

## **Cabinet's Proposals for primary legislation, 2004-05**

### **Statement to Plenary**

1. Standing Order 31.10 requires the Cabinet to put its proposals for Westminster primary legislation to Plenary before 31 March each year. Standing Orders 31.9 and 31.11 set out the form of this motion and the supporting information required. This document meets the latter requirement, for the debate in Plenary on 17 March.

### **Proposals**

#### **Commissioner for Older People (Wales) Bill**

2. The Bill would establish a new Commissioner, who would safeguard and promote the best interests of older people in Wales. The Commissioner would be enabled to assist older people to enforce their rights, empowering them to reach their full potential as active citizens. The Assembly would be able to refer matters to the Commissioner for his/her consideration, but could not require the Commissioner to act on such referrals or limit his/her ability to act in relation to such referrals. The Commissioner would have a range of duties including to promote awareness of matters relating to the best interests of older people; to take such steps as he/she considered appropriate with a view to encouraging good practice in the treatment of older people; and to keep under review the adequacy and effectiveness of law and practice relating to the welfare of older people and the adequacy and effectiveness of services provided for older people by the relevant authorities. The Commissioner would be able to take on individual cases, and could support individuals in taking court action in certain circumstances. General powers would include discretion to undertake research, to issue and publish information and guidance, to conduct investigations and to make representations to any body or person about any matter concerning the best interests of older people.

The Bill would place a duty on the Assembly to fund the Commissioner and the Commissioner's office. There would be likely to be an initial one-off cost of £0.5m to set up the office, and thereafter annual running costs of the order of £1.25m each year.

#### **Education (Miscellaneous Provisions) (Wales) Bill**

3. The Bill would provide powers for limits to be placed on junior class sizes similar to those in existence for infant class sizes. It would rationalise the legislative underpinnings of the primary school breakfast scheme and those for the Assembly Learning Grant. It would enable the Higher Education Funding Council for Wales and the National Council of ELWA to act jointly and

on each other's behalf and to second staff to one another, and it would provide for HEFCW to support improved governance in HE and to exercise planning functions as a last resort to secure partnerships between institutions in line with policy established by the Assembly Government in 'The Learning Country' and 'Reaching Higher'. It would also provide Estyn with powers of inspection for youth and community work training within the HE system, and clear up some technical statutory anomalies in respect of Estyn. It would require FE institutions to produce and publish annual statements on governments and management.

There would be limited financial implications for the Assembly, the most significant of which would be funding to reduce junior class sizes, (but some baseline provision has already been made for this). The provisions for HEFCW and ELWA should have no significant cost implications. There would be some small costs for Estyn in inspecting youth and community training in HE. The costs of the primary school breakfast scheme will be considered fully following evaluation of the pilot scheme which will be underway in 2004-05.

### **Housing (Suspension of Right to Buy) (Wales) Bill**

4. The Bill would enable the National Assembly to designate areas of housing pressure where the Right to Buy (RTB) could be suspended. The Housing Act 1985 permits landlords disposing of properties in rural areas to impose a covenant limiting the freedom of the purchaser (and his successors in title) to re-sell the property. Last year the Assembly made an Order extending the list of rural areas where covenants on re-sale may be imposed. The Assembly has also used other secondary legislation powers to reduce the maximum discount allowed under the RTB to £16,000 in all parts of Wales. However, there is no provision in the Act allowing the RTB to be suspended in areas of 'housing pressure'. Primary legislation is therefore required to introduce a power of this nature.

There would be no significant financial implications for the Assembly in this proposal. Where the RTB was suspended, landlords (mainly local authorities but also some registered social landlords) would not receive any sale receipts, but would continue to receive rents. Hence the financial outcome for them should be broadly neutral.

### **Local Government (Town and Community Councils) (Wales) Bill**

5. The Bill would implement those recommendations of the recent research study on the role and functions of community and town councils which require amendments to legislation. The purpose of the Bill would be to enable local councils in Wales to deliver a wider range of services and actions locally, increase the effectiveness of their representational role and ability to work in partnership with other bodies, and enable the Welsh Assembly Government directly to fund local councils' activities. The Bill would among other things repeal the provision in the Local Government Act in 1972 enabling community councils to be disbanded; provide a power enabling the Assembly to introduce an accreditation procedure for individual or groups of local councils (local

councils would be required to meet certain minimum standards before taking on additional functions); provide powers to amend the list of functions on which local councils have a statutory right to be consulted, and require principal authorities to review their community areas within every 4 years and submit a report to the Assembly and to the Local Government Boundary Commission.

