



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Proposed Local Government Measure Committee

Proposed Local Government (Wales) Measure

Stage 1 Committee Report
January 2009

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Proposed Local Government Measure Committee

Committee Membership

Janice Gregory (Chair)	Labour	Ogmore
Dai Lloyd	Plaid Cymru	South Wales West
Nick Ramsay (1 Oct - 4 Nov 2008)	Welsh Conservative Party	Monmouth
Jenny Randerson	Welsh Liberal Democrats	Cardiff Central
Joyce Watson	Labour	Mid and Wales West
Alun Cairns (4 Nov 2008)	Welsh Conservative Party	South Wales West

Summary

General principles and the need for legislation

1. The evidence illustrates a general consensus in favour of the need for the proposed Measure. We note that the proposed Measure seeks to put existing elements of the current improvement and community planning regimes into a single piece of legislation, and that in relation to Part 1, this formalises the progress that has taken place within Welsh improvement authorities since the introduction of the Local Government Acts 1999 and 2000. As such, given the strength of the evidence, we agree that there is a need for the legislation.
2. We consider that many stakeholders have demonstrated the potential for positive outcomes to arise from the proposed Measure, particularly in relation to: the empowerment of Welsh improvement authorities to widen their scope to innovate in the pursuit of improvement; the broadening of local authority responsibilities regarding community planning and the inclusion of community planning partners. Having noted these views, and the wider evidence, we agree that the proposed Measure provides the right framework to deliver continuous improvement (Part 1) and effective community planning (Part 2), and for overcoming shortcomings and weaknesses that have been identified in existing regimes.
3. We acknowledge that the proposed Measure links improvement in Part 1 and effective community planning in Part 2. However, in view of the importance of this issue, we recommend that the Minister gives further consideration as to how the proposed Measure could be amended to strengthen this link.
4. We acknowledge the evidence provided in support of the proposed Measure's emphasis on driving continuous improvement in services and functions rather than the identification of the risk of failure. We too support this approach.
5. We note the concerns of a number of stakeholders regarding the level of detail and prescription contained in the proposed Measure and the subsequent inflexibility that could arise from this. However, we also note the arguments put forward by the Minister that the detail provides clarity of intent and ensures a clear understanding of what the legislation requires.
6. We have discussed the need for detail and prescription in driving forward change and addressing the shortcomings of the existing regimes, which the proposed Measure is seeking to overcome. Furthermore, we have considered whether guidance would be sufficient to deliver these intentions.
7. On balance, we have no objection to the level of detail and prescription included in the proposed Measure. Nevertheless, in view of

some of the concerns expressed by some stakeholders we consider that it would be sensible for the Minister to review the level of detail in the proposed Measure and to bring forward appropriate amendments where he considers it sensible to do so.

8. We agree with stakeholders that there is a need for good quality and timely guidance to accompany the implementation of the proposed Measure and recommend that it should be developed in consultation with key stakeholders.

Sections 1 - 8: Improvement, performance indicators and standards

9. Whilst we note the concerns of some organisations that the proposed Measure does not extend to all public bodies in Wales, we are aware that the scope of the proposed Measure is constrained by the extent of the legislative competence conferred by Matter 12.5 of Schedule 5 to the Government of Wales Act 2006.

10. We share the Auditor General's view that it would be better to place a duty on improvement authorities to put in place 'effective arrangements' to secure continuous improvement. We consider that this will encourage improvement authorities to focus on the type of arrangements that it should introduce and provide the Auditor General with a more appropriate focus for his work. Accordingly, we recommend that the Minister brings forward an amendment to ensure that an improvement authority must make 'effective arrangements' to secure continuous improvement in the exercise of its functions.

11. We have noted that while some witnesses have questioned the seven aspects of improvement, and their inclusion on the face of the proposed Measure, in the main they have been welcomed.

12. We consider that including the aspects of improvement and their definitions on the face of the proposed Measure, rather than in guidance, is the correct approach because it provides clarity of intention to stakeholders about the improvement agenda, and can be supplemented with guidance. In reaching this view, we are also mindful that the proposed Measure provides Welsh Ministers with powers to change the seven aspects of improvement and their definitions by order.

13. We note that most stakeholders were in favour of replacing the old '3Es' with the seven aspects of improvement.

14. We agree with the Minister that it would not be appropriate to include a further aspect of improvement relating to community leadership and planning. Nevertheless, we recognise the importance of ensuring that there are strong links between improvement, community leadership and planning and recommend that this issue is covered in guidance as has been suggested by the WLGA.

15. While we do not consider that it is necessary to include 'economy' as a further aspect of improvement, we have noted the importance attached to the term by the Auditor General and recommend that accompanying guidance on improvement clearly explains how the concept of economy fits in with the seven aspects of improvement contained in the proposed Measure.

16. We are therefore content with seven aspects of improvement listed in section 4 of the proposed Measure.

17. As regards the definitions contained in section 4(2) of the proposed Measure, we agree with the WLGA that they should be consistent in the way they are drafted and make reference to the 'exercise of functions'. Accordingly, we recommend that the Minister should consider bringing forward amendments to effect such changes.

18. We are generally content with the provisions in section 8 relating to performance indicators and standards.

19. We did not question the Minister about the Auditor General's suggested amendment to section 8(3) to make him a statutory consultee before Welsh Ministers specify performance indicators and standards. However, we consider there is some merit in this proposal and recommend that the Minister considers bringing forward an appropriate amendment to effect this change.

Sections 9 - 12: Collaboration and improvement

20. We acknowledge the existing practice of improvement authorities to collaborate and agree that a duty for authorities to collaborate could be unworkable. We recognise that the enabling power as provided in section 9 of the proposed Measure seeks to strengthen existing practice of collaboration and has been welcomed. To this end, we are content with the enabling power provided for in section 9.

Sections 13 - 15: Improvement Planning and Information

21. In general terms, we consider that the provisions for collecting, using and publishing information in sections 13 to 15 of the proposed Measure are broadly appropriate. Some of the specific aspects of the framework are considered in paragraphs 113 to 147 below.

22. We have considered carefully the comments from the WLGA and others that a duty to compare performance should not be included on the face of the proposed Measure. However, we consider that comparing performance is a valuable duty for improvement authorities. As such, we agree with the Minister that it should be included on the face of the proposed Measure. In doing so, we believe this will give a clear indication of what is expected of all improvement authorities both now and in the future.

23. We acknowledge the comments of the WLGA regarding the publication of collaboration information under section 15(2)(c) and accept that without further information about the level of detail required, there is a danger that this could be burdensome. We therefore recommend that such clarity is provided through guidance to ensure that information published is relevant and meaningful to the public and that such guidance should be developed in close co-operation with improvement authorities.

24. We have given careful consideration to the date of 31 October included in section 15(3)(a) of the proposed Measure. On balance we consider that it is right to include a date on the face of the proposed Measure in section 15(3)(a).

25. However, we also acknowledge the views of those who have suggested that improvement authorities will tend to work to the specific deadline of 31 October, which could have implications for the work of the Auditor General. We note that the Minister has agreed to reconsider the impact that dates in the proposed Measure will have on the work of the Auditor General. We welcome this move and consider that in so doing, the Minister should focus on the practical implications of changing the date of 31 October, rather than the date of 30 November (that is contained in section 20(3) of the proposed Measure).

26. Accordingly, we recommend that it would be appropriate for the Minister to reconsider the timetabling arrangements set out in the proposed Measure and to bring forward appropriate amendments to ensure that the timetabling arrangements work in practice.

27. Irrespective of how this issue is resolved, we consider it vital to ensure that guidance is developed to fully explain how the timetabling arrangements are to work in practice.

28. We consider that improvement plans are a vital part of the improvement process and provide an easily identifiable source of information about what work authorities are undertaking to improve their services. We agree with the Minister that such a plan will help focus and prioritise the improvement agenda of authorities. We therefore do not agree with those who have suggested that improvement plans are unnecessary. Accordingly, we consider that reference to improvement plans should be retained on the face of the proposed Measure.

29. While the importance of citizen engagement was recognised, it was not always clear how this should be addressed either through the proposed Measure or through guidance. Many stakeholders recognised that engagement is vital if improvement authorities are to deliver improvements in services that meet the needs of the public.

30. We recommend that in developing guidance on sections 13 to 15 of the proposed Measure, serious consideration is given as to how best

improvement information should be presented to ensure it is meaningful to the public and relates to the services they receive. As part of this process, we consider that it is vital for such guidance to be developed in conjunction with as wide a range of stakeholders as possible.

Sections 16 - 28: Improvement audits and assessments, and other functions of the Auditor General

31. We consider that the overall regulatory and inspection framework is appropriate, although we comment below on specific aspects of the framework set out in sections 16, 18, 19 and 24.

32. We agree with the Minister that the term 'regulator' in section 16 is appropriate.

33. We agree that annual assessments as set out in section 18 of the proposed Measure are appropriate but endorse the comments of both the Auditor General and the Minister that assessment work undertaken is proportionate to the situation. Accordingly, we recommend that guidance specifically addresses this point.

34. We have noted the concerns of both CSSIW and Estyn that section 19 of the proposed Measure, as drafted, could in some circumstances hinder their work as regulators, that the approach was unnecessary and that in the words of Estyn, "fails to recognise that the office of HMCI has an equivalent independent status to that of the Auditor General". We agree with CSSIW and Estyn that a duty to co-operate with the Auditor General would achieve the intended purpose of section 19. Accordingly, we recommend that the Minister gives consideration to bringing forward amendments to section 19, replacing the existing provisions with provisions that provide for a duty to co-operate between the Auditor General and relevant regulators.

35. While we support the inclusion of the date of 30 November in section 20(3) of the proposed Measure, we note that the Minister has agreed to look again at the impact of the timetabling arrangements created by the proposed Measure. As indicated earlier in this report, we welcome this move and refer to our previous conclusions and recommendations regarding timetabling arrangements.

36. We consider that the drafting of section 24 is appropriate. While we acknowledge the concerns raised by Estyn and CSSIW, we note that, as drafted, section 24 requires them to be consulted by the Auditor General before a timetable is set. We consider that it would not be appropriate for the Auditor General to control the activities of other relevant regulators given their status and that any issues regarding the timing of activities of the relevant regulators should be resolved through the consultation process provided for in section 24(3) of the proposed Measure.

Sections 29 - 31: The powers of Welsh Ministers

37. We note that while many organisations have expressed concern about the breadth of the power provided to Welsh Ministers 'to do anything' under section 29, there has been some recognition that what is needed is a clearer indication of how these powers will be used. We accept that there is a difficulty in setting out in legislation every eventuality that could arise, which if attempted could impact negatively on the ability of Welsh Ministers to assist improvement authorities. We also consider that it is important to acknowledge that section 29 provides Welsh Ministers with powers to assist at the request of improvement authorities. In the circumstances, we recommend that the Minister considers establishing a concordat to clarify the circumstances in which the power under section 29 is to be exercised.

38. We also consider that some of the concerns could be overcome if, before the power in section 29 is exercised, a duty to consult improvement authorities is provided. We also consider that the link between section 29 and section 30 (which is apparent from the drafting of section 30) should be clearly set out in section 29. Accordingly, we recommend that the Minister gives consideration to bringing forward appropriate amendments to effect these changes.

39. We have noted that there was strong opposition to the powers to direct collaboration contained in sections 30(2)(c) and 31 of the proposed Measure. However, we have taken the view that these powers are appropriate. We accept the Minister's view that these powers would not be used as part of normal activity and note his acknowledgement that in some circumstances use of these powers would be counterproductive. We have also reached our conclusion on the basis of our recommendation regarding the inclusion of a provision in section 29 requiring consultation before the power that section provides is exercised; including such a provision should ensure that, in most cases, there is dialogue with an improvement authority early on in the process and prior to any subsequent decision to exercise the power under section 30(2)(c). We take the view that by the time consideration is being given to issue a direction under section 30(2)(c), the need for consultation to resolve the problems would be too late and serve little purpose.

Sections 37 - 46: Community planning and strategies

40. We note that the community planning provisions of the proposed Measure have been broadly welcomed.

41. We agree that the duty in section 37 of the proposed Measure is appropriate and recommend that the leadership role of local authorities in the community planning process is asserted through guidance.

42. We consider that the list of community planning partners is appropriate as drafted in section 38. In reaching this conclusion we note

that section 38(2) of the proposed Measure allows for the list to be changed by order.

43. As regards the specific inclusion of chief constables, we note the concerns expressed by WACPO. We are satisfied that their inclusion is within the legislative competence of the National Assembly and consider that their inclusion will provide certainty for their role and be beneficial to the community planning process.

44. Related to our consideration of section 38, we have noted that section 44 places a requirement for local authorities and community planning partners to consult with certain specified persons and organisations. In particular, we welcome the specific reference to consulting voluntary and business organisations, given the vital role they can play in the community planning process.

45. While we acknowledge that section 44 would also enable organisations such as universities to be consulted, we consider that this provision should be strengthened. We therefore recommend that the Minister brings forward an appropriate amendment to include 'representatives of relevant public bodies' (or a similar such term) as a person to be listed in section 44(2). We also recommend that guidance should address the range of general organisations that it would be expected that a local authority and its community planning partners should consult.

46. We also recommend that the Minister brings forward an appropriate amendment to allow the list of persons included in section 44(2) to be amended by order.

47. We agree with the WLGA's view that the review of community strategies should be regarded as a continuous process but consider that the arrangements set out in proposed Measure represent an appropriate framework for the review and monitoring of community strategies.

48. However, in respect of section 39, we consider that it would be sensible for there to be a statutory obligation placed on a local authority to consult with community planning partners once a draft of the community strategy has been prepared. Accordingly, we recommend that the Minister brings forward an amendment to effect this change.

49. We also recommend that the Minister considers bringing forward an amendment so that the proposed Measure contains an express acknowledgement that a community strategy, that relates to a National Park, should have to take into account, and embrace, the policies of the National Park Management Plan.

50. We believe there is considerable merit in the suggestion of the WLGA that section 46 of the proposed Measure should be strengthened so that Welsh Ministers should have regard to priorities outlined in community strategies in the exercise of their functions. Accordingly, we recommend

that the Minister considers bringing forward an appropriate amendment to address this point.

Financial implications

51. We note the Finance Committee's conclusions and share their disappointment that so little information about the costs associated with the proposed Measure has been provided. In view of the concerns raised in our evidence, we recommend that the Assembly Government continually monitors the financial implications for improvement authorities and community planning partners arising from the implementation of the proposed Measure. As a consequence, we also recommend that the Assembly Government provides appropriate funding to authorities if and when required as a means of ensuring that the objectives of the proposed Measure are successfully delivered.

Report of the Subordinate Legislation Committee

52. We note the Subordinate Legislation Committee's conclusions that it was satisfied with the subordinate legislation provisions within the proposed Measure and the procedure applying to them. We agree with the Committee's conclusions.

1. Introduction

1. On 22 September 2008, the Minister for Social Justice and Local Government, Dr Brian Gibbons AM ("the Minister"), introduced the Proposed Local Government (Wales) Measure and made a statement in plenary the following day.¹

2. At its meeting on 23 September 2008, the Business Committee agreed to refer the proposed Measure to a committee for consideration of the general principles (Stage 1), in accordance with Standing Order 23.21. It also agreed that the committee must report on the proposed Measure no later than 23 January 2009.

3. Following a resolution in plenary on 1 October 2008, the Proposed Local Government Measure Committee was established, in accordance with Standing Order 21.

Terms of scrutiny

4. At our first meeting on 14 October 2008, we agreed the following framework within which to scrutinise the general principles of the proposed Measure:

To consider:

- (i) the need for a proposed Measure to deliver its purposes of:
 - reforming the statutory basis for service improvement by local authorities; and
 - reforming community planning and strategies;
- (ii) whether the proposed Measure achieves its purposes;
- (iii) the key provisions set out in the proposed Measure and whether they are appropriate to deliver its purposes;
- (iv) potential barriers to the implementation of the key provisions; and
- (v) the views of stakeholders who will have to work with the new arrangements.

