seeking to dispose of a facility within the community or town council's area.

Q6 Where the authority has decided to proceed with a disposal of Playing Fields after a consultation, do you think the requirements placed on a Local Authority are satisfactory? Please explain your view.

As with the preparation of the impact statement, much will depend on the level of detail and professional input required for the decision statement referred to in section 6. Also, the cost of publishing notices in local newspapers is not an insignificant one for many community councils. Resources would need to be provided, either from the Assembly Government or unitary authority, to avoid local citizens bearing the costs of these requirements through the precept.

Q7 Please outline your views on the powers of Welsh Ministers to issue directions to Local Authorities.

Subject to addressing the concerns raised elsewhere by this response, these powers are acceptable.

Q8 Will the proposals result in your organisation incurring financial costs? If so, what will they be (please quantify)?

Firstly, we would reiterate that it is community councils that are likely to be in the vanguard of opposition against disposal of a playing field, but in the unlikely event it was the community council proposing disposal, the Measure as currently presented would certainly result in additional costs to that community council. However, it is not possible to quantify such costs without having clarity on the level of detail and professional input required for the impact statement, decision statement etc. Should professional consultancy services be required then this cost could run into many tens of thousands of pounds and we would argue that it is not reasonable for such costs to be borne by local citizens in the community through the precept. Rather external funding/resources should be made available to the community council to carry out such work.

In summary, we would reiterate that we support fully the objectives of introducing the Measure but we have significant reservations about the practical implementation at the level of community councils. We are not aware of any disposals by community or town councils having taken place in recent history to which this Measure would have applied (though in the timescale available for this response have not been able to carry out a definitive study) and therefore believe that, as currently drafted, it is disproportionate in terms of its impact on the sector. However, in recognition of the undoubted positive benefits which the Measure seeks to support, we have proposed certain modifications which we would be happy to discuss further.

Simon White
Chief Executive

One Voice Wales
24 College Street
Ammanford
SA18 3AF