There would be some limited financial implications for the Assembly from this Bill, the most significant of which would be the provision by the Assembly of direct grant assistance to councils. Local councils' increased service responsibilities would be undertaken with the agreement of, and funding from, their county or county borough councils. The increased localisation of service provision should result in an increase in the range and quality of local services.

### **Public Services Ombudsman (Wales) Bill**

6. The Bill would create a new single Ombudsman's jurisdiction for Wales, incorporating the existing 3 Ombudsman posts (Local Government Commissioner, Health Service Commissioner and Welsh Administration Ombudsman) into one. This would enable the post holder to investigate complaints of maladministration against any of a wide range of public bodies in Wales, including the Assembly, ASPBs, Health Service Bodies and Local Authorities. The existing Ombudsmen's powers of investigation and report would be carried over into the new Public Service Ombudsman's jurisdiction, and additional powers would be given to enable the Ombudsman to issue guidance on good administrative practice.

The Assembly already finances all 3 existing Ombudsmen's offices either directly or via the Local Government Finance Settlement, and the creation of a single Ombudsman's jurisdiction should have no financial impact on the Assembly (although some reorganisation of budgetary lines would be necessary). The reform holds out the prospect of a substantially more effective Ombudsman's service for people in Wales at no extra cost.

### **Tourism Accommodation (Registration) (Wales) Bill**

7. The Bill would, by amending or repealing part or all of Section 17 of the Development of Tourism Act 1969, create a new enabling power for the Assembly to establish a tourist accommodation registration scheme in Wales. It would also include the power to make subordinate legislation setting out the basis upon which accommodation is to be registered. Accommodation registered under the scheme would be subject to periodic inspection. The registration and inspection arrangements would be designed to ensure that minimum standards in the provision of tourist accommodation are met and maintained. The Minister for Economic Development and Transport presented the detailed proposals for this Bill to the Economic Development and Transport Committee on 25 February and the matter was debated on plenary on 3 March.

The scheme can be designed to be self financing, but there may be start up costs. Detailed decisions on these issues will be for consideration by the Assembly Government in drawing up subordinate legislation once the primary legislation is in place.

### **Transport (Wales) Bill**

8. The Transport (Wales) Bill would provide the Assembly with a coherent set of transport powers for the first time, enabling the Welsh Assembly Government to take forward its integrated transport policy. The Bill would include strengthened powers in relation to transport planning and implementation, with a new requirement on the Assembly to publish a national transport strategy and a duty on local authorities to prepare local plans or to work together to produce regional plans. It would also include a power to establish one or more joint transport authorities, to discharge specific local authority transport functions over 2 or more local authority areas. The Bill would greatly strengthen the Assembly's powers in relation to the railways, with a power to give directions and guidance to the Strategy Rail Authority, powers to make payments to, and enter into binding agreements with the Authority, as well as a power to appoint a member of the Authority. Finally the Bill would contain a general power to allow the Assembly to make both revenue and capital payments to transport operators.

The planning powers envisaged in the Bill would have some minor cost implications for local authorities. If it were decided to proceed with establishment of a joint transport authority, most of the costs would be met by transfer of existing staff, but a Headquarters Team and some augmentation to create an effective organisation would be required, costing up to £1m annually (including overheads). There would be a small increase in administrative costs for the Assembly arising from the SRA-related proposals, as well as a cash-neutral transfer of programme resources (relating to subsidy payments to the train operating company).



Note:

The Cabinet is also aware of Baroness Finlay's Private Member's Bill in the House of Lords on smoking in public places. This proposal originated in a motion put down by backbench Assembly Members which was endorsed by the Assembly in January 2003. The Assembly Government therefore endorses the spirit of Baroness Finlay's Bill, and should it fail to become law for any reason, the Cabinet will want to take up with the Secretary of State the possibility of a Wales-only Bill coming forward from the UK Government on the Assembly's behalf.