

THE LOCAL GOVERNMENT (WALES) MEASURE 2009

The Isle of Anglesey County Council

Explanatory Memorandum and Direction

16th March 2011

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A. Introduction and background

1. All uses of the term ‘intervention’ in this document refer to the formal action of statutory intervention by the Welsh Ministers under section 29 (Welsh Ministers: power of Direction etc) of the Local Government (Wales) Measure 2009 (“the 2009 Measure”) or in relation to paragraph 2 below and associated paragraphs, the Local Government Act 1999 (“the 1999 Act”).

2. The Welsh Ministers issued a direction in August 2009 using their powers under section 15 of the 1999 Act to intervene in the administration of the Isle of Anglesey County Council (“the authority”). That direction was to have effect for a period of up to 2 years.

3. Since the 2009 Direction was made provisions have been commenced in the 2009 Measure which was passed by the National Assembly for Wales. The 2009 Measure makes provision, amongst other things, about arrangements by local authorities and other authorities in Wales to secure continuous improvement in the exercise of their functions; to make provision for community strategies and for connected purposes. The 2009 Measure revoked section 15 of the 1999 Act (with savings). This did not affect the 2009 Direction issued under section 15 and that Direction still had to be complied with by the authority. The Welsh Ministers have today withdrawn the 2009 Direction.

4. The Isle of Anglesey County Council is a Welsh improvement authority for the purposes of Part 1 of the 2009 Measure. The authority has obligations in Part 1 which include requirements to make

arrangements to secure continuous improvement in the exercise of its functions and to make arrangements to secure achievement of its improvement objectives, which must be set by the authority each financial year.

5. The Welsh Ministers have issued a further direction using powers under the 2009 Measure. The new direction is dated 16th March 2011 and gives further directions to the authority (“the 2011 Direction”) and is attached as the Annex. It is expected that this new and more stringent intervention in accordance with the 2011 Direction will end in May 2012 (following the planned local government election, to be held in early May 2012) or earlier if the Welsh Ministers so determine.

6. The purpose of this document is to provide a public and transparent statement on the intervention, and to outline the process under which the Welsh Ministers will seek to ensure compliance by the authority with Part 1 of the 2009 Measure. It is designed to set out for citizens, members, officers and partners of the authority the purpose and form of intervention and how it will operate in practice.

7. In accordance with the 2009 Measure, the decision to intervene follows careful consideration of reports from the Anglesey Recovery Board (appointed by Welsh Ministers to advise on recovery by the authority) in relation to the 2009 Direction and the Auditor General for Wales (“AGW”).

8. Against the backdrop of the 2009 Direction, the AGW’s Report of 2009, the reports from the Anglesey Recovery Board, including in particular, the 10th report of 31 January 2011, and the further report of the AGW (“the 2011 WAO report”) dated March 2011, the Welsh Ministers have formed the view that the impact of the continued and likely continuing instability within the authority creates a risk to the recovery of the authority and poses a serious threat to the continued improvement in services. A sustainable recovery is also unlikely by August 2011. The Welsh Ministers are satisfied, in the light of the material available to them, that the authority is failing to comply with the requirements of Part 1 of the 2009 Measure and is unlikely to comply by August 2011. The Welsh Ministers are satisfied both that the urgency of the situation and the potential consequences of the failure are each such that it is appropriate to issue a direction under section 29 of the 2009 Measure despite the fact that the Welsh Ministers have not exercised their power under section 28 of the 2009 Measure. Consequently the Welsh Ministers have concluded that it is appropriate that the functions of the executive of the authority, and certain functions of the authority, be exercised by Commissioners appointed by the Welsh Ministers or the Welsh Ministers respectively to ensure that functions are exercised in a way that secures compliance with the requirements of Part 1 of the 2009 Measure. Other related matters are dealt with in the direction.

9. The Anglesey Recovery Board (1) has recently advised the Welsh Ministers that since it began its work on 31st January 2010:

- i. the authority has made some progress but despite that progress the Recovery Board has concluded that a sustainable recovery is not reasonably foreseeable by August 2011 (2);
- ii. that the present situation presents a major distraction from service delivery and denies officers the political and strategic leadership they need;
- iii. the situation demands some more stringent form of intervention to ensure that continued instability does not obstruct or detract from tackling the serious strategic, financial and delivery challenges facing the island of Anglesey.