The Committee's approach

5. We issued a general call for evidence and invited key stakeholders, primarily from within the fields of local government, regulation and

¹ Record of Plenary Proceedings (RoP), 23 September 2008, available at: <http://www.assemblywales.org/bus-home/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=98411&ds=9/2008#rhif9>. (NB: unless otherwise stated, subsequent references in this report to RoP refer to the proceedings of the Proposed Local Government Measure Committee.)

inspection and community planning to submit written evidence to inform our work. A list of consultation responses is attached at Annex 1.

6. We took oral evidence from a number of witnesses, details of which are attached at Annex 2.

7. The following report represents the conclusions and recommendations we have reached based on the evidence received during the course of our work. We would like to thank all those who have contributed.

2. Background

The National Assembly's legislative competence to make the proposed Measure

8. The principal power enabling the National Assembly to make a Measure in relation to Local Government is contained in Matters 12.4 and 12.5 of Schedule 5 to the Government of Wales Act 2006:

Matter 12.4

Provision for and in connection with strategies of county councils and county borough councils for promoting or improving the economic, social or environmental wellbeing of their areas or contributing to the achievement of sustainable development in the United Kingdom, including provision imposing requirements in connection with such strategies on other persons with functions of a public nature.

Matter 12.5

Provision for and in connection with

- a) the making of arrangements by relevant Welsh authorities to secure improvement in the way in which their functions are exercised,*
- b) the making of arrangements by relevant Welsh authorities for the involvement in the exercise of the functions, and*
- c) the assessment and inspection of the performance of relevant Welsh authorities in exercising their functions.*

The following are 'relevant Welsh authorities'

- a) a county council, county borough council or community council in Wales,*
- b) a National Park authority for a National Park in Wales,*
- c) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Service Act 2004 or a scheme to which section 4 of that Act applies,*
- d) a levying body within the meaning of section 71(1) of the Local Government Finance Act 1998 in respect of which the county council or charging authority referred to in section 71(1)(b) of that Act was a council or authority for an area in Wales.*
- e) a body to which section 75 of that Act applies (special levies) and which as regards the financial year beginning in 1989 had power to levy a rate by reference to property in Wales.*

The Explanatory Memorandum

9. The Explanatory Memorandum² accompanying the proposed Measure states that:

The purpose of the Measure is to reform the statutory basis for service improvement and strategic planning by local authorities in Wales. The Measure links well-being and community planning with service improvement.

The Measure redefines basic duties to account for improvement. It will require local partners to cooperate in the delivery of community strategic outcomes and to engage with citizens.³

10. The Explanatory Memorandum explains that the “the fundamental purpose of the Measure is to reform and replace regimes in current primary legislation (principally the Local Government Acts 1999 and 2000).”⁴

11. The Explanatory Memorandum refers to major weaknesses in the current ‘best value’ regime, set out in the Local Government Act 1999 and explains how best value was supplemented in 2001-2 by the Wales Programme for Improvement (WPI), as a means of correcting many of those weaknesses.⁵ Guidance issued in respect of WPI departed significantly from the scheme of the 1999 Act and the resulting lack of clear and robust statutory underpinning has created some doubt and inconsistency amongst local authorities.⁶ The aim of Part 1 of the proposed Measure is therefore:

to replace the ‘best value’ regime with one that better reflects the WPI approach in broad terms ... and reflects the current policy context and the experience of authorities and others using the WPI to date...⁷

12. As regards Part 2 of the proposed Measure concerning community strategies and planning, the Explanatory Memorandum explains that there are two broad shortcomings with the current community strategy regime⁸ and states that:

Community planning in Wales needs a sharper focus and a greater sense of deliverable reality if it is to maximise its potential. The proposals within the Measure seek to correct that by placing local partnership working on a more consistent and robust foundation and by providing freedoms for local bodies to define and agree community strategy priorities within a broad framework.⁹

² Welsh Assembly Government, *Explanatory Memorandum to the Proposed Local Government (Wales) Measure*, September 2008

³ Explanatory Memorandum, paragraphs 1.1 - 1.2

⁴ Explanatory Memorandum, paragraph 3.3

⁵ Explanatory Memorandum, paragraphs 3.4 - 3.5

⁶ Explanatory Memorandum, paragraphs 3.5

⁷ Explanatory Memorandum, paragraph 3.6

⁸ Explanatory Memorandum, paragraph 3.8

⁹ Explanatory Memorandum, paragraph 3.9

13. The proposed Measure's overall intention is to:

- offer authorities greater flexibility to respond to citizen and community needs with a national context, while clarifying and strengthening the Assembly Government's ability to respond to under-performance;
- create a statutory regime which better integrates long-term strategic planning and shorter term service improvement;
- amend the law better to reflect the distinctive nature and role of local government in Wales;
- build on the experience of authorities and others operating within the current regimes.¹⁰

14. The Explanatory Memorandum also explains that much of the proposed Measure captures existing non-statutory elements of the WPI and community planning regimes.¹¹

¹⁰ Explanatory Memorandum, paragraph 3.11

¹¹ Explanatory Memorandum, paragraph 3.13

3. General principles and the need for legislation

Part 1: Local Government Improvement - evidence from stakeholders

15. There has been general support in favour of the need for legislation, with many stakeholders agreeing that the proposed Measure provides the correct framework to deliver continuous improvement.

16. The Welsh Local Government Association (“WLGA”) commented that:

“The proposed Measure’s main value is in terms of the powers that it grants, because it extends the scope for innovation in pursuit of improvement, and those are the powers it allows local authorities and the Assembly Government.”¹²

17. Care and Social Services Inspectorate Wales (“CSSIW”) welcomed “the greater clarity on the duty on local authorities to secure continuous improvement”¹³, while the Auditor General for Wales (“the Auditor General”) stated that:

“... the best part of the Measure ... is the single question that I am required to answer for every authority, every year, as to whether the authority has arrangements in place to secure continuous improvements.”¹⁴

18. The Society of Local Authority Chief Executives and Senior Managers in Wales, (“SOLACE”), also welcomed the proposed Measure.¹⁵ Although it did not think it “will make a huge difference to the way in which local authorities work at present”, SOLACE felt “... it will strengthen their hand”¹⁶ and that “on balance, it will serve to assist local authorities in the process of improvement, rather than the opposite.”¹⁷

19. The Fire and Rescue Service¹⁸ said that from their perspective, the legislation is “timely” and brought them “into the legislative fold as far as continuous improvement is concerned”.¹⁹ Similarly, the Welsh Association of National Park Authorities (WANPA) welcomed the proposed Measure “as necessary to provide an up-to-date statutory basis for performance, the improvement regime and community planning” and “likely to add clarity, certainty, and transparency”.²⁰ It added that these benefits “can be enhanced by detailed guidance.”²¹

¹² RoP, paragraph [7], 11 November 2008

¹³ RoP, paragraph [61], 25 November 2008

¹⁴ RoP, paragraph [85], 11 November 2008

¹⁵ RoP, paragraph [7], 25 November 2008

¹⁶ RoP, paragraph [11], 25 November 2008

¹⁷ RoP, paragraph [13], 25 November 2008

¹⁸ The Mid and West Wales Fire and Rescue Service gave evidence on behalf of the Fire and Rescue Service of Wales, and their written and oral evidence is referred to on that basis.

¹⁹ RoP, paragraph [6], 2 December 2008

²⁰ RoP, paragraph [7], 2 December 2008

²¹ Ibid

20. Local authorities generally were supportive of the need for the legislation. Wrexham County Borough Council recognised “the need to reform legislation to provide a robust statutory underpinning of the values and aims of the Wales Programme for Improvement and Community Planning Guidance” and supported the replacement of the best value duty with a duty to secure continuous improvement more broadly.²² Denbighshire County Council expressed similar sentiments²³ and Gwynedd Council said that the proposed Measure should “assist local authorities in creating a culture of enterprise and innovation to improve services.”²⁴

21. However, some organisations expressed reservations about aspects of the proposed Measure. The North Wales Fire and Rescue Authority, while welcoming the extension of equal powers of collaboration and delegation to fire and rescue authorities was “not convinced that the proposed Measure has gone far enough in tackling the identified shortcomings in the existing legislation”, suggesting that some of the “rigidity ... and confusion” of the Local Government Act 1999 will be reintroduced.²⁵

22. A number of stakeholders commented on the level of detail and prescription contained in the proposed Measure. Dr. Tom Entwistle of the Cardiff Business School said that, while “fully supportive of the broad planks or principles underlying the proposed Measure in terms of the emphasis on planning, regulation, engagement and collaboration”, which he suggested are good drivers of improvement²⁶, he questioned the level of detail it contained. In particular, he noted that the regime in Wales has undergone a lot of development and change since 1999, and that if this trend were to continue, he questioned how easy it would be to change the regime given the detailed nature of the proposed Measure.²⁷

23. The Fire and Rescue Service also cautioned “against the measure being too prescriptive and rooting too many detailed processes within statutory duties.” It feared that this may “result in the inflexibility which was a negative feature of the former best value arrangements.”²⁸

24. A common theme that emerged was that many stakeholders welcomed the opportunity to move away from the focus on risk in driving improvement in services and functions. The Auditor General said that the proposed Measure would:

“... remove the potentially confusing and inappropriate emphasis on risk which underpins the current arrangements and which, if interpreted as demanding risk reduction, actually conflicts with authorities drive to deliver service innovation. Local Authorities’

²² Written Evidence, LG10

²³ Written Evidence, LG21

²⁴ Written Evidence, LG23

²⁵ Written Evidence, LG17

²⁶ RoP, paragraph [126], 25 November 2008

²⁷ RoP, paragraphs [127-9], 25 November 2008

²⁸ Written Evidence, LG11

business and improvement planning arrangements should, therefore, focus directly on improvement objectives rather than on risk.”²⁹

25. Such views were supported by other stakeholders, including Estyn who stated that:

“We are particularly supportive of the emphasis on driving continuous improvement rather than trying to identify risk of failure. The framework is more rigorous, and the notion of setting national objectives as well as more local objectives is helpful, as is a strong emphasis on self-evaluation and improvement, which, crucially, is backed-up by an external level of moderation and scrutiny from bodies such as ours.”³⁰

26. Many stakeholders stressed the importance of guidance to support the interpretation and implementation of the proposed Measure. Moreover, we received strong evidence that stakeholders wanted to see proper engagement in the development of such guidance. The Auditor General considered that “the main change in culture will come from the guidance and the way in which the Measure is operated in practice.”³¹ This view was supported by Estyn who commented that:

“The scope and the quality of subsequent guidance will be critical in helping authorities to implement the proposed Measure and also in helping regulators and inspectors when they come to look at external scrutiny.”³²

27. The North Wales Fire and Rescue Authority emphasised the importance of guidance being timely.³³

Part 2: Community Planning and Strategies - evidence from stakeholders

28. Evidence provided to us was generally in favour of Part 2 of the proposed Measure, with many organisations specifically supporting the link made between Parts 1 and 2.

29. The WLGA noted that it had recognised weaknesses in the connections between community strategies and the improvement agenda. It therefore welcomed “the fact that the duties are getting secured in the basis of legislation”³⁴ and commented that the proposed Measure “brings the legislative framework around improvement and community planning much more neatly together.”³⁵

²⁹ Written Evidence, LG2

³⁰ RoP, paragraph [60], 25 November 2008

³¹ RoP, paragraph [85], 11 November 2008

³² RoP, paragraph [91], 25 November 2008

³³ Written Evidence, LG17

³⁴ RoP, paragraph [7], 11 November 2008

³⁵ RoP, paragraph [13], 11 November 2008

30. The Community Planning Officers Network (“CPON”) was also supportive of the proposed Measure in terms of its implications for community planning, saying that it “is a much better way forward and offers many advantages.”³⁶ It also referred to the link between the corporate improvement plan and the community plan, and in particular that the community plan’s objectives will become the improvement plan’s objectives, which “makes quite a bit of difference in terms of tying the two together.”³⁷

31. The CPON also stated that the proposed Measure “will give greater impetus to the community planning process”³⁸; that it will make existing guidance “truly statutory”³⁹ and considered that the proposed Measure will give community planning “the proper legislative background” given that currently it is “pretty flimsy.”⁴⁰

32. One Voice Wales agreed, saying that “the legislation is required in order to achieve a more consistent approach to community planning.”⁴¹ They also noted that “the focus on citizen engagement is much stronger now than when the community planning process was first envisaged and ... that is reinforced again through the proposed Measure”.⁴² One Voice Wales also indicated that the proposed Measure provides an opportunity to ensure that the voice of community and town councils is heard⁴³, which “should, in turn, lead to better quality services.”⁴⁴

33. The Police Authorities of Wales welcomed the fact that they “will be involved in community planning at a strategic level for the first time”⁴⁵ and hoped “the proposed Measure will improve the practice and operation of community planning overall.”⁴⁶

34. A note of caution was however sounded by SOLACE. While it strongly supported “the aim to better integrate community planning with service improvement”, it felt that steps should be taken to further strengthen the links between them and that this could be achieved by giving “greater importance ... to the need to focus on outcomes and on engaging with citizens to ensure that the needs of local communities are met.”⁴⁷

³⁶ RoP, paragraph [20], 18 November 2008

³⁷ RoP, paragraph [29], 18 November 2008

³⁸ RoP, paragraph [35], 18 November 2008

³⁹ Ibid

⁴⁰ RoP, paragraph [108], 18 November 2008

⁴¹ Written Evidence, LG7

⁴² RoP, paragraph [36], 18 November 2008

⁴³ Ibid

⁴⁴ RoP, paragraph [40], 18 November 2008

⁴⁵ RoP, paragraph [37], 18 November 2008

⁴⁶ RoP, paragraph [41], 18 November 2008

⁴⁷ Written Evidence, LG12

Parts 1 and 2 - evidence from the Minister

35. As regards Part 1 of the proposed Measure, the Minister advised that:

“... the present legal framework is the Best Value regime and, clearly, practice and policy intent have moved on considerably from the current legal framework. It makes sense that the legal framework should correspond to modern practice.”⁴⁸

36. The Minister went on to say that “one of the big conceptual shifts in this Measure is moving the locus for activity from the local authority as a corporate organism to the services that it provides to citizens”.⁴⁹ An Assembly Government official told us that the change of culture being adopted in the proposed Measure was one of “moving beyond questioning whether an organisation is good, bad or indifferent to questioning whether an organisation is actually serving the community’s needs well.”⁵⁰

37. It was also explained that the approach of the best value regime does not look at how well an authority serves people when judging good performance.⁵¹ The proposed Measure seeks to overcome this, for example through the aspects of improvement it introduces. These are “more about serving citizens” and give authorities flexibility to decide exactly what their priorities are within that set of aspects, freeing them from having to express everything in numerical, target driven terms.⁵²

38. With regard to the level of detail contained in the proposed Measure, the Minister generally disagreed with the views expressed by some stakeholders that it was too detailed and prescriptive.⁵³ He argued that the legislation has a particular objective and that the detail provides individuals with an understanding of what is required of them under the proposed Measure⁵⁴ and brings “clarity to its intent.”⁵⁵

39. As regards Part 2 of the proposed Measure, the Minister explained that the proposed Measure will mean that the community strategy will require actions and “as part of this, it will indicate not only what the vision is, but it will also place an expectation that the actions to deliver the vision be outlined. Those actions will then form part of the improvement regime”⁵⁶. As such, he indicated that:

“... for the first time, there will be an organic link between the actions required to deliver the community strategy and the wider improvement agenda, which all of this proposed Measure is intended to achieve. Currently, the Best Value regime, the Wales programme

⁴⁸ RoP, paragraph [7], 4 November 2008

⁴⁹ RoP, paragraph [20], 4 November 2008

⁵⁰ RoP, paragraph [17], 4 November 2008

⁵¹ RoP, paragraph [15], 4 November 2008

⁵² Ibid

⁵³ RoP, paragraph [96], 2 December 2008

⁵⁴ RoP, paragraph [94], 2 December 2008

⁵⁵ RoP, paragraph [96], 2 December 2008

⁵⁶ RoP, paragraph [107], 4 November 2008

for improvement, is in one piece of legislation, and the community strategies are in a different piece of legislation; they operate in a different legislative framework. This will bring them together under one umbrella and will also create the link between improvement and activities underpinning the community strategy.”⁵⁷

Parts 1 and 2 - Our view

40. The evidence illustrates a general consensus in favour of the need for the proposed Measure. We note that the proposed Measure seeks to put existing elements of the current improvement and community planning regimes into a single piece of legislation, and that in relation to Part 1, this formalises the progress that has taken place within Welsh improvement authorities since the introduction of the Local Government Acts 1999 and 2000. As such, given the strength of the evidence, we agree that there is a need for the legislation.

