

Proposed Local Government Measure Committee - Consultation

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Written response to National Assembly Committee from Dan Shaw, Pembrokeshire County Council and chair of Community Planning Officers' Network

Thank you for the opportunity for presenting evidence to the Committee. We welcome the open and inclusive way in which the National Assembly is preparing this legislation.

Key points

-We welcome the increase in powers to collaborate especially the emphasis on collaboration with any person rather than collaboration with a body. That the National Assembly is prepared to consider making these changes is a positive sign of the maturity of the relationship between it and Welsh local government.

-We welcome the intention to bring the Wales Programme for Improvement and the Community Plan closer together .

-We welcome the duty to co-operate and would like further consideration to be given to extending this to Further Education Colleges. We also have some concerns on the practicalities of introducing the duty on Town and Community Councils.

1. Is there a need for legislation to reform:

- the statutory basis for service improvement by local authorities; and community planning and strategies?

It is helpful to reform the legal basis of the Wales Programme for Improvement and for community planning. In both cases, current custom and practice has evolved some distance from what is statutorily required. Changes will simplify the interpretation of statutory guidance.

2. How will the proposed Measure change what organisations do currently and what

impact will any such changes have in terms of service improvement and community planning?

As noted above, current custom and practice has changed from what a strict interpretation of what is statutorily required. Our interpretation is that the main change is in the power to collaborate. This will further extend local authorities' competence beyond that in the current power of well-being. This is a welcome development as it removes potential legal uncertainty over the legality of an action.

Working out the service delivery implications will take a little time as the effect of other pieces of law, eg competition law need to be factored in. Inevitably, the funding implications will also need to be considered, especially what sorts of charges could or should be made when providing "staff, good, services or accommodation to any person".

We think that it is helpful that the overall objectives of the Community Plan are being more formally linked to those in the Improvement Plan. Our current Improvement Plan makes these links, for instance future plans as well as past performance are grouped under the headings in the community plan. Ultimately the Community Plan has to work through organisational business plans and section 4 (3) (a) helps this.

Whilst WAG briefings have made it very clear that it is committed to collaborative working with local authorities bringing the Improvement plan and the Community Plan together could be interpreted that there is a desire to move towards an area based and outcome focused assessment process similar to the Comprehensive Area Assessment in England. Given the concerns about the efficacy of the CAA, WAG will need to give greater clarity on how linking the two plans will work in practice.

3. Are the sections of the proposed Measure appropriate in terms of reforming the statutory basis

for service improvement by local authorities and reforming community planning and strategies?

If not, how does the proposed Measure need to change?

In considering this question, consultees may wish to consider, in particular, the nature of the provisions in the proposed Measure that

a) place duties on Welsh improvement authorities to:

-make arrangements to secure continuous improvement (section 2);

-set themselves improvement objectives (section 3);

-make arrangements to exercise their functions so that any performance standards are met (section 8)

The proposed Measure, in the main, gives a clearer statutory basis for current custom and practice. We have always sought to secure continuous improvement and we have a strong track record of providing good quality services at comparatively low cost.

b) provide Welsh improvement authorities with powers of collaboration (sections 9-12)

This is welcomed. See comments under question 2

c) require Welsh improvement authorities to collect, use and publish information related to performance, and also to publish an improvement plan (sections 13-15)

This mirrors what we currently do very closely. We agree that it is important that there is consistency in how indicators are defined and in how they are calculated. Without a high degree of certainty that indicators have been calculated consistently, performance indicators can be very misleading.

d) set out the functions of relevant regulators (section 16) and the duty placed on them to have regard to the need for co-ordination in the exercise of their regulatory functions (section 24)

We welcome the duty to co-ordinate inspections.

e) place duties on the Auditor General for Wales (sections 17-20, 22-28)

"We are comfortable with what is being proposed. The definition of computer and "associated apparatus" is broad. Whilst we have no difficulty with the definition, in practice it is likely to capture a range of equipment (eg home computers and "BlackBerry" type devices) that is owned by individual officers which may have been used to work on documents. This does not cause us difficulty for officers who make use of our formal home working policies as all the relevant equipment is provided by us. However this could be problematic for authorities which have more informal home working policies.

f) provide powers to Welsh Ministers (sections 29-33)

We recognise that it is appropriate for Ministers to have a reserve power to intervene in exceptional circumstances. This is potentially difficult area. An authority which is in difficulty and failing to improve may be resistant to intervention and this justifies the power. Equally, if Ministers intervene too readily, they risk micro-managing a situation which would have been better left to the authority itself thereby frustrating speedy improvement and muddying accountability. We look forward to working with WAG on how this balance can be achieved. We consider that in many cases where an authority is failing to improve, structured peer support offers a more effective remedy and the WLGA is likely to be a good source of support. We would also like re-assurance that powers will not be used to force through collaboration and instead continue with its existing effective contingent approach based on a combination of pragmatism, efficiency, shared opportunities and so forth.

g) relate to community planning and strategies (sections 37-46).

We note that the sections, by and large, give a firm legal footing to the existing statutory guidance. The key change is the duty to co-operate. We think that this will be helpful in that it reinforces the partnership relationships between local authorities and their key partners, especially the health sector. There are two points which we would like to raise for the duty to co-operate.

Our duties under the Children Act 2004 rightly focus on the child however local authorities are not the only public funded provider of education. Colleges of Further Education deliver a wide range of courses and we are actively working with our local college, for instance, through federation arrangements in order to improve services. We consider that there is a case for extending the duty to colleges of further education to assist the Children and Young People's Partnership in making coherent assessment of the range and quality of what is on offer and how it is meeting young people's, employers' and other stakeholders' needs.

"The duty to co-operate upon town and community councils will be difficult to put into practice. There is a huge variation in town and community councils' current capacity and ambition. We are concerned that a duty's impact will be very patchy, with a relatively small proportion of residents benefiting from any improvement. In our case, work will be needed with Pembrokeshire Association of Local Councils as well as One Voice Wales and we consider it is important that there is early dialogue with both organisations on what additional capacity they may require in order to make the duty a reality. Working directly with all T&CCs presents a significant challenge given that there are 80 in Pembrokeshire alone.

4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

See below

5. What are the financial implications of the proposed Measure for organisations, if any?

In answering this question you may wish to consider whether you agree with section 6 of the Explanatory Memorandum accompanying the proposed Measure and, in particular, the statement that "The provisions of the proposed Measure do not give rise to any administrative, compliance or other costs". If an authority did not make use of any of its

additional powers.

It is unlikely that the power to collaborate will be able to be used to its full effect unless the ability to fund proposals is also examined.

We are fully aware that the current state of public finances presents many challenges, however, additional funding is likely to be required. We consider WAG must recognise that the vast majority of additional funding required to make the powers of collaboration work needs to be provided by it rather than being raised by the Council locally.

6 Are there any other comments you wish to make about specific sections of the proposed Measure?

None