10. The AGW has concluded and advised the Welsh Ministers in the 2011 WAO Report that:

- i. there has not been a sustainable recovery from the authority’s long history of weak governance and stronger intervention is necessary;
- ii. promising progress in dealing with inappropriate behaviour has been seriously undermined by recent events which have had damaging consequences that seriously threaten the

(1) The Members of the Anglesey Recovery Board are Elan Closs Stephens, Graham Williams, Sue Essex, Bill Horne, Zoe Radnor, Mel Usher and Richard Parry Hughes

(2) Which was the date for expiry of the 2009 Direction had it not been withdrawn by the Welsh Ministers.

authority's ability to continue to improve its services as those events have affected the authority's reputation and its credibility with partners and is badly affecting staff morale;

- iii. after a period of progress, conflict is once again having a corrosive effect that seriously jeopardises service delivery;
- iv. recent events have distracted those responsible for delivering the 2012 Corporate Plan (which plan is a major step forward in clarifying the authority's direction);
- v. despite the authority having taken significant steps to improve consistency in its approach to corporate issues the changes are not yet embedded;
- vi. despite the authority having taken some steps to improve its accountability recent events indicate these have not changed the underlying culture;
- vii. the positive steps to address the Auditor General for Wales's recommendations from the 2009 Corporate Governance Inspection have not prevented the problems of the past from resurfacing;
- viii. despite valuable work by the Recovery Board and the Interim Managing Director, the 2009 Ministerial Direction and subsequent intervention have ultimately been unsuccessful and stronger intervention is necessary.

11. The AGW has concluded that the authority is failing to comply with the requirements of Part 1 of the 2009 Measure.

12. The AGW has recommended to the Welsh Ministers that the Welsh Ministers should issue a direction to the authority under section 29 of the 2009 Measure to direct the authority to comply with Part 1 of the 2009 Measure (to secure continuous improvement) in light of the failure of 2009 Direction and current intervention.

13. The AGW has also recommended that the Welsh Ministers should direct that the executive functions of the authority be exercised by Commissioners appointed by the Welsh Ministers.

14. Further recommendations from the AGW to Welsh Ministers are that:

- a) that Welsh Ministers designate the head of paid service instead of the authority;
- b) the Commissioners appointed by Welsh Ministers should exercise functions in relation to the appointment of the monitoring officer and the section 151 officer in the event that vacancies arise in those posts.

15. The AGW has also made recommendations concerning political renewal in Anglesey and consideration of changes to the structure of the local government arrangements for the Island. These include:

- a) directing that the authority should develop and implement a strategy that promotes democratic renewal (supported by the Welsh Ministers using their powers under section 28 of the 2009 Measure);
- b) considering whether the local Government Boundary Commission should be requested to review its proposals for Anglesey published in 2010 to ensure that the changes proposed adequately address the need for democratic renewal in Anglesey (re: numbers of councillors and multi-member wards);
- c) considering delaying the authority's elections to 2013 (under section 87 of the Local Government Act 2000) if the democratic renewal work is not completed by May 2012; and
- d) considering directing the authority to conduct a referendum in respect of a change of the authority's arrangements to that of a Directly Elected Mayor and Cabinet as set out in the Local Government Act 2000.

16. Having considered the Anglesey Recovery Board's Report and the AGW recommendations the Welsh Ministers have concluded that the authority has failed to change the underlying culture and

behaviours which are the root cause of its problems. In the light of the present situation in Anglesey, the Welsh Ministers are satisfied that the authority is failing to comply with the requirements of Part 1 of the 2009 Measure, that the situation is both urgent and that the potential consequences of failure are such that the Welsh Ministers should exercise their power to give appropriate directions to ensure compliance with Part 1 of the 2009 Measure. The Welsh Ministers consider that the power to give directions under section 29 should be exercised despite the fact that the Welsh Ministers have not exercised their powers under section 28 of the 2009 Measure. In that regard, it is appropriate, however, to bear in mind that support has been provided to the authority over a considerable period of time under the 2009 Direction but that that support has not led to a sustainable recovery. The Welsh Ministers have provided for intervention over a period of up to 14 months but expect to see rapid and sustained improvement.