41. We consider that many stakeholders have demonstrated the potential for positive outcomes to arise from the proposed Measure, particularly in relation to: the empowerment of Welsh improvement authorities to widen their scope to innovate in the pursuit of improvement; the broadening of local authority responsibilities regarding community planning and the inclusion of community planning partners. Having noted these views, and the wider evidence, we agree that the proposed Measure provides the right framework to deliver continuous improvement (Part 1) and effective community planning (Part 2), and for overcoming shortcomings and weaknesses that have been identified in existing regimes.

42. We acknowledge that the proposed Measure links improvement in Part 1 and effective community planning in Part 2. However, in view of the importance of this issue, we recommend that the Minister gives further consideration as to how the proposed Measure could be amended to strengthen this link.

43. We acknowledge the evidence provided in support of the proposed Measure’s emphasis on driving continuous improvement in services and functions rather than the identification of the risk of failure. We too support this approach.

44. We note the concerns of a number of stakeholders regarding the level of detail and prescription contained in the proposed Measure and the subsequent inflexibility that could arise from this. However, we also note the arguments put forward by the Minister that the detail provides clarity of intent and ensures a clear understanding of what the legislation requires.

⁵⁷ RoP, paragraph [107], 4 November 2008

45. We have discussed the need for detail and prescription in driving forward change and addressing the shortcomings of the existing regimes, which the proposed Measure is seeking to overcome. Furthermore, we have considered whether guidance would be sufficient to deliver these intentions.

46. On balance, we have no objection to the level of detail and prescription included in the proposed Measure. Nevertheless, in view of some of the concerns expressed by some stakeholders we consider that it would be sensible for the Minister to review the level of detail in the proposed Measure and to bring forward appropriate amendments where he considers it sensible to do so.

47. We agree with stakeholders that there is a need for good quality and timely guidance to accompany the implementation of the proposed Measure and recommend that it should be developed in consultation with key stakeholders.

48. Our views on some of the specific sections of the proposed Measure are set out in section 4.

4. Specific comments on sections

Sections 1 - 8: Improvement, performance indicators and standards

Background

49. Sections 1 to 8 of the proposed Measure define improvement authorities and set out how they are to address the improvement agenda.

50. Section 1 defines Welsh improvement authorities as county council and county borough councils, national park authorities and Welsh fire and rescue authorities. These authorities are under a duty (under section 2) to make arrangements to secure continuous improvement in the exercise of their functions. In doing so, an improvement authority must have regard to the need to improve the exercise of its functions in respect of seven aspects of improvement. The seven aspects of improvement are strategic effectiveness; service quality; service availability; fairness; sustainability; efficiency; and innovation, and they can be amended by order (section 7). Definitions of each aspect of improvement are contained in section 4.

51. Under section 3, improvement authorities are required, for each financial year, to set themselves improvement objectives for improving the exercise of their functions during that year and to have in place arrangements to achieve those objectives. Each improvement objective must be framed so as to bring about improvement in at least one of the seven aspects of improvement.

52. Section 8 provides Welsh Ministers with powers to prescribe performance indicators, by reference to which an improvement authority's performance will be measured, and performance standards in respect of the performance indicators set by them. A duty is also placed on improvement authorities to make arrangements to exercise their functions so that any applicable performance standard is met.

Improvement authorities - evidence from stakeholders

53. A number of organisations questioned why Part 1 of the proposed Measure did not extend to other public bodies, such as the health service.⁵⁸

Improvement authorities - our view

54. Whilst we note the concerns of some organisations that the proposed Measure does not extend to all public bodies in Wales, we are aware that the scope of the proposed Measure is constrained by the extent of the legislative competence conferred by Matter 12.5 of Schedule 5 to the Government of Wales Act 2006.

⁵⁸ For example, RoP, paragraph [9], 11 November 2008

The general duty in relation to improvement - evidence from stakeholders

55. The general duty in relation to improvement was welcomed by stakeholders.

56. The Auditor General said that:

"I think that the best part of the Measure ... is the single question that I am required to answer for every authority, every year, as to whether the authority has arrangements in place to secure continuous improvements. That is a fantastically good question, which I intend to answer every year. I think that that will focus attention on what matters."⁵⁹

57. However, he suggested that requiring local authorities "merely to put in place arrangements to secure continuous improvement" is "unsatisfactory" and "potentially undermines the whole point of the legislation".⁶⁰ As such, the Auditor General considered that it is essential for section 2 to be amended to require authorities to put in place 'effective arrangements' because:

"... the word 'arrangements' is construed narrowly, to refer to the existence of arrangements, and if that same interpretation were applied to the Measure, an authority could comply completely by writing reports and filling in forms in the right order on the right dates, without delivering any actual improvements. It would be open to the authority to argue that it had complied, because the word 'effective' is not included in section 2. Inserting the word in section 2 disposes of the problem, does no harm to anyone and makes the Measure much more effective."⁶¹

58. When questioned, Estyn and the CSSIW agreed with this view.⁶²

The general duty in relation to improvement - evidence from the Minister

59. In responding to the Auditor General's suggested change to section 2, the Minister noted that whilst "it is important that the legislation strives to be effective ... we must be realistic that certain circumstances may arise and that factors beyond the control of the local authority may work against the proposed Measure being effective."⁶³

⁵⁹ RoP, paragraph [85], 11 November 2008

⁶⁰ Written Evidence, LG2

⁶¹ RoP, paragraph [89], 11 November 2008

⁶² RoP, paragraphs [70-74], 25 November 2008

⁶³ RoP, paragraph [98], 2 December 2008

The general duty in relation to Improvement - our view

60. We share the Auditor General's view that it would be better to place a duty on improvement authorities to put in place 'effective arrangements' to secure continuous improvement. We consider that this will encourage improvement authorities to focus on the type of arrangements that it should introduce and provide the Auditor General with a more appropriate focus for his work. Accordingly, we recommend that the Minister brings forward an amendment to ensure that an improvement authority must make 'effective arrangements' to secure continuous improvement in the exercise of its functions.

Improvement and the seven aspects of improvement - evidence from stakeholders

61. In the main, witnesses were in favour of the seven aspects of improvement, although some reservations were expressed.

62. SOLACE said that "people welcome the move away from the old three Es"⁶⁴ and stated that "the list of six or seven factors is generally welcomed, largely because it reflects what is happening"⁶⁵ and because "it focuses the attention on the things that matter."⁶⁶

63. Estyn considered that "the new seven principles helpfully extend the breadth of analysis in some regards" but "there will need to be guidance and an explanation around how it is intended that they will operate", particularly because while "they look like a good set of guiding principles ... there will be tensions between them."⁶⁷

64. CSSIW considered that:

"... the seven areas for improvement are a better way of describing what we expect of public services. They are probably more citizen focused and probably also better fit public services, because they give a much clearer emphasis on issues of equity, access and fairness, which are key issues for public services."⁶⁸

65. Wrexham County Borough Council was also supportive, saying that:

"The Council welcomes the attempt to provide clarity on aspects of improvement and how we set and deliver improvement objectives and performance standards. This will support the Council's continued work towards making best use of capacity and our continued

⁶⁴ RoP, paragraph [20], 25 November 2008; the '3Es' namely economy, efficiency and effectiveness were a feature of the old best value regime.

⁶⁵ Ibid

⁶⁶ RoP, paragraph [22], 25 November 2008

⁶⁷ RoP, paragraph [76], 25 November 2008

⁶⁸ RoP, paragraph [77], 25 November 2008

improvements both in the quality and the availability of services in a variety of ways.”⁶⁹

66. Despite this general support, the WLGA expressed “strong reservation” about the inclusion of the seven aspects of improvement “without relevant references and caveats regarding levels of financial investment”⁷⁰, and this reflected the views of many individual local authority respondents.

67. The WLGA went on to suggest that further improvement areas relating to the community leadership and community planning duties should be added, as a means of strengthening the linkages between the improvement and community planning aspects of the proposed Measure.⁷¹ When questioned on this point, it acknowledged that “the community leadership process is a difficult concept to define in terms of legislation— and perhaps you could explore that in statutory guidance”.⁷²

68. The Fire and Rescue Service were “quite ambivalent” about the removal of the ‘3Es’ but felt that “continuous improvement goes deeper than the three Es.”⁷³

69. Some reservations were however expressed about the aspects of improvement. Neath Port Talbot County Borough Council said that:

“In practice, improvement is inevitably achieved by trading off the items on the list against each other. This seems an unnecessary, onerous, additional burden.”⁷⁴

70. The Auditor General was reluctant to lose the ‘3Es’ because they are “very well understood” in the context of audit, inspection and regulation.⁷⁵ In particular he noted that:

“Given the potential for misinterpretations and associations with past regimes, the Assembly Government has chosen this new, complicated formulation, which is not obviously comprehensive. So, for example, economy, which is an important part of sound management, is not explicitly mentioned; that is very strange, because economy means buying well, and it is surely an important part of improvement that authorities should buy more effectively and economically in the future. So, I am not sure that the list is right. If these three terms, which I would prefer, cannot be included the list needs to be included in guidance so that we can change it more easily, as

⁶⁹ Written Evidence, LG10

⁷⁰ Ibid

⁷¹ Ibid

⁷² RoP, paragraph [19], 11 November 2008

⁷³ RoP, paragraph [24], 2 December 2008

⁷⁴ Written Evidence, LG 16

⁷⁵ RoP, paragraph [91], 11 November 2008

previous witnesses have said in another context. I am not sure that that list will turn out to be the right list.”⁷⁶

71. He did not however object to the seven aspects of improvement but was “not convinced that the list is complete.”⁷⁷ He also considered that the definitions of aspects of improvement contained in section 4 needed further thought and that, as such, they might be more usefully included in statutory guidance rather the proposed Measure itself.⁷⁸

72. With regard to the Auditor General’s specific point about including ‘economy’ as an aspect of improvement, Estyn suggested that it could be covered through appropriate guidance on the meaning of ‘efficiency’.⁷⁹

73. The WLGA made a case for amending section 4(2) of the proposed Measure so that all definitions of the aspects of improvement, as well as referring to the way in which services are provided, make reference to ‘the exercise of functions’ in order to improve clarity⁸⁰ and because omitting such a reference for some of the definitions:

“... appears to discount the significant impacts that the ways in which authorities exercise their broader functions (i.e. in addition to service delivery) may have on social well-being, sustainable development and efficiency.”⁸¹

74. Dr Tom Entwistle also questioned whether the aspects of improvement should be included on the face of the proposed Measure rather than in guidance. He said:

“... while some of the ‘new’ perspectives on improvement are helpful ... I do not think there is much merit in broadening out the definition of improvement to the extent proposed in section 3. More detailed advice on the content of improvement can surely be covered in subsequent guidance.”⁸²

Improvement and the seven aspects of improvement - evidence from the Minister

75. The Welsh Assembly Government’s Explanatory Memorandum states that the proposed Measure:

expands authorities’ duties in relation to secur[ing] improvement, in particular emphasising that enhancing local wellbeing, sustainability and social equity are as valid as improving quantified service

⁷⁶ RoP, paragraph [91], 11 November 2008

⁷⁷ RoP, paragraph [93], 11 November 2008

⁷⁸ Written Evidence, LG2

⁷⁹ RoP, paragraph [79], 25 November 2008

⁸⁰ RoP, paragraph [35], 11 November 2008

⁸¹ Written Evidence, LG1

⁸² Written Evidence, LG23

outputs or efficiency.⁸³

76. The Minister explained that the seven aspects of improvement (rather than the old '3Es' of economy, efficiency and effectiveness) included in the proposed Measure:

"... came from the experience of the transition from the Best Value regime to the Wales programme for improvement, and our reflections on how the Wales programme for improvement was operating. It was an iterative process of recognising the weaknesses of the Best Value regime, the emerging strengths of the Wales programme for improvement, and trying to capture those lessons in legislation."⁸⁴

77. In his view, sections 2 - 4 of the proposed Measure would be well understood.⁸⁵

78. A Welsh Assembly Government official also explained that the 2005 Wales Programme for Improvement guidance includes a similar list of aspects of improvement, which had been developed in close collaboration with the WLGA and authorities. The list contained in the proposed Measure was considered to be "fairly comprehensive".⁸⁶ It was also explained that the seven aspects of improvement could be added to, deleted or modified⁸⁷ (using powers contained in section 7 of the proposed Measure).

79. When asked for his views on whether the aspects of improvement would be better included in guidance, the Minister indicated that the list needed to be included in the proposed Measure as it clearly defines what improvement is and "is at the heart of what we are proposing".⁸⁸

80. In terms of the WLGA's comments on including community leadership as a further aspect of improvement the Minister expressed the view that:

"... if you look at the list, you can see that the improvement objectives ... have a qualitative content to them—whereas community leadership, in many respects, is a service ... Community leadership is more of a function than a qualitative measure, and the list, from (a) to (g), includes that qualitative effect, and I do not believe that community leadership would sit easily with that list."⁸⁹

Improvement and the seven aspects of improvement - our view

81. We have noted that while some witnesses have questioned the seven aspects of improvement, and their inclusion on the face of the proposed Measure, in the main they have been welcomed.

⁸³ Explanatory Memorandum, paragraph 3.12

⁸⁴ RoP, paragraph [26], 4 November 2008

⁸⁵ RoP, paragraphs [100 & 102], 2 December 2008

⁸⁶ RoP, paragraph [27], 4 November 2008

⁸⁷ Ibid

⁸⁸ RoP, paragraphs [106], 2 December 2008

⁸⁹ RoP, paragraph [104], 2 December 2008

82. We consider that including the aspects of improvement and their definitions on the face of the proposed Measure, rather than in guidance, is the correct approach because it provides clarity of intention to stakeholders about the improvement agenda, and can be supplemented with guidance. In reaching this view, we are also mindful that the proposed Measure provides Welsh Ministers with powers to change the seven aspects of improvement and their definitions by order.

83. We note that most stakeholders were in favour of replacing the old '3Es' with the seven aspects of improvement.

84. We agree with the Minister that it would not be appropriate to include a further aspect of improvement relating to community leadership and planning. Nevertheless, we recognise the importance of ensuring that there are strong links between improvement, community leadership and planning and recommend that this issue is covered in guidance as has been suggested by the WLGA.

85. While we do not consider that it is necessary to include 'economy' as a further aspect of improvement, we have noted the importance attached to the term by the Auditor General and recommend that accompanying guidance on improvement clearly explains how the concept of economy fits in with the seven aspects of improvement contained in the proposed Measure.

86. We are therefore content with seven aspects of improvement listed in section 4 of the proposed Measure.

87. As regards the definitions contained in section 4(2) of the proposed Measure, we agree with the WLGA that they should be consistent in the way they are drafted and make reference to the 'exercise of functions'. Accordingly, we recommend that the Minister should consider bringing forward amendments to effect such changes.

