

Explanatory Memorandum to the Fire and Rescue Authorities (Improvement Plans) (Wales) Order 2012

This Explanatory Memorandum has been prepared by the Department of Local Government and Communities and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Fire and Rescue Authorities (Improvement Plans) (Wales) Order 2012. I am satisfied that the benefits outweigh any costs.

Carl Sargeant AM
Minister for Local Government and Communities
21 April 2012

1. Description

This Order will amend the date after which a Fire and Rescue Authority (“FRA”) must publish their “improvement plan” under Section 15(6) and (7) of the Local Government (Wales) Measure 2009 (“the Measure”).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

No matters of special interest.

3. Legislative background

The Order will be made in exercise of the powers conferred on the Welsh Ministers by sections 15(7), 50(2) of the Measure.

Section 15(6) states that the authority must make arrangements for the publication of a description of the authority’s plans for discharging its duties under sections 2(1), 3(2) and 8(7) in a financial year together with, if the authority thinks fit, its plans for subsequent years (an “improvement plan”).

Section 15(7) provides that those arrangements must be framed so that the information is published -

- (a) as soon as is reasonably practicable after the start of the financial year to which the plan must relate; or
- (b) as soon as is reasonably practicable after such other date as the Welsh Ministers may specify by order.

The Fire and Rescue Authorities (Improvement Plans) (Wales) Order 2010, which came into force on 1 April 2010, specified the date of 30 September of the year prior to the financial year to which the improvement plans related.

This Order replaces the 2010 Order and amends this date to 31 December.

4. Purpose & intended effect of the legislation

This Order amends the specified date after which a FRA’s improvement plan for a financial year must be published as soon as is reasonably practicable. The Order applies only to improvement authorities in Wales which are fire and rescue authorities constituted by a scheme to which section 4 of the Fire and Rescue Services Act 2004 applies.

This Order read in conjunction with Section 15(7) of the 2009 Measure requires that FRAs’ Improvement Plans should be published as soon as is reasonably practicable after 31 December of the year prior to the financial year to which the plan relates.

It is intended that the Order will come into force on 21 May 2012. The first financial year in respect of which the date is changed is that beginning on 1 April 2013.

5. Consultation

Consultation was commenced on 3 October 2011 for eight weeks. Please refer to the Regulatory Impact Assessment consultation paragraph below for further information.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Option 1: Do Nothing

Under Part 1 of the Measure an authority must make arrangements for the publication of its improvement plan as soon as is reasonably practicable after the start of the financial year to which the plan relates or as soon as is reasonably practicable after such other date as the Welsh Ministers may specify by Order. The Fire and Rescue Authorities (Improvement Plans) (Wales) Order 2010 specified that FRAs must publish their Improvement Plan as soon as reasonably practicable **after** 30 September of the year prior to the financial year to which the Improvement Plan relates. This enables FRAs to publish their Improvement Plans and Risk Reduction Plans (RRPs) by 31 October as one document. A review of RRP arrangements has identified that the current timetable for publication of Improvement Plans in October does not enable improvement planning to be effectively aligned with FRAs' financial planning cycles. The policy intention is to rectify this by changing the date for publication of improvement plans so that improvement and financial planning cycles can be more closely aligned. Without this Order the FRAs would be under a statutory duty to comply with the existing provisions of the 2010 Order which would mean that FRAs improvement plans would continue to be developed ahead of financial planning and budget settlements for the period to which the improvement plans apply.

Option 2: Make the Legislation

The Order will ensure that FRAs are under a statutory duty to publish their improvement plans as soon as is reasonably practicable after 31 December of the year prior to the financial year to which their plans relate. This would enable improvement planning to be effectively aligned with FRAs financial planning cycles.

a) Benefits

The Order will enable FRAs to be compliant with the Measure while enabling financial planning and improvement planning to be aligned. This will enable FRAs to consider the cost implications of improvement objectives, whilst ensuring that reducing risk to communities and their staff remains the cornerstone of the FRAs improvement agenda.

b) Costs

The cost of audit is met by individual FRAs and is agreed between the individual FRA and Wales Audit Office (“WAO”) on an annual basis. In addition monies to fund / part fund improvement assessments for FRAs is provided for centrally. Annual costs, which include all of the above plus the WAOs involvement in the Welsh Government led operational assurance of service delivery assessment process, have been identified as £75,060.

7. Consultation

The consultation was commenced on 3 October for 8 weeks. Four responses were received in relation to the formal consultation and these are detailed below:-

- **North Wales Fire and Rescue Authority (FRA)** – The FRA commented that they welcome the replacement of the restrictive 31 October deadline for publishing the following year’s Improvement Plan with the increased flexibility of publishing as soon as reasonably practicable after 31 December. They support the intention to merge elements of risk reduction planning and wider improvement planning in a single revision to the Local Government (Wales) Measure 2009 Part 1 Guidance. They would like to emphasise the importance of issuing this revised guidance in good time to allow FRAs to make adjustments where necessary to ensure compliance. They look forward to being able to contribute to the compilation of this revision, and to responding to the planned consultation well ahead of the start of the next financial year.
- **Mid & West Wales FRS** – The FRS agreed with the proposal to change the requirement to publish the Improvement Plan to as soon as practicable after 31 December of the year prior to the financial year to which the plan relates. The FRA agrees that changing the publication date will better align its improvement and financial processes. Current guidance allows for the Improvement Planning and Risk Reduction Planning processes to be merged and the FRS has adopted this arrangement for a number of years. The FRS welcomes the reference within the consultation to the 2009 Measure Guidance being amended to fully include risk reduction planning arrangements. This is necessary in order to ensure that the existing synergy between risk reduction and improvement is fully considered and that arrangements are subject to one set of guidance. The FRS looks forward to the further consultation on these changes and its role in developing revised guidance to ensure that all aspects of the planning cycle support improvement and is aligned with the FRSs other processes.
- **South Wales FRS** – The FRS welcomes the suggested changes to the publication date for the FRA Improvement Plans as detailed in the consultation document. However they have commented that the requirement could have been stated in simpler more specific terms. The proposed changes would bring the plan more in line with the budget for the year ahead as the current date is 5 months before the year that it relates to. The FRS's budget process runs for several months from July through to 15 February when they submit their budget proposals to the Unitary Authorities following consultation and this change of date will enable any necessary changes to the Improvement Plan to be

included. The FRS recognises that no date will be an ideal fit in terms of aligning the budget with the Improvement Plan but this proposed change of date is preferred.

- **Welsh Local Government Association** – WLGA have had the opportunity to discuss the proposal to change the date for when Fire and Rescue Authorities are required to publish their Improvement Plans with the FRAs and there is support and agreement to this proposal. They believe that the revised timeframe will assist the FRAs in their budget-setting process. The WLGA therefore welcomes this development and supports the proposal as set out in the consultation document.

The Welsh Government response is set out below:-

Welsh Government is pleased that the three FRAs in Wales and the WLGA all agree with the proposed change made by this Order. The “Local Government (Wales) Measure 2009 – Part 1 Guidance to Fire and Rescue Authorities” issued in May 2010 recognised that reducing risk to communities (in terms of reducing fires and other incidents, and reducing the impact where such events do occur) was the cornerstone of the FRAs improvement agenda. There are no plans to change this position in any revisions to the Guidance and FRAs will be fully consulted on the proposals to ensure that FRAs requirements under the Local Government Measure are clear.

8. Competition Assessment

Not applicable.

9. Post implementation review

This will be undertaken following the publication of FRAs’ first set of Improvement Plans, and WAO’s Improvement Report against these plans, under the proposed arrangements resulting from the Order.