B. Approach

17. In deciding how to intervene the Welsh Ministers have taken into account the following principles:

- Intervention should be a last resort. The Welsh Ministers have taken the advice of the Anglesey Recovery Board and the AGW that urgent and stringent action is necessary to address the failure to comply with Part 1 of the 2009 Measure as other action has not led to that result;
- Intervention should be proportionate. The emphasis of the intervention is that as a temporary measure and for the duration of the 2011 Direction the exercise of functions is done in way which should secure compliance with Part 1 of the 2009 Measure. The intervention will be reviewed by Welsh Ministers at 4 month intervals following an initial review after 1 month (to consider how the intervention is working in practice);
- Intervention should be focused on those areas where the authority is not working appropriately. The intervention is focused on driving urgent action regarding corporate governance.

18. This urgent intervention in the administration of the authority aims to achieve continuous improvement to fully meet the requirements of Part 1 of the 2009 Measure. Those involved should be under no illusions that the Welsh Ministers expect real, sustained and lasting change. If further progress is not forthcoming and there is anything less than full co-operation from the authority, it may be necessary to make additional directions and provide for further intervention(s).

19. Despite the fact that the Welsh Ministers acknowledge there have been some changes since the 2009 Direction they have concluded that in the light of the AGW's recommendations that this is not sufficient to ensure compliance with Part 1 of the Measure and that urgent action is needed and that the potential consequences of the present failure are such that it is appropriate to give a direction under section 29 of the Measure. The Welsh Ministers therefore in wishing to ensure that the services of the authority are not jeopardised by ongoing corporate failure:

- have provided for the appointment of Commissioners to act as decision takers exercising in particular the functions of the executive and also to support and stand ready, if necessary and exercise reserve powers to act as decision takers if the authority seeks to act in a way that does not accord with a recommendation of a statutory officer (being the head of paid service, the monitoring officer or the section 151 officer);
- have taken steps to ensure that there a strong robust team of statutory officers remain in place and that, in the event that vacancies in these offices arise, the Welsh Ministers should designate a head of paid service or a monitoring officer and appoint a finance officer. This will contribute to the building of a robust statutory officer team in the authority which should provide effective and good governance and improve the ability of the authority to comply with the requirements of Part 1 of the 2009 Measure;
- have provided that any changes to the authority's Constitution need to be approved by the Welsh Ministers (including the scheme of delegations).

C. Building a robust statutory officer team

20. The Welsh Ministers agree with the recommendations of the AGW which suggest that the statutory officers in Anglesey are to be protected. The Welsh Ministers have concluded that given the importance of those roles to the success of this intervention those functions should rest with the Welsh Ministers and not the Commissioners. It is essential that the authority has a robust statutory officer team to support good governance and through that assist with compliance with Part 1 of the 2009 Measure. The authority has made progress in this regard, with the acting Interim Managing Director providing short term stability to date during transition.

21. The Monitoring Officer and section 151 Officer, who in conjunction with the Head of Paid Service are called the 'statutory officers', are fundamental to a culture of good corporate governance and continuous improvement. These posts are essential to support the Head of Paid Service in taking the authority forward and providing support to the Commissioners and the members of the authority.

22. Through intervention the Welsh Ministers will exercise:

- the function of designating an officer of the authority as the head of paid service under section 4 of the Local Government and Housing Act 1989;
- the function of designating an officer of the authority as the monitoring officer under section 5 of the Local Government and Housing Act 1989;
- the function of securing that one of the authority's officers has responsibility for administration of the financial affairs of the authority in accordance with section 151 of the Local Government Act 1972;

The intervention with regard to these statutory officers gives them Ministerial protection to assist with the undertaking of their posts. This is essential to assist the work of the Commissioners to also drive compliance with Part 1 of the 2009 Measure.

D. Commissioners

23. The Welsh Ministers have appointed 2 Commissioners in the first instance who will be responsible for exercising certain of the authority's statutory functions. The number of Commissioners may be increased to five if the Welsh Ministers form the view that is necessary to ensure this intervention works effectively. Further appointments will be notified to the authority and announcements made by the Welsh Ministers if and when that occurs.

The Commissioners are:

- (1) Alex Aldridge;
- (2) Byron Davies;

The authority is required to do all that it can to co-operate and work with the Commissioners.