Performance indicators and standards - evidence from stakeholders

88. Comments from stakeholders included some reflections on provisions in the proposed Measure in respect of performance indicators but also some on the Performance Management Framework, which is the existing mechanism for presenting the information provided by the performance indicators. For example, the Auditor General said that while he has some reservations about the performance measurement framework, these "are not to do with its legal basis but rather how it has been implemented in practice."⁹⁰

89. Some stakeholders made points about the development of performance indicators. For example, the CSSIW suggested that the setting

⁹⁰ RoP, paragraph [99], 11 November 2008

of national standards should add to the outward facing nature of the improvement framework, though it emphasised that these must be developed collaboratively and not be so generalised as to have little or no meaning.⁹¹ Similarly, SOLACE emphasised the need to keep performance indicators to a proportionate and manageable level.⁹² SOLACE also commented that more debate is needed concerning the power provided to Ministers in Section 8 to specify performance indicators and performance standards.⁹³

90. Section 8(3) of the proposed Measure provides that before specifying performance indicators and standards, Welsh Ministers must consult the improvement authorities concerned, and any other such persons as they think fit. The Auditor General suggested that section 8(3)(b) should be amended to require that he is a statutory consultee. He said:

“... I have a power to set performance standard measures—it is not one that I have chosen to use—so that is a formal reason why I think that if the Assembly Government wishes to do anything in this regard it should be required to consult me to avoid a clash of that kind. It is not a major point from my point of view; I daresay that the Assembly Government would consult me anyhow. However, it should be required to do so formally.”⁹⁴

Performance indicators and standards - evidence from the Minister

91. As regards section 8 of the proposed Measure the Minister explained that:

“... performance indicators will obviously include some quantitative measures such as we have in the performance framework at the moment, but those could be elaborated by other performance indicators that may not be quite as quantifiable in the same way. Underpinning this, in addition to identifying areas by which performance would be measured ... there is an attempt to indicate that we should have standards against that performance.

So, this tries to cover a broader range of activities in order to capture the quantifiable data, but it also tries to capture the personal experience, to set standards against that and to expect the local authorities to report on those parameters. Those are just the standards that we prescribe, but local authorities may have particular local circumstances, and this does not preclude them from developing standards that they think are relevant to improving performance in a local context.”⁹⁵

⁹¹ Written Evidence, LG6

⁹² Written Evidence, LG12

⁹³ Ibid

⁹⁴ RoP, paragraph [95], 11 November 2008

⁹⁵ RoP, paragraph [32-3], 4 November 2008

Performance indicators and standards - our view

92. We are generally content with the provisions in section 8 relating to performance indicators and standards.

93. We did not question the Minister about the Auditor General's suggested amendment to section 8(3) to make him a statutory consultee before Welsh Ministers specify performance indicators and standards. However, we consider there is some merit in this proposal and recommend that the Minister considers bringing forward an appropriate amendment to effect this change.

Sections 9 - 12: Collaboration and improvement

Background

94. Section 9 confers on Welsh improvement authorities broad powers to enable them to collaborate with each other and with other bodies for the purpose of discharging or facilitating the duties under section 2(1), 3(2) and 8(7) of the proposed Measure.

95. Section 11 details what constitutes a Welsh improvement authority's powers to collaborate, while Section 12 requires Welsh improvement authorities to consider whether the exercise of any of its powers of collaboration would assist it in discharging its duties under sections 2(1), 3(2) and 8(7) of the proposed Measure.

The power to collaborate - evidence from stakeholders

96. There was widespread support for the provision in section 9 of the proposed Measure. Many witnesses were convinced that the enabling power provided is enough for them to collaborate and that a duty requiring collaboration would be unworkable and unnecessary.

97. The WLGA said that "failure to collaborate at the current time is a failure in community leadership"⁹⁶ and "we only need a power to do it: we do not need a duty."⁹⁷ Similarly, SOLACE agreed with the enabling power:

"We think that that is a better way of going about it. Again, it reflects what is happening on the ground, but it gives it much more flexibility in terms of how we set about this. It is important, when collaborating, that there is mutual trust and that there is a business case to underpin the case for collaboration ... The duty to collaborate would, I think—I am reflecting very much the views of the society now—be found to be too heavy and blunt an instrument for us to accept really."⁹⁸

⁹⁶ RoP, paragraph [40], 11 November 2008

⁹⁷ Ibid

⁹⁸ RoP paragraph [24], 25 November 2008

98. CSSIW were convinced that collaboration is an important aspect to delivering improved services, but noted that:

“There is a danger of thinking that you should do everything collaboratively. It may well be that it is better for the local authority to deliver some services itself; other services may be better delivered on a regional basis, and this proposed Measure would support that.”⁹⁹

99. CSSIW felt however that whether or not that is a duty or an enabling power was a matter for debate.¹⁰⁰

The power to collaborate - evidence from the Minister

100. The Minister explained why the power to collaborate was drafted as an enabling power rather than a duty:

“You might be keen to collaborate, but someone else might say that they do not want to collaborate with you. Therefore, it cannot be a duty, because you may not have someone to collaborate with. We are suggesting that local authorities should look at what they are doing on a regular basis. If collaboration is a way of improving services, whatever legal obstacles are in the way of delivering that collaboration should be removed, and local authorities should actively seek partners to collaborate with to improve the services.”¹⁰¹

and

“... in circumstances where there is a serious risk of service failure and people are not willing to collaborate, there is a ministerial power to direct collaboration.”¹⁰²

The power to collaborate - our view

101. We acknowledge the existing practice of improvement authorities to collaborate and agree that a duty for authorities to collaborate could be unworkable. We recognise that the enabling power as provided in section 9 of the proposed Measure seeks to strengthen existing practice of collaboration and has been welcomed. To this end, we are content with the enabling power provided for in section 9.

⁹⁹ RoP, paragraph [85], 25 November 2008

¹⁰⁰ Ibid

¹⁰¹ RoP, paragraph [42], 4 November 2008

¹⁰² RoP, paragraph [44], 4 November 2008

Sections 13 - 15: Improvement Planning and Information

Background

102. Section 13 specifies the duties of Welsh improvement authorities relating to the arrangements for the collection of information related to performance. Section 14 requires Welsh improvement authorities to use the information it collects under section 13 to measure its performance against a previous year's performance and, so far as is practicable, with the performance of other improvement authorities and other public authorities.

103. Section 15 requires an improvement authority to make arrangements to publish specified information relating to its performance for the financial year. The proposed Measure requires this information to be published by the relevant authority before 31 October immediately following the financial year to which it relates. Section 15(6) also requires an improvement authority to publish an 'improvement plan' that sets out its plans for discharging its duties under section 2(1), 3(2) and 8(7) for a financial year and if an authority thinks fit, its plans for subsequent years.

Framework for the collection, use and publication of information - evidence from stakeholders

104. Although having some concerns about certain aspects, the WLGA said:

"The WLGA and local authorities fully recognise the importance of robust, comprehensive and accessible performance information. Performance information is important for driving improvement through organisational management arrangements; for providing accountability and assurance around the improvement agenda both internally and externally; and engaging with communities and supporting their direct involvement in scoping and shaping improvement by 'giving account' through a range of media.

The WLGA sees the provisions in sections 13 to 15 of the proposed Measure as providing a framework that is broadly supportive of these requirements and aspirations."¹⁰³

105. Local authorities generally welcomed the approach being taken, with Wrexham County Borough Council saying that it "supports the clarification and increased flexibility around using and publishing performance information and the Improvement Plan", and noting the importance of consulting on the performance indicators and standards.¹⁰⁴

106. Several stakeholders commented on the importance of authorities using performance information effectively to manage their services and to

¹⁰³ Written Evidence, LG1

¹⁰⁴ Written Evidence, LG10

engage with stakeholders and citizens to enable shared understanding of their objectives and achievements.

107. The Auditor General said that while he had some reservations about the performance measurement framework, these “are not to do with its legal basis but rather how it has been implemented in practice”.¹⁰⁵

108. Both Estyn and CSSIW considered that the proposed Measure provided a sound basis for the right performance management framework to develop and that the balance between what is included on the face of the proposed Measure and what would be included in guidance was about right.¹⁰⁶

109. On the specific issue of self-imposed performance indicators and standards in section 13, Dr Tom Entwistle sounded a note of caution:

“... if you give organisations the freedom to come up with their own indicators, then it is extraordinarily difficult for regulators to make any kind of judgment about whether the organisations have met their targets or whether the indicators are reliable.”¹⁰⁷

Framework for the collection, use and publication of information - evidence from the Minister

110. The Welsh Assembly Government’s Explanatory Memorandum states that the proposed Measure confers on improvement authorities “more scope to use performance data to account to citizens and communities about the levels of service they are providing.”¹⁰⁸ In questioning, the Minister told us that the proposed Measure “would provide a clear national framework for measuring performance across all improvement authorities in Wales”.¹⁰⁹

111. As regards the purpose of self-imposed performance indicators and standards, the Minister said:

“There is a national context, and it is important that local government delivers national priorities, because we, as an Assembly Government, do not deliver many services ourselves. Many of the policies that we, as an Assembly Government, set can be delivered only through partners or organisations, such as local government. Therefore, there is a national context to all of this, but there are specific local circumstances and we and local authorities need to have the flexibility to deliver on the national front and to reflect local circumstances. That is the whole essence of local democracy.”¹¹⁰

¹⁰⁵ RoP, paragraph [99], 11 November 2008

¹⁰⁶ RoP, paragraphs [88-89], 25 November 2008

¹⁰⁷ RoP, paragraph [155], 25 November 2008

¹⁰⁸ Explanatory Memorandum, paragraph 3.12

¹⁰⁹ RoP, paragraph [109], 2 December 2008

¹¹⁰ RoP, paragraph [35], 4 November 2008

Framework for the collection, use and publication of information - our view

112. In general terms, we consider that the provisions for collecting, using and publishing information in sections 13 to 15 of the proposed Measure are broadly appropriate. Some of the specific aspects of the framework are considered in paragraphs 113 to 147 below.

Comparing performance - evidence from stakeholders

113. As regards the duty to compare performance in section 14, the WLGA said "it is questionable whether it is necessary to impose a duty to perform an activity that authorities already undertake as a matter of course in business and performance analysis"¹¹¹ and that "the view of local government is that you do not need to put legislative frameworks in place to enforce what is already happening."¹¹² Similar sentiments were expressed by SOLACE¹¹³ and the Fire and Rescue Service.¹¹⁴

114. The WLGA noted that the "age-old issue in Wales is comparing like for like"; just looking at performance indicators "is a blunt instrument" and "you need the full picture and the full detail of the communities that authorities are serving."¹¹⁵ As a result, "a comparison would need to be much broader than just comparing performance information; it needs to compare the wider context of the communities in which those authorities operate."¹¹⁶

115. However, the Auditor General welcomed the fact that the proposed Measure requires local authorities to have regard to comparisons and felt that while every local authority is unique and has flexibility in how to do things, "that is not a reason for not thinking about comparisons".¹¹⁷ He also felt that the validity of comparisons should be addressed through "guidance, if at all"¹¹⁸ and if comparative information is interpreted with care it could be "really useful, and it is a mistake to try to run a local authority without using that information."¹¹⁹

116. Estyn welcomed the duty placed on authorities to compare their performance across time and with other authorities and noted that "benchmarking is a very powerful driver for improvement and enables authorities to identify and share good practice."¹²⁰

¹¹¹ Written Evidence, LG1

¹¹² RoP, paragraph [42], 11 November 2008

¹¹³ RoP, paragraph [30], 25 November 2008

¹¹⁴ RoP, paragraph [26], 2 December 2008

¹¹⁵ RoP, paragraph [49], 11 November 2008

¹¹⁶ Ibid

¹¹⁷ RoP, paragraph [100 & 102], 11 November 2008

¹¹⁸ RoP, paragraph [104], 11 November 2008

¹¹⁹ Ibid

¹²⁰ Written Evidence, LG5

Comparing performance - the view of the Minister

117. The Minister said that the duty for improvement authorities to compare performance is “essentially an exercise in benchmarking performance”¹²¹ and that it was included because “the purpose of the legislation is to be as comprehensive as possible.”¹²² A Welsh Assembly Government official added that improvement authorities should be encouraged to learn from comparisons they make, but that this was to be promoted through guidance, rather than to be included in the proposed Measure.¹²³

118. When questioned further as to why the duty to compare performance was included, the Minister said that “the whole purpose of the legislation is to create a legal framework that will be consistent across Wales” as local government performance in Wales is variable.¹²⁴

Comparing performance - our view

119. We have considered carefully the comments from the WLGA and others that a duty to compare performance should not be included on the face of the proposed Measure. However, we consider that comparing performance is a valuable duty for improvement authorities. As such, we agree with the Minister that it should be included on the face of the proposed Measure. In doing so, we believe this will give a clear indication of what is expected of all improvement authorities both now and in the future.

Publishing collaboration information - evidence from stakeholders

120. Commenting specifically on section 15(2)(c) relating to publication of collaboration information, the WLGA expressed concern “that it looks fairly bare and blunt” and were unclear as to what it covered, how much detail would be required and felt that “it could potentially become too burdensome.”¹²⁵ It also questioned the value of such information to the public.¹²⁶

Publishing collaboration information - evidence from the Minister

121. The Minister highlighted that the purpose of gathering information on collaboration was to capture the change in culture “from a time when local authorities worked within their own geographical boundaries to deliver a service and to deliver improvement”.¹²⁷ He went on to explain that “it is reasonable that we ask local authorities to detail what they are doing on collaboration, because that is one of the key new elements of driving

¹²¹ RoP, paragraph [54], 4 November 2008

¹²² RoP, paragraph [56], 4 November 2008

¹²³ RoP, paragraph [60], 4 November 2008

¹²⁴ RoP, paragraph [106], 2 December 2008

¹²⁵ RoP, paragraph [62], 11 November 2008

¹²⁶ RoP, paragraph [63], 11 November 2008

¹²⁷ RoP, paragraph [111], 2 December 2008

improvement in Wales".¹²⁸ He added that it highlights its importance and ensures "some accountability for the collaboration that is taking place".¹²⁹

Publishing collaboration information - our view

122. We acknowledge the comments of the WLGA regarding the publication of collaboration information under section 15(2)(c) and accept that without further information about the level of detail required, there is a danger that this could be burdensome. We therefore recommend that such clarity is provided through guidance to ensure that information published is relevant and meaningful to the public and that such guidance should be developed in close co-operation with improvement authorities.

Deadline of 31 October for publishing information - evidence from stakeholders

123. Some evidence received questioned the validity of including the date of 31 October in section 15(3)(a) of the proposed Measure rather than in guidance. The date reflects the date by which certain information specified in the proposed Measure must be published by improvement authorities.

124. The WLGA considered that including the date in statutory guidance was the more flexible option because "if a fixed date is set in legislation and it does not work out for whatever reason, it takes an awful lot of effort to change it."¹³⁰ The Auditor General¹³¹ and Estyn¹³² agreed with this view, while the Fire and Rescue Service said consideration should be given to putting it in guidance.¹³³ CSSIW felt that deadlines were important, although whether they are best included in the proposed Measure or in the guidance was a matter for debate.¹³⁴

125. In terms of the date of 31 October itself (rather than whether a specific date is included in the proposed Measure or guidance) the WLGA and Fire and Rescue Service did not have a particular concern.^{135 136} However, the Auditor General noted that the date could impact on the timetable for his work as he will have to write 44 reports each year between 31 October and 30 November¹³⁷ and that while local authority information could be provided before the 31 October, as a statutory deadline, "that is the one that people will meet and they will probably drift towards that even if they do better to start with."¹³⁸

¹²⁸ RoP, paragraph [111], 2 December 2008

¹²⁹ Ibid

¹³⁰ RoP, paragraph [56], 11 November 2008

¹³¹ RoP, paragraph [106], 11 November 2008

¹³² RoP, paragraph [90], 25 November 2008

¹³³ RoP, paragraph [30], 2 December 2008

¹³⁴ RoP, paragraph [93], 25 November 2008

¹³⁵ RoP, paragraph [58], 11 November 2008

¹³⁶ RoP, paragraph [30], 2 December 2008

¹³⁷ Section 20(3) of the proposed Measure provides that copies of audit and assessment reports prepared by the Auditor General must be sent to improvement authorities and Welsh Ministers by 30 November each year.

