

**Explanatory Memorandum – The Local Government (Wales) Measure 2009
(Amendment) Order 2014**

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

A declaration of the Minister for Local Government and Government Business

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Local Government (Wales) Measure 2009 (Amendment) Order 2014. I am satisfied that the benefits outweigh any costs.

A handwritten signature in black ink, reading "Lesley Griffiths". The signature is written in a cursive style with a large, looping initial 'L'.

Lesley Griffiths AM
Minister for Local Government and Government Business
June 2014

1. Description

Section 38(1) of the Local Government (Wales) Measure 2009 (“the Measure”) specifies a number of bodies as community planning partners. The list currently includes Police Authorities which no longer exist. It does not, however, include Police and Crime Commissioners (PCCs). It is proposed to make an order under section 38(2) of the Measure to:

- a) remove Police Authorities; and
- b) designate PCCs,

as community planning partners for the purposes of Part 2 of the Measure.

If an order is made by the National Assembly for Wales, PCCs will be required to;

- a) participate in community planning for those Local Authority areas which lie within their police area, to the extent that such planning is connected with the PCC’s functions; and
- b) assist those Local Authorities in the discharge of their community planning duties.

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

As a matter of courtesy, a copy of the consultation documentation relating to the proposal to make an order to designate PCCs as community planning partners was sent to the Dominic Green MP, the Minister of State for Policing and Criminal Justice. In response he questioned the power of the Welsh Ministers to designate PCCs as community planning partners, and advised that he would not consent to legislation in this area at present.

It is the Welsh Government’s view that the Welsh Ministers have power under section 38(2) of the Measure to, by order, designate PCCs as community planning partners, and there is no requirement within the Measure for the Secretary of State to consent to the making of an order under section 38(2).

This Order will be made under the Affirmative resolution procedure.

3. Legislative background

Part 2 of the Local Government (Wales) Measure 2009 sets out how local authorities and their community planning partners should undertake community planning to improve the long term social, economic and environmental well-being of their area. Section 37 sets out what this means in more detail. Section 38 of the Measure lists the community planning partners and gives Welsh Ministers a power to amend the list, subject to the affirmative resolution procedure.

The list of community planning partners in section 38(1) includes police authorities. Police authorities were abolished by the Police Reform and Social Responsibility Act 2011 ("the Act"). Section 1 of the Act created instead the role of an elected police and crime commissioner ("PCC"). PCCs are responsible for setting the police and crime plan for their area and they hold the budget for commissioning police and community safety services. There are four PCCs in Wales covering the police force areas of North Wales, Dyfed Powys, South Wales and Gwent.

4. Purpose & intended effect of the legislation

The purpose of this legislation is to ensure PCCs participate in community planning with the local authority and its other community planning partners.

The police, both PCCs and the police forces, play an essential role in maintaining and improving the well-being of communities in Wales. By designating PCCs as community planning partners, greater alignment can be achieved between the community strategy (now discharged through the single integrated plans in operation in all parts of Wales) and the police and crime plan. The participation of the police will lead to less duplication between agencies and more efficient and effective services, for example, when dealing with families with complex needs, domestic abuse, adults with mental health problems and helping older people to live independently and safely at home.

5. Consultation (See RIA)

Details of the consultation undertaken are included in Part 2 – Regulatory Impact Assessment

PART 2 – REGULATORY IMPACT ASSESSMENT

1. Options

Two options have been considered.

Option 1 – do nothing

The present position is Police and Crime Commissioners (PCCs) are inconsistently engaged in community planning across Wales. All local authority areas in Wales have in place a voluntary community planning partnership known as a Local Service Board (LSB). There are 20 LSBs (Gwynedd and Anglesey and Conwy and Denbighshire operate joint LSBs across two local authority areas). The PCCs currently sit on 9 LSBs.

Option 2 – legislate

Making an order under section 38(2) of the Measure will ensure a more consistent approach by giving the PCCs a statutory role in community planning.

2. Costs

In Option 1, there are no additional costs.

In Option 2, the expectation is PCCs will become members of the 11 LSBs on which they are currently not represented. LSBs meet on average for two hours six times a year, a total of 12 hours. The additional impact on the PCCs will be 132 hour per annum between the four PCCs, or approximately 18 working days. The salaries of the PCCs in Wales vary between £65,000 per annum up to £85,000 per annum, with an average of £72,500¹. This equates to a total additional annual cost of £5,184 shared between the four PCCs. However, there is the likelihood the participation of the PCCs could lead to a reduction in duplication of effort across local public services, resulting in future savings, although this would be difficult to quantify.

Given the PCCs are unanimous in their support for this order, it is expected they will meet the small additional annual cost from their own delegated budgets.