24. The Commissioners bring a wealth of experience and expertise to the authority. Their primary function is to drive the authority's compliance with Part 1 of the 2009 Measure and assist with ensuring good corporate governance in Anglesey through (i) a decision taking capacity; (ii) using a reserve power to step in where necessary; (iii) to provide support and guidance to the authority.

E. Powers of the Commissioners

25. For the Commissioners to bring the necessary propriety to the authority, ensure proper decision making and help drive improvements in the authority's corporate governance the Commissioners are authorised by the Welsh Ministers to exercise the following functions:

- a. all the functions of the executive;
- b. any function of the authority in the following circumstances: Where any decision a committee, sub-committee or member wishes to take where the decision does not accord with any recommendation made to it by a statutory officer or does not comply with and

implement any such recommendation within the period specified by the statutory officer in the recommendation;

In such circumstances the Commissioners may decide, if they consider it appropriate, to take the decision or decisions on behalf of the committee, sub-committee or member having regard to the recommendation of the statutory officer.

26. In practice, most decisions of the executive of the authority will be made by the Commissioners unless delegated to officers of the authority.

27. Where concerns are raised by a statutory officer in relation to matters which are to be decided by the authority, a committee, sub-committee or a member such matters then will be referred to the Commissioners for advice and decision taking. The Commissioners will uphold proper standards and due process and recommend action to the authority and take necessary decisions as appropriate having regard to the advice of the statutory officer(s).

F. Ongoing review of the 2011 Direction

28. The Direction provides for the period of intervention to be up to 14 months. It is open to the Welsh Ministers to revoke or amend the Direction and its effectiveness will be reviewed by the Welsh Ministers at 4 month intervals (following an initial review after 1 month to consider how the Direction is operating in practice) from August to assess compliance and for them to consider whether any functions should be returned to the authority.

29. The Welsh Ministers will consider any recommendation from the Commissioners on whether, and if so when, to reduce or end intervention in response to evidence of improvement.

G. Further Action

30. The Welsh Ministers have not, through the 2011 Direction, sought to implement all the Auditor General for Wales's recommendations at this juncture. This Direction is to effect only urgent action in response to the 2011 WAO Report and the AGW's recommendations as regards use of section 29 of the 2009 Measure to ensure that the exercise of functions complies with the requirements of Part 1 of the 2009 Measure. The Welsh Ministers are separately considering the wider issues of democratic engagement in Anglesey in further detail whilst this first phrase of action in response to the 2011 WAO Report is progressed and steps are taken to secure compliance with Part 1 of the 2009 Measure. Further directions may issue once these matters and recommendations have been comprehensively considered.

H. Conclusion

31. The Welsh Ministers are confident that through the 2011 Direction their urgent intervention as a temporary move until late May 2012 provides a platform for the authority to move forward and comply, in providing services for the people of Anglesey, with the requirements of Part 1 of the 2009 Measure.

32. The 2011 Direction is enforceable by mandatory order on an application by the Welsh Ministers to the court. It is very much hoped that this does not become necessary and that the members of the authority will do all they can to ensure the Direction is fully complied with and that they fully support and co-operate with the work of the Commissioners.



Signed by Carl Sargeant

Minister for Social Justice and Local Government, one of the Welsh Ministers

Date: 16th March 2011

ANNEX

The 2011 Direction

Direction to the Isle of Anglesey County Council by the Welsh Ministers under section 29 of the Local Government (Wales) Measure 2009

The Welsh Ministers, have powers of direction etc under section 29 of the Local Government (Wales) Measure 2009 (“the 2009 Measure”).

The Isle of Anglesey County Council (“the authority”) is a Welsh Improvement authority for the purposes of Part 1 (Local Government Improvement) of the 2009 Measure.