¹³⁸ RoP, paragraph [108], 11 November 2008

126. Both Estyn and CSSIW felt that the date of 31 October was about right. Estyn said that it is “not far adrift from what is feasible”.¹³⁹ Commenting on a fear that reporting will drift to that deadline, CSSIW said that:

“The experience so far is that it has been quite difficult for local government to move that date much further forward, not because it is being slow about the process, but because there are practical processes that have to be carried out.”¹⁴⁰

127. Conversely, the representative of SOLACE, speaking in a personal capacity, felt that the date was generous because by “31 October, the last financial year’s information is beginning to fade into history, and you are worrying ... about the next financial year.”¹⁴¹

Deadline of 31 October for publishing information - evidence from the Minister

128. The Minister indicated that the 31 October date for publishing information had been included in the proposed Measure because “to expect a retrospective view within six months of the end of the financial year is not unreasonable, and it sets out a clear expectation.”¹⁴²

129. However, the Minister also acknowledged the view of the Auditor General regarding his workload between the end of October and end of November. He said:

“... we would hope that, in practice, not all the improvement authorities will produce their reports by 31 October; hopefully, they will produce them in a steady stream, and the auditor general will therefore be able to respond in a measured way. However, I suppose that it is conceivable that all 28 improvement authorities could submit their plans on the last day of the month, which might create problems for the auditor general.”¹⁴³

130. He concluded that this was an area he is willing to consider further and would have discussions with the Auditor General.¹⁴⁴

Deadline of 31 October for publishing information - our view

131. We have given careful consideration to the date of 31 October included in section 15(3)(a) of the proposed Measure. On balance we consider that it is right to include a date on the face of the proposed Measure in section 15(3)(a).

¹³⁹ RoP, paragraph [97], 25 November 2008

¹⁴⁰ RoP, paragraph [95], 25 November 2008

¹⁴¹ RoP, paragraph [36], 25 November 2008

¹⁴² RoP, paragraph [115], 2 December 2008

¹⁴³ RoP, paragraph [116], 2 December 2008

¹⁴⁴ Ibid

132. However, we also acknowledge the views of those who have suggested that improvement authorities will tend to work to the specific deadline of 31 October, which could have implications for the work of the Auditor General. We note that the Minister has agreed to reconsider the impact that dates in the proposed Measure will have on the work of the Auditor General. We welcome this move and consider that in so doing, the Minister should focus on the practical implications of changing the date of 31 October, rather than the date of 30 November (that is contained in section 20(3) of the proposed Measure).

133. Accordingly, we recommend that it would be appropriate for the Minister to reconsider the timetabling arrangements set out in the proposed Measure and to bring forward appropriate amendments to ensure that the timetabling arrangements work in practice.

134. Irrespective of how this issue is resolved, we consider it vital to ensure that guidance is developed to fully explain how the timetabling arrangements are to work in practice.

Improvement plans - evidence from stakeholders

135. The WLGA suggested that the reference to an improvement plan in section 15(6) of the proposed Measure is unnecessary, saying that “a number of authorities argue that a separate improvement plan is increasingly unnecessary as improvement priorities should be mainstreamed and embedded within corporate and service plans”.¹⁴⁵ SOLACE expressed similar views.¹⁴⁶

Improvement plans- evidence from the Minister

136. As regards the requirement for an improvement plan in section 15(6), the Minister explained that:

“... local authorities will be required to put an improvement plan in place, which is part of the current Wales programme for improvement. The additional steps [in the proposed Measure] will measure the implementation of the improvement plan and detail the actions required to deliver improvement, and then the quality assurance that will be delivered by the regulators will give the public much greater insight into what local authorities are doing. By understanding more effectively what is going on, the public will be able to hold their authorities to account, and that will be an important driver of improvement.”¹⁴⁷

¹⁴⁵ Written Evidence, LG1

¹⁴⁶ Written Evidence, LG12

¹⁴⁷ RoP, paragraph [12], 4 November 2008

137. The Welsh Assembly Government's legal adviser elaborated on the purpose of the plan and its relationship with section 3 of the proposed Measure:

"... the improvement plan ... sets out how the authority ... will discharge its various duties under the Measure. In that respect, it is almost a backward way of looking at it because the improvement plan is just a documentation of how it will achieve its goals and discharge its duties. Section 3(2) of the Measure requires a local authority to make arrangements to secure the attainment of its objectives, for example. Therefore, in that sense, that is the duty to implement what is documented in the improvement plan."¹⁴⁸

138. When questioned on the views of the WLGA about the need for an improvement plan, the Minister said:

"Every authority needs to evaluate where it is, and, having done that, it must have a clear, strategic overall improvement plan to outline what it wants to achieve in the next 12 months or two years. If an authority does not have an individual overall strategic plan, there will be a complete lack of focus on its priorities."¹⁴⁹

Improvement plans - our view

139. We consider that improvement plans are a vital part of the improvement process and provide an easily identifiable source of information about what work authorities are undertaking to improve their services. We agree with the Minister that such a plan will help focus and prioritise the improvement agenda of authorities. We therefore do not agree with those who have suggested that improvement plans are unnecessary. Accordingly, we consider that reference to improvement plans should be retained on the face of the proposed Measure.

Information and citizen engagement - evidence from stakeholders

140. We heard a lot of evidence in the context of how the proposed Measure will foster and encourage citizen engagement. The point was made on a number of occasions that it is high profile local issues such as school closures that engage citizens rather than performance information.

141. The WLGA said that "people engage with services" and so "we must engage with people in a service-focused way".¹⁵⁰ It suggested that "the use of performance information is an important element ... but the contextual information is also important". It went on to explain that this involved "asking what people's improvement priorities are, but also accounting for them" by explaining why targets have not been met.¹⁵¹

¹⁴⁸ RoP, paragraph [77], 4 November 2008

¹⁴⁹ RoP, paragraph [120], 2 December 2008

¹⁵⁰ RoP, paragraph [68], 11 November 2008

¹⁵¹ RoP, paragraph [65], 11 November 2008

142. Neath Port Talbot County Borough Council noted that in the context of performance information, “the perceived issue here is how best to encourage residents to engage with the accountability process rather than issues around the use of performance data to inform citizens about levels of service.”¹⁵²

143. In his evidence, Dr Entwistle commented on the relationship between citizen engagement and performance information. He referred to the creation of “quite a formal process of approach to service improvement”, as being “quite divorced from the realities that most people will actually be concerned with.”¹⁵³ He added that “people will engage, but there have to be issues that they see as being directly relevant to them”. He concluded that “we need to think more carefully about creating circumstances that will genuinely foster engagement ... those are questions for guidance and specific details of how improvement authorities work.”¹⁵⁴

144. On a different note, the Wales Council for Voluntary Action felt that citizen engagement was absent from Part 1 of the proposed Measure, saying that:

“... it is important that the Measure explicitly includes the integration of citizens and communities into the local government improvement processes, beyond the influencing of the community strategy. As the main expression of ‘organised citizens’ the third sector should be firmly included.”¹⁵⁵

Information and citizen engagement - evidence from the Minister

145. The Minister acknowledged that whilst certain topics were more likely to engage the public, such as the closure of a school, it would be surprising “if the challenges leading up to that school closure had not been highlighted as part of the improvement plan in the preceding years.”¹⁵⁶ He explained that he was of the view that:

“Very often, what happens is that the first time the citizens find out about school closures or other such big decisions is when they open the local paper, but, as part of this process, if there are excess school places, we hope that the challenge will have been flagged up in the preceding years. The rationale for going down that road should certainly not come as a surprise”.¹⁵⁷

¹⁵² Written Evidence, LG16

¹⁵³ RoP, paragraph [144], 25 November 2008

¹⁵⁴ RoP, paragraph [145], 25 November 2008

¹⁵⁵ Written Evidence, LG18

¹⁵⁶ RoP, paragraph [122], 2 December 2008

¹⁵⁷ RoP, paragraph [122], 2 December 2008

Information and citizen engagement - our view

146. While the importance of citizen engagement was recognised, it was not always clear how this should be addressed either through the proposed Measure or through guidance. Many stakeholders recognised that engagement is vital if improvement authorities are to deliver improvements in services that meet the needs of the public.

147. We recommend that in developing guidance on sections 13 to 15 of the proposed Measure, serious consideration is given as to how best improvement information should be presented to ensure it is meaningful to the public and relates to the services they receive. As part of this process, we consider that it is vital for such guidance to be developed in conjunction with as wide a range of stakeholders as possible.

Sections 16 - 28: Improvement audits and assessments, and other functions of the Auditor General

Background

148. Section 16 lists the relevant regulators and their relevant functions and provides the Welsh Ministers with a power to change that list by order. Sections 17-20 relate to the duties placed on the Auditor General in terms of improvement audits and assessments with Sections 22-28 relating to other functions of the Auditor General.

149. In particular, section 19 relates to the role of relevant regulators in supporting assessments undertaken by the Auditor General under section 18 and allows for the Auditor General to require the relevant regulators to provide reports outlining what they have found in the exercise of their relevant functions.

150. Section 24 relates to the co-ordination of audit and places a duty on all relevant regulators to have regard to the need for co-ordination in the exercise of regulatory functions. It also requires the Auditor General to consult the relevant regulators and to draw up a timetable for the regulation and inspection of each improvement authority. All relevant regulators and the Auditor General must then take reasonable steps to adhere to the timetable.

Overall regulatory and inspection framework - evidence from stakeholders

151. The Auditor General was "broadly content" with the functions provided to him by sections 17 to 20 and 22 to 28 of the proposed Measure, subject to detailed discussions about any supporting guidance¹⁵⁸ and noted that "the new arrangements will enable us to deliver a much more visibly focused regulatory programme than the current arrangements."¹⁵⁹ The

¹⁵⁸ Written Evidence, LG2

¹⁵⁹ RoP, paragraph [110], 11 November 2008

Auditor General welcomed the reporting requirements placed on him through sections 20, 23 and 25, noting that:

“The three sets of reports are necessary. Some of them are summaries of other work, but expressing complicated things so that citizens can understand them requires summary reports to be produced. So, while it may sound wasteful to have summary reports, it is a real benefit, because the longer technical reports are needed but are not accessible to citizens, whereas shorter summaries will be.”¹⁶⁰

152. Estyn¹⁶¹ and the Auditor General¹⁶² commented that there has been increased co-ordination through voluntary co-operation among regulatory bodies in recent years, but agreed that there is scope for further improvement and that a statutory duty covering their activities would be appropriate and helpful. However, the Auditor General, Estyn and CSSIW did raise a number of specific concerns about the nature of the statutory duty and these are discussed in paragraphs 171 to 190 below.

153. Evidence from local authorities indicated general support for better co-ordination in the exercise of regulatory functions. Neath Port Talbot County Borough Council, welcomed “any proposals which add value and reduce the burden of inspection / regulation”.¹⁶³ Wrexham County Borough Council said it “would welcome the introduction of the changes proposed in relation to risk, regulation and inspection, but wonder how this will be delivered in reality without statutory guidance to support it across all the inspection and regulation bodies.”¹⁶⁴ Gwynedd Council also sounded a cautionary note, commenting that:

“The emphasis in inspection work should be in assisting councils in implementing the improvement which the measure calls upon us to achieve rather than holding us to account according to systems which do not necessarily reflect local priorities.”¹⁶⁵

154. The Fire and Rescue Service noted that care will need to be taken in the implementation of the proposed Measure to ensure that the aspiration to reduce the audit burden is delivered, since there is potential for the burden to be increased.¹⁶⁶

155. SOLACE welcomed section 24 of the proposed Measure relating to the co-ordination of audit, although it considered that the Auditor General should also consult with improvement authorities in the preparation of the regulatory timetable.¹⁶⁷ Support for section 24 also came from the WLGA¹⁶⁸

¹⁶⁰ RoP, paragraph [117], 11 December 2008

¹⁶¹ Written Evidence, LG5

¹⁶² Written Evidence, LG2

¹⁶³ Written Evidence, LG16

¹⁶⁴ Written Evidence, LG10

¹⁶⁵ Written Evidence, LG13

¹⁶⁶ Written Evidence, LG11

¹⁶⁷ Written Evidence, LG12

¹⁶⁸ Written Evidence, LG1

and Denbighshire County Council, who stated that “there is an obvious need for improved integration of audit and inspection at the local level.”¹⁶⁹

Overall regulatory and inspection framework - evidence from the Minister

156. The Welsh Assembly Government’s Explanatory Memorandum states that the proposed Measure is intended to:

secure greater collaboration between local government auditors, regulators and inspectors so as to maximise value and minimise burdens (this largely entails placing existing best practice on a statutory basis);¹⁷⁰

157. The Minister explained that the purpose of the audit and inspection regime included in the proposed Measure is to:

“... coordinate the activities of regulators and inspectors, as well as to streamline the process, so that the whole process will be less onerous on local authorities, but more efficient from the inspectorate’s point of view.”¹⁷¹

158. A Welsh Assembly Government official told us that the proposed Measure was looking to correct flaws in the existing regime, which relate to the Auditor General’s current role of certifying that improvement plans have been properly prepared and published, and conducting inspections on an ad hoc basis.¹⁷² He explained that the Auditor General’s role was being developed through sections 17 and 18 to provide “a retrospective validation as to where an authority has got to, as well as a prospective prognostic ... looking forward as to where it might go in the future”, and to bring some regularity to the work.¹⁷³

Overall regulatory and inspection framework - our view

159. We consider that the overall regulatory and inspection framework is appropriate, although we comment below on specific aspects of the framework set out in sections 16, 18, 19 and 24.

The term ‘regulator’ - evidence from Estyn

160. Estyn suggested that the term ‘inspection, audit and regulatory body’ would be better than ‘regulator’ in section 16¹⁷⁴, and “that the word ‘regulator’ is probably too much of a shorthand.”¹⁷⁵

¹⁶⁹ Written Evidence, LG21

¹⁷⁰ Explanatory Memorandum, paragraph 3.12

¹⁷¹ RoP, paragraph [79], 4 November 2008

¹⁷² RoP, paragraphs [83], 4 November 2008

¹⁷³ RoP, paragraphs [83-84], 4 November 2008

¹⁷⁴ Written Evidence, LG5

¹⁷⁵ RoP, paragraph [115], 25 November 2008

The term 'regulator' - evidence from the Minister

161. The Minister considered that section 16(2) would cover any confusion about the meaning of 'relevant regulator'.¹⁷⁶

The term 'regulator' - our view

162. We agree with the Minister that the term 'regulator' in section 16 is appropriate.

Annual assessments - evidence from stakeholders

163. A specific issue raised in connection with the audit and inspection regime was that of the annual improvement assessment under section 18 of the proposed Measure.