3. Benefits

In Option 1, there are benefits in the 9 areas where PCCs are currently engaged in community planning. The remaining 11 areas are disadvantaged by not being engaged with the PCCs.

In Option 2, the participation of PCCs in integrated community planning in Wales can lead to more effective and efficient partnership working at a time of reducing budgets, rising public expectations and increasing demand on services.

¹ BBC research <http://www.bbc.co.uk/news/uk-22624096>

The consultation on this order has shown this is the preferred option for the PCCs, the Welsh Local Government Association and the local authorities which responded. The respondents highlighted the kind of benefits this will bring:

“The Police Reform and Social Responsibility Act 2011 introduced Commissioners and since November 2012 they have replaced Police Authorities in Wales. It is important that the community planning arrangements reflect this change, and therefore this change will aid in further enhancing the Commissioner’s role in partnership working to deliver better outcomes for our communities.” (N Wales PCC)

“The Gwent PCC Police and Crime Plan places emphasis on working in partnership to deliver sustainable improvements for our communities and improve public confidence. This proposed change to the statutory framework will reinforce/support this commitment.” (Gwent PCC)

“Community planning, Single Integrated Plans and the PCCs ‘Police and Crime Reductions Plans’ can be developed alongside each other with a shared vision and objectives that compliment one another. This will also reduce the likelihood of duplication of efforts and planning of activity in isolation.” (Fire and Rescue Service)

“Merthyr Tydfil LSB responded to the consultation on the Police and Crime Commissioner’s Crime and Reduction Plan, noting that a number of our priority areas within the Single Integrated Plan for Merthyr Tydfil supported and complimented the priorities identified within the Crime and Reduction Plan. Therefore, an amendment to the Local Government (Wales) Measure 2009 to designate PCCs as community planning partners would be helpful.” (Merthyr Tydfil LSB)

4. Consultation

In accordance with section 38(3) of the Measure, the Welsh Ministers are required when making an order to amend the list of community planning partners to consult with those affected by the order, and such representatives of local authorities and the community planning partners as the Welsh Ministers consider appropriate.

On 2nd April 2014 the Minister for Local Government and Government Business published a consultation document inviting those affected by the change to make known their views. The consultees were:

- (i) the PCCs in Wales who are named in the order;
- (ii) the Welsh Local Government Association as the representative body for local government in Wales;
- (iii) the 22 principal local authorities;
- (iv) local health boards;
- (v) the WCVA and the county voluntary councils;
- (vi) fire and rescue services;
- (vii) fire and rescue authorities;
- (viii) national parks authorities;

- (ix) chief constables;
- (x) One Voice Wales, as the representative body for town and community councils in Wales;
- (xi) town and community councils.

The consultation closed on the 2nd May 2014. The full consultation responses are published on the Welsh Government website:

<http://wales.gov.uk/consultations/localgovernment/local-government-measure-consultation/?status=closed&lang=en>

Analysis

21 responses were received. 20 responded positively to the proposal for an order designating Police and Crime Commissioners (PCCs) as statutory community planning partners. One respondent asked to remain anonymous.

Positive responses

All four PCCs responded positively, saying the change will “aid in further enhancing the Commissioners’ role in partnership working to deliver better outcomes for our communities”.

South Wales Police thought the change appropriate as PCCs are the natural successor to Police Authorities in this function.

The Welsh Local Government Association responded positively, as did 8 Local Authorities. They were Wrexham, Ceredigion, Rhondda Cynon Taf, Pembrokeshire, Caerphilly, Vale of Glamorgan, Merthyr Tydfil and Cardiff.

Rhondda Cynon Taf, Merthyr Tydfil, the Vale of Glamorgan Councils and Cwm Taf University Health Board highlighted the value of the link with local policing through the police force participation in community planning. As the chief constable of the police force will remain a community planning partner, this link is maintained. They also noted the difficulties faced by police forces and PCCs who operate across a number of local authority areas and therefore contribute to a number of separate community planning processes.

Three University Health Boards, Betsi Cadwaladr UHB, Cwm Taf UHB and Hywel Dda UHB, welcomed the proposal.

Llangoedmor Community Council agreed to the proposal. Crynant Community Council are prepared to accept the proposal, so long as local communities are allowed a voice on any planning proposed in the future. Community councils are already designated “community planning partners” within section 38(1) of the Local Government (Wales) Measure 2009.

Negative responses

The only entirely negative response was from a Councillor from Llanblethian Town Council. It appears the respondent has mistaken the PCC for the role of police community support officer (PCC v PCSO).

5. Competition Assessment

The proposed order does not affect business, charities or the voluntary sector.

6. Post implementation review

A review of the effectiveness of this legislation will be conducted 3 years after implementation.