The Welsh Ministers having carefully considered the reports, including the 10th report, from the ministerial advisory group referred to in this Direction as the Anglesey Recovery Board and the report of March 2011 of the special inspection (“the 2011 WAO Report”) carried out by the Auditor General for Wales (“the AGW”) in relation to the authority and having:

- had regard to the Direction issued to the authority in August 2009 in accordance with section 15 of the Local Government 1999 to address failures by the authority identified by the AGW in a report in 2009;
- considered the conclusions of the Anglesey Recovery Board that:
 - i. the authority has made some progress but the Anglesey Recovery Board considers that a sustainable recovery is not reasonably foreseeable by August 2011 (the date for expiry of the 2009 Direction which was set by the Welsh Ministers⁽¹⁾);
 - ii. that the present situation presents a major distraction from service delivery and denies officers the political and strategic leadership they need;
 - iii. the situation demands some more stringent form of intervention to ensure that continued instability does not obstruct or detract from the serious strategic, financial and delivery challenges facing the island;
- in particular had regard to the fact that the AGW has undertaken a further Special Inspection: Corporate Governance Re-inspection of this authority in February 2011 and produced the 2011 WAO report and they have noted that the AGW further evaluated the authority’s corporate governance to assess whether the requirements of Part 1 of the 2009 Measure were being complied with;
- noted that the 2011 WAO Report identified a range of serious shortcomings including the following:
 1. there has not been a sustainable recovery from the authority’s long history of weak governance and stronger intervention is necessary;
 2. promising progress has been seriously undermined by recent events which have had damaging consequences that seriously threaten the authority’s ability to continue to improve its services as those events have affected the authority’s reputation and its credibility with partners and is badly affecting staff morale;
 3. after a period of progress, conflict is once again having a corrosive effect that seriously jeopardises service delivery;

(1) The 2009 Direction was withdrawn by the Welsh Ministers on 16th March 2011.

4. recent events have distracted those responsible for delivering the 2012 Corporate Plan (which plan is a major step forward in clarifying the Councils direction);
5. despite the authority having taken significant steps to improve consistency in its approach to corporate issues the changes are not yet embedded;
6. despite the authority taking steps to improve its framework of accountability recent events indicate that these have not changed the underlying culture;
7. the positive steps to address the AGW's recommendations from the 2009 Corporate Governance Inspection have not prevented the problems of the past from resurfacing;
8. despite valuable work by the Recovery Board and the Interim Managing Director, the 2009 Ministerial Direction and subsequent intervention have ultimately been unsuccessful and stronger intervention is necessary to improve the prospects of recovery;
 - noted the conclusion of the AGW that the authority is failing to comply with the requirements of Part 1 of the 2009 Measure;
 - noted the recommendation from the AGW in the 2011 WAO Report that in light of the 2009 Direction the Welsh Ministers should issue a direction to the authority under section 29 of the 2009 Measure to direct the authority to comply with Part 1 of the 2009 Measure;
 - noted the recommendations of the AGW in the 2011 WAO Report that the Welsh Ministers should direct that:
 - a. the executive functions of the authority be exercised by Commissioners appointed by the Welsh Ministers until such time as the Welsh Ministers see fit to curtail the direction;
 - b. the function of designating a head of paid service and a monitoring officer and appointing an officer to discharge the functions referred to in section 151 of the Local Government Act 1972 ("the section 151 officer") in the event that vacancies arise in these posts be exercised by Commissioners appointed by the Welsh Ministers;
 - noted the further recommendations that the Welsh Ministers:
 - a. direct the authority to develop and implement a strategy that promotes democratic renewal (and that the Welsh Ministers provide assistance to the authority under section 28 of the 2009 Measure in pursuit of that renewal);
 - b. request the Local Government Boundary Commission for Wales to review its proposals published in 2010 to ensure that the changes proposed adequately address the need for democratic renewal in Anglesey in terms of the number of councillors and the introduction of multi-member wards;
 - c. consider using powers under section 87 of the Local Government Act 2000 to delay the authority's elections to 2013 if the democratic renewal work in b) above is not completed by May 2012;
 - d. consider directing the authority to conduct a referendum that seeks the views of the Anglesey electorate on a change to the authority's model of governance to that of Directly Elected Mayor and Cabinet as set out in the Local Government Act 2000;
 - having satisfied themselves that the authority is (a) failing and is likely to continue to fail to comply with the requirements of Part 1 of the Local Government (Wales) Measure 2009; and that (b) separately the urgency of the situation and the potential consequences of the failure and likely continued failure are each such that it is appropriate to exercise their power under section 29 of the 2009 Measure despite the Welsh Ministers not having exercised their power under section 28 for the purpose of assisting the authority to comply with those requirements;

in exercise of their powers under section 29(1)(b),(2), (5) and (6) of the 2009 Measure and considering it necessary and expedient to secure compliance with Part 1 of the 2009 Measure hereby direct –