164. The WLGA questioned whether assessment by the Auditor General is necessary for all authorities on an annual basis, as set out in section 18, preferring instead that:

"... following an initial assessment, the Auditor General is accorded scope to defer further reassessment of this matter for up to three years in circumstances where the assessment identifies that an authority's arrangements are sufficiently robust and well-established to warrant confidence that reassessment within a one year cycle is not necessary. Annual improvement reports (s25(1)) in years 2 and/or 3 could then report on the basis of 'no contrary indications'."¹⁷⁷

165. It further stated that it would like to see "some sort of proportionate-to-risk-type approach to inspection" and that while the auditors probably adopted such an approach, it needed "to be more clearly understood".¹⁷⁸ The Fire and Rescue Service agreed with the WLGA.¹⁷⁹

166. The representative of SOLACE noted that:

"... there is no particular consensus in SOLACE ... some are in favour of annual assessment, and some are not. My view is that, if you do not have annual assessment, you rapidly lose track of what is happening, and it is easy for people to hide in an assessment cycle in which assessments are held less frequently than once a year. Some people manage to hide in an annual assessment cycle, but at least you have a chance of finding out what is going on. Therefore, I personally would not favour a longer assessment cycle."¹⁸⁰

¹⁷⁶ RoP, paragraph [124], 2 December 2008

¹⁷⁷ Written Evidence, LG1

¹⁷⁸ RoP, paragraph [71], 11 November 2008

¹⁷⁹ RoP, paragraph [35], 2 December 2008

¹⁸⁰ Rop, paragraph [38], 25 November 2008

167. The Auditor General also felt that annual assessments were appropriate, saying:

an annual assurance seems to be perfectly reasonable, provided that the work that is done to provide that assurance is proportionate to the situation—and it is my aim that it should be.¹⁸¹

168. WANPA stated that audit and inspection applied to National Park authorities should be commensurate with the risk and scale of operations¹⁸², and that “proportionality of assessment needs to be built in to the audit regime.”¹⁸³

Annual assessments - evidence from the Minister

169. The Minister said that an annual check is “desirable, but it should be proportionate” and that a “lighter touch” for authorities doing very well would be expected, compared to a more “root-and branch approach” for those vulnerable to failure. He also thought that this could be spelt out in guidance.¹⁸⁴

Annual assessments - our view

170. We agree that annual assessments as set out in section 18 of the proposed Measure are appropriate but endorse the comments of both the Auditor General and the Minister that assessment work undertaken is proportionate to the situation. Accordingly, we recommend that guidance specifically addresses this point.

The operation of the inspection and regulatory framework - evidence from relevant regulators and the Auditor General

171. Both Estyn and CSSIW expressed some concerns about specific sections in the proposed Measure dealing with the inspection and regulatory framework. Of particular concern to both organisations was the wording of section 19 which ‘requires’ them to provide the Auditor General with reports. Estyn said:

“... the clause currently proposes that the Auditor General should be given powers to ‘require’ HMCI to provide the Auditor General with reports and the Auditor General has powers to give instructions as to the form [and] content of the report to be furnished.

I believe this approach is inappropriate and unnecessary in order to achieve the intended purpose. It is at odds with the Explanatory Notes at Appendix 1 to the Explanatory Memorandum to the Measure, which

¹⁸¹ RoP, paragraph [119], 11 November 2008

¹⁸² Written Evidence, LG14

¹⁸³ RoP, paragraph [40] 2 December 2008

¹⁸⁴ RoP, paragraphs [126 -128], 2 December 2008

refers to the regulators “co-ordinating their activities” and “assisting” the Auditor General.

More importantly, however, it fails to recognise that the office of HMCI has an equivalent independent status to that of Auditor General.”¹⁸⁵

172. Estyn went on to say that section 19 “risks creating an unhelpful inconsistency with the need for me to maintain the ability to respond to urgent or unscheduled priorities, including Ministerial requests” and suggested an alternative way of redrafting section 19, whilst still maintaining the intention of the proposed Measure.¹⁸⁶ It said:

“We would be quite happy with section 19 being redrafted along the lines of the auditor general having the right to request the co-operation and assistance of relevant inspectorate bodies, and then for us to inform him of our findings on various sector specific aspects of inspection. That should be balanced by a duty being placed on me and others to provide assistance to the auditor general and to co-operate with him as far as is reasonably practicable. Combining those things would deliver the purpose well.”¹⁸⁷

173. CSSIW, commenting generally, said that “there must be no clouding of my statutory functions as an independent Inspectorate”¹⁸⁸ and that “a duty to co-operate would be sufficient”¹⁸⁹, noting that:

“Our relationship with the Auditor General for Wales must be one of co-operation not one where he is able to direct our activity or influence our professional judgement.”¹⁹⁰

174. Of particular concern to CSSIW in respect of section 19 was that:

“... the Auditor General may give instructions as to how my Inspectorate should comply with his request for such a report, in particular by imposing requirements as to the content of a report, as to the period to which a report is to relate and a particular date by which the report must be produced.”¹⁹¹

175. The Auditor General expressed some reservations about the practical details of the inspection and regulatory framework.

176. The Auditor General was “unclear about the thinking behind the timings proposed in the Measure for local authorities to prepare material

¹⁸⁵ Written Evidence, LG5

¹⁸⁶ Written Evidence, LG5

¹⁸⁷ RoP, paragraph [110], 25 November 2008

¹⁸⁸ Written Evidence, LG6

¹⁸⁹ Written Evidence, LG6

¹⁹⁰ Written Evidence, LG6

¹⁹¹ Written Evidence, LG6

and for me to audit or assess it".¹⁹² He said:

"... the draft Measure proposes a common deadline (30 November) for me to issue both the backward-looking audit and the forward-looking assessment. Moreover, that deadline takes no account of the business planning cycles of authorities that might quite legitimately differ from each other. It would certainly be helpful, pending further discussion and a clearer understanding of the practicalities of implementation, to remove from the legislation the specific dates ... The agreed timetable could then be set out in Ministerial orders or supporting guidance."¹⁹³

177. When questioned, the Auditor General expressed further concern about whether the timetable for his work set out in the proposed Measure actually works¹⁹⁴, noting that he will have to write 44 reports each year between 31 October and 30 November.¹⁹⁵ He went on to say:

"The only way around that would be for the local authorities to report earlier than their statutory deadline, and no doubt they would try to do their best, but all past experience teaches us that if there is a statutory deadline, that is the one that people will meet and they will probably drift towards that even if they do better to start with."¹⁹⁶

178. The Auditor General also identified section 24 as a potential barrier to achieving a "truly coordinated" regulatory response saying that it:

"... provides the Auditor General with powers to coordinate only the timetable of the relevant regulators but not their activities. That means that it would be theoretically possible, within the framework of the Measure, for different regulators to carry out duplicative work at the same local authority; the Measure would merely ensure that such activity did not happen at the same time."¹⁹⁷

179. In questioning, he felt that the arrangements in the proposed Measure are "quite complicated."¹⁹⁸ The Auditor General re-iterated his concern about the coordination of regulation stating that the proposed Measure does not "give anyone—certainly not me—the explicit power to co-ordinate regulation".¹⁹⁹ He considered that "back up powers are nice to have" but he was not campaigning to have that power.²⁰⁰

¹⁹² Written Evidence, LG2

¹⁹³ Written Evidence, LG2

¹⁹⁴ RoP, paragraph [106], 11 November 2008

¹⁹⁵ RoP, paragraph [108], 11 November 2008; Section 20(3) of the proposed Measure provides that copies of audit and assessment reports prepared by the Auditor General must be sent to improvement authorities and Welsh Ministers by 30 November each year.

¹⁹⁶ Ibid

¹⁹⁷ Written Evidence, LG2

¹⁹⁸ RoP, paragraph [114], 11 November 2008

¹⁹⁹ RoP, paragraph [124], 11 November 2008

²⁰⁰ RoP, paragraph [125], 11 November 2008

180. CSSIW expressed different concerns about the wording of section 24, saying that the requirement placed on the Auditor General to provide a timetable could constrain their work.²⁰¹ Similar sentiments were expressed by Estyn.²⁰²

181. When questioned on these issues CSSIW said while “it is important that there is co-ordination and collaboration between inspectorates”, that:

“... there is a distinction between that and a requirement that one regulator or inspectorate, in that sense, could sit above the others. The difficulty is that I cannot subsume my responsibilities, which are in reality the responsibilities of Welsh Ministers, under those of another inspectorate or regulator”.²⁰³

The operation of the inspection and regulatory framework - evidence from the Minister

182. The Minister explained that section 19 of the proposed Measure allowed the Auditor General to “call on the expertise of other regulators to inform his or her overall view of how an authority is performing”.²⁰⁴ A Welsh Assembly Government Official added that:

“... there may be restrictions on the ability of other regulators and inspectors to disclose information other than in pursuance of a statutory duty to disclose it. This is such a statutory duty to disclose it.”²⁰⁵

183. As regards the concerns of Estyn and CSSIW about section 19, the Minister said:

“This part of the legislation refers to when the auditor general does a global health check of the wellbeing of an organisation, at which time other inspectorates would be expected to contribute. In that respect, it is reasonable for the auditor general to expect reports from the other inspectorates.”²⁰⁶

184. He went on to say that “the section gives the auditor general a bit more discretion as to whether he would require the other regulators or inspectorates to provide a report.”²⁰⁷

185. When questioned about the volume of work placed on the Auditor General between the end of October and the end of November, the Minister

²⁰¹ Written Evidence, LG6

²⁰² Written Evidence, LG5

²⁰³ RoP, paragraph [105], 25 November 2008

²⁰⁴ RoP, paragraph [86], 4 November 2008

²⁰⁵ RoP, paragraph [87], 4 November 2008

²⁰⁶ RoP, paragraph [133], 2 December 2008

²⁰⁷ RoP, paragraph [134], 2 December 2008

acknowledged the point being made and indicated that the issue would be looked at again.²⁰⁸

186. The Minister explained that section 24 will:

“... allow local authorities to know, for the forthcoming year, or possibly even longer ... when the regulators and inspectors will be coming in. Implicit in all of this is that these inspectors and regulators will discuss their inspection regimes among themselves and that they will try to do that in the most effective, efficient and economical way ... bearing in mind local authorities’ duty to get on and deliver public services ... this is about trying to bring some sort of order from the point of view of the regulators and the receivers of the inspections.”²⁰⁹

187. The Minister also referred to the fact that section 24(3) requires the Auditor General to consult the relevant regulators before producing a timetable²¹⁰, and he re-iterated that the purpose of section 24 “is to bring some order to the inspection process where there is value in timetabling that, such as for a joint inspection.”²¹¹ He also said:

“However, I do not think it appropriate for the auditor general to tell other professional inspectorates how to do their job. If the auditor general was in a position to give those directions, there would be no point in having a separate inspectorate. The whole point of having a separate inspectorate is that it has its own skills and expertise and it does its job in a separate way, in line with the functions of the organisations that it inspects. So, I do not think that the case has been made for the auditor general to stray into the professional expertise of other inspectorates.”²¹²

The operation of the inspection and regulatory framework - our view

188. We have noted the concerns of both CSSIW and Estyn that section 19 of the proposed Measure, as drafted, could in some circumstances hinder their work as regulators, that the approach was unnecessary and that in the words of Estyn, “fails to recognise that the office of HMCI has an equivalent independent status to that of the Auditor General”. We agree with CSSIW and Estyn that a duty to co-operate with the Auditor General would achieve the intended purpose of section 19. Accordingly, we recommend that the Minister gives consideration to bringing forward amendments to section 19, replacing the existing provisions with provisions that provide for a duty to co-operate between the Auditor General and relevant regulators.

²⁰⁸ RoP, paragraph [148], 2 December 2008

²⁰⁹ RoP, paragraph [87], 4 November 2008

²¹⁰ RoP, paragraph [140], 2 December 2008

²¹¹ RoP, paragraph [146], 2 December 2008

²¹² Ibid

189. While we support the inclusion of the date of 30 November in section 20(3) of the proposed Measure, we note that the Minister has agreed to look again at the impact of the timetabling arrangements created by the proposed Measure. As indicated earlier in this report, we welcome this move and refer to our previous conclusions and recommendations regarding timetabling arrangements.

190. We consider that the drafting of section 24 is appropriate. While we acknowledge the concerns raised by Estyn and CSSIW, we note that, as drafted, section 24 requires them to be consulted by the Auditor General before a timetable is set. We consider that it would not be appropriate for the Auditor General to control the activities of other relevant regulators given their status and that any issues regarding the timing of activities of the relevant regulators should be resolved through the consultation process provided for in section 24(3) of the proposed Measure.

Sections 29 - 31: The powers of Welsh Ministers

Background

191. Section 29 provides Welsh Ministers with a power 'to do anything' which they consider is likely to assist an improvement authority to comply with the requirements of Part 1 of the proposed Measure. Section 30 contains powers, to be exercised in certain circumstances, for the Welsh Ministers to intervene in and direct an improvement authority, which is failing, or is at risk of failing to comply with the proposed Measure. Specifically, section 30(2)(c) provides Welsh Ministers with the power to direct an improvement authority to enter into specified collaboration arrangements with another Welsh improvement authority.

192. Section 31 permits the Welsh Ministers to direct an improvement authority that may not itself be failing (and having first consulted that authority) to collaborate with one that is.

193. The Welsh Assembly Government's Explanatory Memorandum states that the proposed Measure is intended to:

expand and clarify Ministers' powers to support local authority improvement and to intervene where necessary;²¹³

Powers of Welsh Ministers - evidence from stakeholders

194. The powers given to Welsh Ministers in sections 29 to 31 raised cause for concern for many stakeholders and some of the more general comments about these sections are set out in paragraphs 195 to 198 below, with more specific comments about individual provisions set out in paragraphs 199 to 222.

²¹³ Explanatory Memorandum, paragraph 3.12

195. The WLGA commented:

“We know what ministerial intent lies behind sections 29 to 33, but we already have a voluntary collaboration system in place. When an authority finds itself facing problems, we have a system in place to sort them out. We do not necessarily see the need for this power to be enshrined in a Measure.”²¹⁴

196. The WLGA also made reference to the importance of the draft intervention and support protocol, jointly agreed by the WLGA and the Assembly Government as a means of helping to resolve problems once they have been identified.²¹⁵

197. Bridgend County Borough Council said:

“The powers given to Welsh Ministers in sections 29 to 31 will need to be exercised extremely carefully and not be used in a way that would be detrimental to local decision making and accountability. Any ministerial intervention must be based on a credible evidence base, and compatible with the Welsh Assembly Government intervention protocol.”²¹⁶

198. The Auditor General thought that:

“It is right that there should be powers for Ministers to intervene. They are currently rarely used. I have no particular comments on the details of these. They seem to be broad, which is appropriate, given the circumstances—it would be difficult to legislate for the precise circumstances that might arise.”²¹⁷

The power of Welsh Ministers to do anything - evidence from stakeholders

199. Many respondents and witnesses expressed concern about the proposed power of Welsh Ministers ‘to do anything’ in section 29, particularly in terms of the breadth of the power being provided for. The WLGA said that it:

“... welcomes, in particular, the powers of “support for ... improvement authorities” proposed for Welsh Ministers in s29 ... We would however question the breadth of the scope for Ministers to ‘do anything’ to assist an authority to improve and we note that this power may be clarified in subsequent statutory guidance.”²¹⁸

²¹⁴ RoP, paragraph [75], 11 November 2008

²¹⁵ RoP, paragraphs [78-9], 11 November 2008; Written Evidence, LG1

²¹⁶ Written Evidence, LG15

²¹⁷ RoP, paragraph [127], 11 November 2008

²¹⁸ Written Evidence, LG1

200. The WLGA considered that prior to any intervention or support from a Welsh Minister, there should be consultation with an authority, as it would allow a Welsh Minister “to make an informed decision regarding the use of such powers”.²¹⁹ Such prior consultation would also be in line with the current intervention protocol.²²⁰

201. Wrexham County Borough Council also expressed concern at the breadth of the power ‘to do anything’.²²¹

202. SOLACE said that:

“The views are quite split on this, but across the board, there is a feeling of unease that this power could be misused over time. Many feel that, if used wisely, it could be helpful, but that it is a somewhat blunt instrument.”²²²

and that:

“... I do not have a clear mandate to talk on this because views are split. The best way I can bring them together is to say that, in general, the society has grave reservations about this part of the proposed Measure. It would like to see some kind of constraints put on it, such as this duty on Ministers to consult so that at least all parties concerned in a situation that might arise under section 29 could have a say. I think that there is a feeling that this power is open to abuse by Ministers—not necessarily the current set of Ministers”.²²³

203. The Fire and Rescue Service did not think that the power ‘to do anything’ should be limited²²⁴ but would prefer “a more detailed definition of what to do anything means.”²²⁵ They also noted that:

“I suspect that a Minister would use that type of power very judiciously and sparingly. Having said that, it is quite a broad definition. I understand why it is included in the proposed Measure, I also understand that it would be used in exceptional circumstances, but I have issues with the terminology”.²²⁶

²¹⁹ Written Evidence, LG1

²²⁰ Ibid

²²¹ Written Evidence, LG 10

²²² RoP, paragraph [40], 25 November 2008

²²³ RoP, paragraph [42], 25 November 2008

²²⁴ RoP, paragraph [55], 2 December 2008

²²⁵ RoP, paragraph [47], 2 December 2008

²²⁶ RoP, paragraph [49], 2 December 2008

204. WANPA said:

"We understand the WLGA's concerns regarding the granting of such a wide power and the risk that it produces of inappropriate micromanagement. Nonetheless, if the Assembly concludes that Ministers may sometimes need to intervene, it may be appropriate for Ministers to have flexible powers at their disposal that would enable them to tailor action to the particular circumstances with which they are faced."²²⁷

205. Denbighshire County Council also felt that the powers provided to Welsh Ministers "to do anything to assist in compliance with improvement should be clarified."²²⁸

The power of Welsh Ministers to do anything - evidence from the Minister

206. The Explanatory Memorandum states that the power in section 29 is:

... broad as it is impossible to specify precisely all of the forms that such support might take. However, the Welsh Ministers cannot use it to direct an authority or anyone else: for that, they would need to use the powers in s30, which are subject to pre-conditions.

