

NORTH WALES FIRE AUTHORITY

EXECUTIVE PANEL

31 JANUARY 2005

LOCAL AUTHORITY TRADING POWERS

Report by the Clerk

Purpose of Report

- 1 To agree a response to the Welsh Assembly Government's consultation paper on local authority trading powers.

Background

- 2 The consultation paper was issued in November and deals with proposals for an order under section 95 of the Local Government Act 2003 that would confer on best value authorities the power to trade commercially for a profit. The consultation period ends on 7 February. (The full text of the consultation paper may be seen at www.wales.gov.uk/subilocalgov/content/consultation/trading-power-2004-e.htm or on request from the Member Liaison Officer.)
- 3 The power to trade could be exercised only through a local authority company. In England, the equivalent order has not permitted fire and rescue authorities to take advantage of section 95.
- 4 The consultation paper expresses the view that, because fire and rescue authorities provide a much narrower range of services than councils, the case for conferring the ability to trade is less clear-cut than it is for councils. The Assembly Government "retains an open mind" and invites comments.
- 5 The paper proposes that
 - 5.1 authorities should prepare and approve a business plan before beginning trading operations;
 - 5.2 authorities should not be allowed to subsidise any trading company that they establish;
 - 5.3 the Assembly should withdraw the power to trade from an authority in certain circumstances, such as sustained and serious trading losses;

and

- 5.4 seeks comments on whether any other safeguards are needed to protect the interests of businesses, taxpayers and others.

Advice

- 6 The authority does not engage extensively in providing services to other bodies at the present time. Action by the Assembly Government to make an order under section 19 of the Fire and Rescue Services Act 2004 is awaited, to permit fire and rescue authorities to charge for a range of services on a cost recovery basis. However neither of these factors should colour the response to the consultation. In line with local government's general desire to seek maximum local discretion, accompanied by accountability for performance and decisions that are taken, I recommend that the response should be that the power to trade should be conferred on fire and rescue authorities even if none of the authorities in Wales presently has plans to use it.
- 7 The proposed requirements in respect of business plans having to be approved by an authority prior to commencing trading and the banning of subsidies cannot be seriously disputed. Trading should be undertaken only following detailed reflection on the viability of the proposal, and taxpayers' money should not be put at risk. However I recommend that the authority should oppose in principle the withdrawal of trading powers. That would introduce an element of freedoms and flexibilities for high performers that has hitherto not formed part of the policy agenda in Wales. All powers should be available to all authorities equally. Moreover, there are significant alternative safeguards available in any event, including the strong internal control and reporting arrangements exercised within local government, the ability for the public to scrutinise accounts which are audited by external auditors appointed by the Audit Commission, accountability of elected members for their decisions as well as extensive intervention powers available to the Assembly under best value legislation and the 2004 Act.

Recommendation

- 8 That the Panel agrees that a response should be sent to the Assembly Government in line with paragraphs 6 and 7, arguing for the power to trade to be made available to all fire and rescue authorities, and that the Assembly should not remove the power to trade from any authority.