This section also requires the Welsh Ministers to consider providing support if an authority requests them to do so.²²⁹

207. In justifying the power to do anything contained in section 29, the Minister said it is drafted:

"... to give Ministers sufficient flexibility to assist local authorities to deliver improvement ... If an authority had a particular need that was not included in the legislation, we would not have legislative cover for that. Therefore, rather than trying to anticipate every conceivable type of assistance that a local authority could be provided with, we felt that having a more general phrasing was the best way to cover this and to remove possible ambiguity. However, this must be seen in the context of providing assistance to local authorities; the intention is not to take over their powers."²³⁰

208. He also said:

"... the idea behind the wording of the legislation is to provide flexibility within a context. The words do not have any meaning unless they are seen in the context of providing assistance. If you took the words out and said that we had the power to do anything, that might be alarming, but the words are clearly written to give the

²²⁷ RoP, paragraph [51], 2 December 2008

²²⁸ Written Evidence, LG21

²²⁹ Explanatory Memorandum, page 28

²³⁰ RoP, paragraph [94], 4 November 2008

context of providing support and assistance to a local authority that is involved in the improvement process.”²³¹

209. In further questioning, the Minister emphasised that “there is no mandatory element in section 29—it is about support and assistance” and that section 29 could not be used to intervene on failing authorities, section 30 powers would have to be used for that.²³²

The power of Welsh Ministers to do anything - our view

210. We note that while many organisations have expressed concern about the breadth of the power provided to Welsh Ministers ‘to do anything’ under section 29, there has been some recognition that what is needed is a clearer indication of how these powers will be used. We accept that there is a difficulty in setting out in legislation every eventuality that could arise, which if attempted could impact negatively on the ability of Welsh Ministers to assist improvement authorities. We also consider that it is important to acknowledge that section 29 provides Welsh Ministers with powers to assist at the request of improvement authorities. In the circumstances, we recommend that the Minister considers establishing a concordat to clarify the circumstances in which the power under section 29 is to be exercised.

211. We also consider that some of the concerns could be overcome if, before the power in section 29 is exercised, a duty to consult improvement authorities is provided. We also consider that the link between section 29 and section 30 (which is apparent from the drafting of section 30) should be clearly set out in section 29. Accordingly, we recommend that the Minister gives consideration to bringing forward appropriate amendments to effect these changes.

The power of Welsh Ministers to direct collaboration - evidence from stakeholders

212. While stakeholders acknowledged the need to create a general power enabling authorities to collaborate with each other to secure improvement (section 9), concerns were raised about the reserve powers for Ministers to direct collaboration contained in sections 30 and 31.

213. The WLGA said that “it is unconvinced of the principle, merits or deliverability in practice of the power to direct collaboration” set out in sections 30(2)(c) and 31 and suggested that they should be deleted from the proposed Measure “as it cannot conceive of a situation where it could be appropriately or successfully implemented”.²³³

214. Furthermore, the WLGA highlighted that “the Minister, speaking at Partnership Council on 27th November himself said he could not

²³¹ RoP, paragraph [98], 4 November 2008

²³² RoP, paragraph [159], 2 December 2008

²³³ Written Evidence, LG1

conceive of a situation where such a power to direct collaboration would at present be required.”²³⁴ It felt that the likelihood of the Assembly Government ever using the power was remote because “there is a strong culture of collaborative support within the family of Welsh local government”, which is “further complemented by improvement support and capacity provided by the WLGA’s improvement teams”.²³⁵

215. The WLGA were also opposed to the power in section 31 on grounds of principle; because there is no need for the power, it will not work and it will create problems.²³⁶ It concluded:

“Given that neither the WLGA nor the Assembly Government can presently identify need for the new power, the power is superfluous given Wales’ healthy commitment to collaborative improvement and there are potentially significant, unexplored ramifications, the WLGA argues strongly therefore that this power should be removed from the face of the proposed Measure as it will serve little more than to be an affront to local autonomy.”²³⁷

216. Some organisations, such as WANPA²³⁸, underlined the importance of mutual trust and questioned the value of enforced collaboration. SOLACE told us:

“... there are grave difficulties attendant on this part of the proposed Measure. It could, and possibly will, miss the point about collaboration, which depends on mutual trust, good reasons for collaborating, local circumstances, and I would even go so far as to say, local personalities to some extent. If we are directed to collaborate and there is an absence of any of those, we believe that collaboration would be a great deal of hard work for not much gain. We would want to see a much stronger evidence base for a decision to direct authorities to collaborate.”²³⁹

217. The Fire and Rescue Service was unclear about the principle and deliverability in practice of the powers to direct collaboration²⁴⁰ and “would like to think that the power to direct collaboration would not be necessary.”²⁴¹ WANPA considered that:

“... the crucial point is that Ministers make such decisions on the basis of full evidence and information. If Ministers are to have such a power, we consider it essential to insert a statutory mechanism to ensure that any decision to exercise it is made in the light of appropriate evidence”²⁴²

²³⁴ Written Evidence, LG1

²³⁵ Written Evidence, LG1

²³⁶ Written Evidence, LG1

²³⁷ Written Evidence, LG1

²³⁸ RoP, paragraph [63], 2 December 2008

²³⁹ RoP, paragraph [48], 25 November 2008

²⁴⁰ Written Evidence, LG11

²⁴¹ RoP, paragraph [61], 2 December 2008

²⁴² RoP, paragraph [51], 2 December 2008

and outlined a possible approach to amending section 30.²⁴³

218. Carmarthenshire County Council felt that the powers to direct collaboration were “inappropriate at this stage”²⁴⁴, while Denbighshire County Council argued that “councils should be fully consulted before any form of direction and intervention is implemented.”²⁴⁵

The power of Welsh Ministers to direct collaboration - evidence from the Minister

219. The Minister noted when discussing the enabling power provided by section 9, that as regards the “ultimate option of directing collaboration ... we do not want it to be part of routine, mainstream, day-to-day activity”.²⁴⁶

220. In respect of the powers to direct collaboration in sections 30(2)(c) and 31, the Minister said:

“... there may be situations in which a mentoring authority, a better authority, could help a failing authority. However, there might be circumstances in which the better local authority would not want to help the failing authority, for reasons that could be quite substantial, and it is in no-one’s interest for a good authority to be dragged down by a failing one. However, there could be less important reasons for a better authority to avoid helping a failing one, for example, reasons to do with their history, personality, or conditionality—in other words, an authority might be willing to help if certain circumstances were more favourable. So, we could try to address reservations or caveats about getting involved. However, even though the power of direction is there, it is not common sense to enforce collaboration to the detriment of the mentoring authority. That is self-evident.”²⁴⁷

221. The Minister also said:

“I agree that if an organisation absolutely, categorically, 110 per cent refused to engage, it would probably be counterproductive to use the powers of direction to enforce collaboration. There has to be some sort of reasonableness about that decision.”²⁴⁸

²⁴³ Written Evidence, LG14

²⁴⁴ Written Evidence, LG19

²⁴⁵ Written Evidence, LG21

²⁴⁶ RoP, paragraph [44], 4 November 2008

²⁴⁷ RoP, paragraph [100], 4 November 2008

²⁴⁸ RoP, paragraph [174], 2 December 2008

The power of Welsh Ministers to direct collaboration - our view

222. We have noted that there was strong opposition to the powers to direct collaboration contained in sections 30(2)(c) and 31 of the proposed Measure. However, we have taken the view that these powers are appropriate. We accept the Minister's view that these powers would not be used as part of normal activity and note his acknowledgement that in some circumstances use of these powers would be counterproductive. We have also reached our conclusion on the basis of our recommendation regarding the inclusion of a provision in section 29 requiring consultation before the power that section provides is exercised; including such a provision should ensure that, in most cases, there is dialogue with an improvement authority early on in the process and prior to any subsequent decision to exercise the power under section 30(2)(c). We take the view that by the time consideration is being given to issue a direction under section 30(2)(c), the need for consultation to resolve the problems would be too late and serve little purpose.

Sections 37 - 46: Community planning and strategies

Background

223. Section 37(1) places a duty on local authorities to initiate, maintain, facilitate and participate in community planning for their area. A duty is also placed on community planning partners to participate in community planning and assist the authority in the discharge of its duties under subsection (1).

224. Section 38 lists the public bodies that are defined as 'community planning partners', namely: community councils, fire and rescue authorities, Local Health Boards, NHS Trusts, National Park Authorities, police authorities and the chief constable of the police force for the police authority area.

225. Section 39 specifies the arrangements for the production of a community strategy by a local authority and how community planning partners should be involved. Sections 40 - 43 set out the arrangements for reviewing, monitoring and implementing the community strategy.

226. The Welsh Assembly Government's Explanatory Memorandum states that the proposed Measure is intended to:

create a common duty on local service-providers to prepare and deliver a community strategy and associated action plan.²⁴⁹

²⁴⁹ Explanatory Memorandum, paragraph 3.12

Duty in respect of community planning - evidence from stakeholders

227. As indicated earlier in the report at paragraphs 28 to 34, there was widespread support for the community planning provisions of the proposed Measure.

228. One Voice Wales supported the duty to participate in community planning set out in section 37 “as it is recognised that this is a failing of the current system.”²⁵⁰ They agreed with the view expressed in the Welsh Assembly Government’s Explanatory Memorandum that collaboration between local services providers had been patchy and inconsistent.²⁵¹ In the case of town and community councils, One Voice Wales said that very often they do not feel that their work “is being sufficiently recognised in some of the wider strategies that are being developed” and their inclusion was therefore welcomed.²⁵²

229. Similarly, the Welsh Association of Chief Police Officers (WACPO) said:

“... we are not involved as much as we really want to be. That is not reticence on our part—I am talking now for the four chief constables—it is actually the failure of some of our partners to understand the contribution that we can make.”²⁵³

although it expressed concerns about the duty placed on chief constables under section 37 and accordingly being designated as a community planning partner under section 38²⁵⁴ (see paragraph 238 below).

230. The Police Authorities of Wales said that sometimes they were overlooked²⁵⁵ and that as a consequence, they “broadly support” the duty to co-operate as it “would give the police authorities the opportunity to become involved”.²⁵⁶

231. Cardiff Council expressed support for local authorities having the leadership role in the community planning process.²⁵⁷ The WLGA recommended that this role should be re-asserted through guidance.²⁵⁸

Duty in respect of community planning - our view

232. We note that the community planning provisions of the proposed Measure have been broadly welcomed.

²⁵⁰ Written Evidence, LG7

²⁵¹ Explanatory Memorandum, paragraph 3.8

²⁵² RoP paragraph [16], 18 November 2008

²⁵³ RoP, paragraph [14], 18 November 2008

²⁵⁴ Written Evidence, LG3; RoP, paragraph [56], 18 November 2008

²⁵⁵ RoP, paragraph [17], 18 November 2008

²⁵⁶ RoP, paragraph [22], 18 November 2008

²⁵⁷ Written Evidence, LG8

²⁵⁸ Written Evidence, LG1

233. We agree that the duty in section 37 of the proposed Measure is appropriate and recommend that the leadership role of local authorities in the community planning process is asserted through guidance.

Community planning partners - the view of stakeholders

234. Several stakeholders noted that some important organisations are not named in the list of community planning partners in Section 38, such as voluntary and community groups, business, universities, housing associations, Environment Agency Wales and Welsh Assembly Government departments. It was felt that these partners should be fully engaged in community planning.

235. One Voice Wales suggested that by identifying community councils as statutory community planning partners, it should ensure a more proactive engagement of the sector.²⁵⁹

236. Interlink²⁶⁰ recognised the need to involve the voluntary sector in community planning, which they highlighted as being important to improve local decision making and long-term service improvement.

237. A number of organisations questioned whether they have the capacity to be a community planning partner, particularly as they will need to liaise with multiple bodies within their geographical area. For example, the Fire and Rescue Service said:

“Improving community safety is at the heart of our policies however, section 37(3) places a potentially unmanageable burden upon our resources. Certainly in principle we support the requirements in that every community planning partner must assist the local Authority in the discharge of its community planning duties. The practicalities of this however, may well create capacity issues since our functions are not always coterminous with demand areas.”²⁶¹

238. While fully supporting the proposed Measure’s objective of ensuring that local authorities and other public bodies work closely together to deliver coherent community strategies, WACPO questioned whether there was a need to designate chief constables as a community planning partner under section 38 given that they are already mandated to work in partnership under the *Crime and Disorder Act 1998*, which operates across England and Wales.²⁶² They emphasised that they are committed to working together²⁶³ but an additional duty would impose a new burden and have financial implications.²⁶⁴

²⁵⁹ Written Evidence, LG7

²⁶⁰ Written Evidence, LG9

²⁶¹ Written Evidence, LG11

²⁶² Written Evidence, LG3

²⁶³ RoP, paragraph [57], 18 November 2008

²⁶⁴ RoP, paragraph [56-7], 18 November 2008

239. CPON suggested that there have been problems of capacity across Wales. For example, in relation to the voluntary sector, where the problems were of “capacity but certainly not of capability” and also the health service, mainly owing to issues arising from reorganisation.²⁶⁵ WACPO and the Police Authorities of Wales agreed.²⁶⁶

Community planning partners - the view of the Minister

240. In explaining why some organisations were not included as community planning partners, the Minister explained:

“There are a few other national organisations, such as the Environment Agency and the Countryside Council for Wales. We hope that they will be involved, where appropriate, but felt that it would be challenging for them to interact with 22 local authorities on a daily basis. We know that the police in Wales have a good relationship with local authorities, but they can struggle at times to work with all 22 local authorities, although, in fairness, they are positive. The fire service also finds it difficult to interface with all 22 authorities on a day-to-day, routine basis, despite the fact that it does so as and when needed.”²⁶⁷

241. A Welsh Assembly Government lawyer explained that the voluntary and business sectors could not be community planning partners because that would be outside the competence of the National Assembly given that these bodies do not have functions of a public nature.²⁶⁸

242. The Minister said that community planning partners would “without any doubt” have the capacity to comply with the duty to participate.²⁶⁹ However, he did acknowledge that there would be capacity challenges for community planning partners that had to liaise with multiple bodies within their geographical area.²⁷⁰ In respect of the Fire and Rescue Service he said:

“... do not forget that the fire and rescue authorities will be interfacing with the local authorities in a relatively narrow area of activity. It would be impossible for fire and rescue authorities to engage with local authorities across the full ambit of the community strategy. However, in most instances, they will interface in only a relatively narrow area of community strategy and, hopefully, that will not be particularly burdensome.”²⁷¹

²⁶⁵ RoP, paragraph [83], 18 November 2008

²⁶⁶ RoP, paragraph [89-90], 18 November 2008

²⁶⁷ RoP, paragraph [114], 4 November 2008

²⁶⁸ RoP, paragraph [118], 4 November 2008

²⁶⁹ RoP, paragraph [126], 4 November 2008

²⁷⁰ RoP, paragraph [199], 2 December 2008

²⁷¹ Ibid

243. When questioned about WACPO being a community planning partner, the Minister said:

“Our understanding is that the existing powers ... are much more focused on the more easily identifiable policing duties—in other words, duties that are strictly to do with law and order: community safety in a narrow sense, and possibly drugs and alcohol ... However, as part of the wider community strategy, police have a contribution to make outside the confines of that relatively narrow area, and I understand that the chief constables in their own evidence conceded that point, that their involvement in community planning is wider than that required in the narrow interpretation of law and order roles under that particular piece of legislation.”²⁷²

244. A Welsh Assembly Government lawyer said that the National Assembly’s legislative competence includes imposing requirements in connection with strategies on persons with functions of a public nature²⁷³ and that chief constables (and police authorities) would come within this competence.²⁷⁴

245. The Minister also said that the list in section 38 was appropriate at this stage and captured the key players²⁷⁵ and noted that section 38 allowed for the list to be added to by order.²⁷⁶ He also said that local authorities had to involve certain persons and organisations in the development of the community plan under the provisions of section 44²⁷⁷ of the proposed Measure. He felt that it was “inconceivable” that a community strategy would therefore be developed without, for example, “such a big local player as a university”.²⁷⁸ He also said that guidance would be provided on the community planning process.²⁷⁹

Community planning partners - our view

246. We consider that the list of community planning partners is appropriate as drafted in section 38. In reaching this conclusion we note that section 38(2) of the proposed Measure allows for the list to be changed by order.

247. As regards the specific inclusion of chief constables, we note the concerns expressed by WACPO. We are satisfied that their inclusion is within the legislative competence of the National Assembly and consider that their inclusion will provide certainty for their role and be beneficial to the community planning process.

²⁷² RoP, paragraph [176], 2 December 2008; the particular piece of legislation in question is the *Crime and Disorder Act 1998*

²⁷³ Under Matter 12.4 of Schedule 5 to the Government of Wales Act 2006

²⁷⁴ RoP, paragraph [179], 2 December 2008

²⁷⁵ RoP, paragraph [185], 2 December 2008

²⁷⁶ RoP, paragraph [187], 2 December 2008

²⁷⁷ Including, for example, representatives of relevant voluntary organisations and businesses

²⁷⁸ RoP, paragraph [195], 2 December 2008

²⁷⁹ RoP, paragraph [197], 2 December 2008

248. Related to our consideration of section 38, we have noted that section 44 places a requirement for local authorities and community planning partners to consult with certain specified persons and organisations. In particular, we welcome the specific reference to consulting voluntary and business organisations, given the vital role they can play in the community planning process.

249. While we acknowledge that section 44 would also enable organisations such as universities to be consulted, we consider that this provision should be strengthened. We therefore recommend that the Minister brings forward an appropriate amendment to include 'representatives of relevant public bodies' (or a similar such term) as a person to be listed in section 44(2). We also recommend that guidance should address the range of general organisations that it would be expected that a local authority and its community planning partners should consult.

250. We also recommend that the Minister brings forward an appropriate amendment to allow the list of persons included in section 44(2) to be amended by order.

Community strategies - the view of stakeholders

251. There were no objections to the need for community strategies under section 39. The importance of such strategies was highlighted by One Voice Wales, who said that they "would support the continued pre-eminence of the community strategy over the other plans that unitary authorities are currently engaged in delivering with other partners"²⁸⁰ and felt that the emphasis on monitoring and implementation relating to community planning is important.²⁸¹ The Police Authorities of Wales felt it important "that the community strategy is informed by other plans, and that it informs them".²⁸²

252. Section 39 requires a consensus to be reached between local authorities and community planning partners before a community strategy is produced, and local authorities are tasked with drafting that strategy. Some organisations have said in response to questioning that there should be a statutory obligation placed on the local authority to consult with partners once a draft of the strategy has been prepared. WANPA felt that section 39 "is framed slightly curiously" and that:

"There is perhaps a degree of subjectivity and imprecision here that could make it difficult to require the effective discharging of this obligation in the event of a problem; it could perhaps cause uncertainty for planning partners. We therefore consider that there should be a statutory obligation on the local authority to consult with

²⁸⁰ RoP, paragraph [95], 18 November 2008

²⁸¹ RoP, paragraph [30], 18 November 2008

²⁸² RoP, paragraph [94], 18 November 2008

partners and this would perhaps mitigate the potential lack of accountability in the arrangements as drafted.”²⁸³

253. WANPA requested that:

“... the Measure contain an express acknowledgement that a community strategy that relates to a National Park should have to take into account, and embrace, the policies of the National Park Management Plan (and so of National Park statutory purposes) in reflection of the existing requirement in Section 62(2) of the Environment Act 1995.”²⁸⁴

254. They said that the proposed Measure “provides a golden opportunity to formally recognise and embed the influence that national parks’ statutory purposes and the provisions of the national park management plan should properly exercise over policy and practice affecting national parks.”²⁸⁵

255. In the context of the duty to review community strategies under section 40, the WLGA expressed some concern about the concept of “review as a periodic event” and in particular, the four yearly review period for community strategies set out in that section.²⁸⁶ The WLGA went on to say that:

“... ‘review’ is better regarded as a continuous process rather than a periodic event. This does not prevent periodic review ‘events’ ... but statutory requirements for such events can undermine the development of continuous processes. At the very least, we would recommend that the requirements in relation to review (and particularly timetabling) should be established in supporting guidance, rather than being set in stone in the core legislation.”²⁸⁷

256. One Voice Wales said that “the four-year period is right for doing that significant review, but it probably needs an annual refresh, to ensure that any significant developments can be taken on board.”²⁸⁸

257. CPON felt that “a four-year process for updating it is appropriate, although the WLGA has raised a valid point in that there is a need to reconsider the community strategy if events change significantly within a local area.”²⁸⁹

258. While welcoming the inclusion of section 46 of the proposed Measure about the role of Welsh Ministers in community planning, the WLGA suggested that it should be strengthened with the inclusion of a clearer role

²⁸³ RoP, paragraph [84], 2 December 2008

²⁸⁴ Written Evidence, LG14

²⁸⁵ RoP, paragraph [79], 2 December 2008

²⁸⁶ Written Evidence, LG1

²⁸⁷ Written Evidence, LG1

²⁸⁸ RoP, paragraph [102], 18 November 2008

²⁸⁹ RoP, paragraph [103], 18 November 2008

for Welsh Ministers so that they “should have regard to priorities outlined in community strategies in the exercise of their functions”.²⁹⁰ They said that “community strategies are the partnership aspirations and visions of all key local players, which have been shaped by extensive public engagement and underpinned by extensive evidence based research”. The WLGA felt that priorities contained in community strategies should be used to inform Welsh Assembly Government policies, priorities and strategies and accordingly:

Given the level of citizen and community involvement in shaping the community strategy priorities, such an approach would be sensible mechanism for ensuring Assembly Government policies are themselves ‘citizen-centred’.²⁹¹

Community strategies – the view of the Minister

259. The Minister explained the rationale behind community strategies:

“The community strategy ... will require actions. As part of this, it will indicate not only what the vision is, but it will also place an expectation that the actions to deliver the vision be outlined. Those actions will then form part of the improvement regime. So, for the first time, there will be an organic link between the actions required to deliver the community strategy and the wider improvement agenda, which all of this proposed Measure is intended to achieve.”²⁹²

260. The Minister also clarified the arrangements for reviewing and monitoring community strategies, saying that community strategies can be reviewed more often than every four years and adding:

“There is a requirement that, every two years, progress towards delivering the community strategy should be monitored and a report produced on that. So ... if people feel that, because circumstances change dramatically—if a new university opens, a new big employer comes into the area, or a factory closes—it is necessary to review the community strategy, there is nothing to stop them from doing so. It must be done every four years, but it is not the case that it can only be done every four years.”²⁹³

Our view

261. We agree with the WLGA’s view that the review of community strategies should be regarded as a continuous process but consider that the arrangements set out in proposed Measure represent an appropriate framework for the review and monitoring of community strategies.

²⁹⁰ Written Evidence, LG1

²⁹¹ Written Evidence, LG1

²⁹² RoP, paragraph [107], 4 November 2008

²⁹³ RoP, paragraph [201], 2 December 2008

262. However, in respect of section 39, we consider that it would be sensible for there to be a statutory obligation placed on a local authority to consult with community planning partners once a draft of the community strategy has been prepared. Accordingly, we recommend that the Minister brings forward an amendment to effect this change.

263. We also recommend that the Minister considers bringing forward an amendment so that the proposed Measure contains an express acknowledgement that a community strategy, that relates to a National Park, should have to take into account, and embrace, the policies of the National Park Management Plan.

264. We believe there is considerable merit in the suggestion of the WLGA that section 46 of the proposed Measure should be strengthened so that Welsh Ministers should have regard to priorities outlined in community strategies in the exercise of their functions. Accordingly, we recommend that the Minister considers bringing forward an appropriate amendment to address this point.

5. Financial implications

Evidence from stakeholders

265. A number of respondents to the Committee's consultation have challenged the statement in the Explanatory Memorandum that the proposed Measure does not give rise to any administrative, compliance or other costs.²⁹⁴ The WLGA said:

"Many of the activities of the Measure require finance and administrative capacity to deliver them properly, such as collating and publishing performance information, consulting with and engaging the public in community planning, coordinating and servicing the community planning process and undertaking compliance activity. Whilst some of the improvement activity may lead to efficiency savings in the longer term, some activities (such as collaborative ventures) may require significant pump-priming investment."²⁹⁵

266. SOLACE told us:

"There is a sweeping statement that no additional costs are expected to fall to improvement authorities as a result of this proposed Measure. We dispute that claim strongly. We do not have any issue with the need for the costs or, in broad terms, with the need for the Measure to do what it will do, but we strongly dispute the notion that there is no extra resource requirement for fulfilling the Measure. There are many things to consider, for example, the monitoring and reporting of performance information; the publishing of improvement plans; leading the process of community planning, which can be expensive, certainly in staff time; engaging with residents and the many other bodies of people who are talked about in the proposed Measure; and publishing community strategies. Some of these things happen already, but as far as the proposed Measure is concerned, there are implications in terms of a lot of extra expenditure, time and financial resources."²⁹⁶

267. As regards audit fees, the Auditor General stated:

"As with any change programme, it is likely that costs will arise from the additional development work required during the early stages of implementation. In addition, the different arrangements that the proposed Measure requires or allows me to put in place may also have an impact on the fees that authorities pay. However, until we have a clear idea of the guidance that will determine the details of implementation I am not able to assess the financial implications but will be revisiting the issue as things develop."²⁹⁷

²⁹⁴ Explanatory Memorandum, paragraph 6.2

²⁹⁵ Written Evidence, LG1

²⁹⁶ RoP, paragraph [54], 25 November 2008

²⁹⁷ Written Evidence, LG2

268. Concerns about potentially increased audit fees were expressed by the Fire and Rescue Service²⁹⁸ and WANPA²⁹⁹.

269. The Fire and Rescue Service stated that the proposed Measure would have an impact on resources:

“My service covers six county council areas, North Wales Fire and Rescue Service also covers six and South Wales Fire and Rescue Service covers 10. We currently get involved in local planning issues and community safety planning partnerships; I would not say that that is a drain on resources, but, certainly, there is an issue there around the expectation of local authorities as to the level of participation, vis-à-vis my and my fellow chief fire officers’ ability to support that planning regime ...

... I do not think that the resource implication should be underestimated from the fire and rescue service’s point of view. We are a single service provider across a range of local authority areas, which has implications for the way that we deliver our service.”³⁰⁰

Finance Committee consideration

270. The Finance Committee considered the proposed Measure at its meeting on 4 December 2008, in accordance with Standing Order 14.2. It took oral evidence from the Minister and his officials. The Committee laid its report before the Assembly on 10 December 2008.³⁰¹

271. The Committee report concluded that it supported the proposed Measure from a financial perspective, but was disappointed that the Assembly Government had provided so little information on the costs associated with the proposed Measure.

Our view

272. We note the Finance Committee’s conclusions and share their disappointment that so little information about the costs associated with the proposed Measure has been provided. In view of the concerns raised in our evidence, we recommend that the Assembly Government continually monitors the financial implications for improvement authorities and community planning partners arising from the implementation of the proposed Measure. As a consequence, we also recommend that the Assembly Government provides appropriate funding to authorities if and when required as a means of ensuring that the objectives of the proposed Measure are successfully delivered.

²⁹⁸ Written Evidence, LG 11

²⁹⁹ Written Evidence, LG 14

³⁰⁰ RoP, paragraph [67-8], 2 December 2008

³⁰¹ Available at: <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-fin-home/bus-committees-third-fin-report/bus-committees-third-fin-report-fin3-08-r16.htm>

6. Report of the Subordinate Legislation Committee

Background

273. The Subordinate Legislation Committee considered the proposed Measure, in accordance with Standing Order 15.6 on 4 and 25 November, taking oral evidence from the Minister and his officials at the latter meeting. The Committee laid its report before the Assembly on 13 January 2009.³⁰²

Our view

274. We note the Subordinate Legislation Committee's conclusions that it was satisfied with the subordinate legislation provisions within the proposed Measure and the procedure applying to them. We agree with the Committee's conclusions.

³⁰² Available at: <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/bus-business-documents-doc-laid.htm?act=dis&id=111270&ds=1/2009>



Reference	Organisation
LG1	Welsh Local Government Association (WLGA)
LG2	Auditor General for Wales
LG3	Welsh Association of Chief Police Officers
LG4	Police Authorities of Wales
LG5	Estyn
LG6	Care and Social Services in Wales (CSSIW)
LG7	One Voice Wales
LG8	Cardiff County Council
LG9	Interlink, the County Voluntary Council for Rhondda Cynon Taff
LG10	Wrexham County Borough Council
LG11	Fire and Rescue Service
LG12	The Society of Local Authority Chief Executives and Senior Managers in Wales (SOLACE)
LG13	Gwynedd Council
LG14	Welsh Association of National Park Authorities (WANPA)
LG15	Bridgend County Borough Council
LG16	Neath Port Talbot County Borough Council
LG17	North Wales Fire and Rescue Authority
LG18	Wales Council for Voluntary Action
LG19	Carmarthenshire County Council
LG20	The Association for Public Service Excellence
LG21	Denbighshire County Council
LG22	Isle of Anglesey County Council
LG23	Dr Tom Entwistle, Cardiff Business School
LG24	Community Planning Officers' Network (CPON)

Responses to the consultation can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-lq/business-legislation-measures-lq-responses.htm>

Schedule of Oral Evidence

Annex 2

Date	Witnesses
4 November 2008	Dr Brian Gibbons AM, Member in charge of the proposed Measure
11 November 2008	Welsh Local Government Association (WLGA) Auditor General for Wales (Wales Audit Office)
18 November 2008	Welsh Association of Chief Police Officers (WACPO) Community Planning Officers' Network (CPON) One Voice Wales Police Authorities of Wales
25 November 2008	The Society of Local Authority Chief Executives and Senior Managers in Wales (SOLACE) Care and Social Services Inspectorate for Wales (CSSIW) Estyn, Her Majesty's Inspectorate for Education and Training in Wales Dr Tom Entwistle, Cardiff Business School
2 December 2008	Fire and Rescue Service The Welsh Association of National Park Authorities (WANPA) Dr Brian Gibbons AM, Member in charge of the proposed Measure

Transcripts of oral evidence sessions can be found at:

<http://www.assemblywales.org/bus-home/bus-committees/bus-committees-third1/bus-committees-third-lg-agendas.htm>