(1) the authority to take the action set out in Schedule 1 to this Direction;

(2) that the functions of the authority specified in Part 1 of Schedule 2 to this Direction are exercised by the Welsh Ministers until the expiry of this Direction or earlier withdrawal;

(3) that subject to paragraph (4) of this Direction the functions of the authority specified in Part 2 of Schedule 2 will be exercised jointly and severally by up to 5 Commissioners being persons nominated by the Welsh Ministers ("the Commissioners") the first 2 of whom are:

a. Alex Aldridge;

b. Byron Davies;

(the other 3 Commissioners being appointed as the Welsh Ministers deem necessary and who will be notified to the authority accordingly), until the expiry of this Direction or earlier withdrawal;

(4) that the functions of the authority except those referred to in Schedule 2 continue to be exercisable by the authority subject to :

(a) any limitations on the exercising of the functions in this Direction; and

(b) a requirement that where the authority (whether through the Council, a committee, sub-committee or member):

i. proposes to make a decision that would not accord with any recommendation made to the authority by a statutory officer; or

ii. propose to take action which would not comply with or implement any recommendation of a statutory officer in that persons recommendation;

The Commissioners may decide, if they consider it appropriate, to take the decision or decisions on behalf of the authority having regard to the recommendation of the statutory officer;

The statutory officers for the purposes of this Direction are the head of paid service, the monitoring officer and the section 151 officer for the authority;

(5) that the authority will comply with any instructions of the Welsh Ministers and the Commissioners as appropriate, in relation to the exercise by them of any of its functions and will provide such assistance as the Welsh Ministers and the Commissioners, as appropriate, may require for the purpose of exercising the functions;

(6) the authority must not exercise any functions which are functions of the executive as set out in Part 2 of Schedule 2 of this Direction;

(7) that the authority must not exercise any functions in relation to the employment of the statutory officers (which includes any powers which may lead to the suspension or removal of the statutory officers) unless otherwise directed by the Welsh Ministers;

(8) that the authority must not exercise any functions in respect of amending the Constitution (version 1.9) 6 October 2010 unless otherwise directed by the Welsh Ministers;

(9) that the authority must not exercise functions of the authority other than in accordance with this Direction.

This Direction is made without prejudice to any future directions by the Welsh Ministers to the authority.

This Direction shall have effect until 31st May 2012 or until such earlier date, if revoked by the Welsh Ministers.

The Welsh Ministers will review the authority's compliance with this Direction at 4 month intervals commencing in August 2011 (following an initial review after 1 month from the date of this Direction to consider how the Direction is operating in practice) such reviews to consider whether the Direction is still necessary and whether any function or functions may be made exercisable by the executive or the authority.

This Direction is enforceable by mandatory order on the application of the Welsh Ministers in accordance with section 29(9) of the 2009 Measure.

This Direction comes into effect at 4pm on 16th March 2011.

A handwritten signature in black ink, appearing to read 'Carl Sargeant', written in a cursive style.

Signed by Carl Sargeant

Minister for Social Justice and Local Government, one of the Welsh Ministers

Date: 16th March 2011

SCHEDULE 1

Actions by the authority

The actions by the authority are:

- 1 to take all necessary action to secure compliance with this Direction and with the requirements of Part 1 of the 2009 Measure;
- 2 to co-operate fully with any:
 - i). Head of Paid Service designated under section 4(1) of the Local Government and Housing Act 1989 (“the 1989 Act”);
 - ii). Officer responsible for the administration and financial affairs of the authority in accordance with section 151 of the Local Government Act 1972;
 - iii). Monitoring Officer designated under section 5 of the 1989 Act;

those officers being referred to in this Direction as statutory officers.

- 3 to ensure such reasonable assistance is provided to the statutory officers as may be required by them to assist them in their respective roles and in undertaking their responsibilities in accordance with this Direction;
- 4 to comply with and implement any decision or recommendation of the Welsh Ministers, the Commissioners or a statutory officer made in the exercise of functions made exercisable by them by virtue of this Direction;
- 5 to allow the statutory officers, the Welsh Ministers and the Commissioners at all times access to:
 - a. any premises of the authority;
 - b. any document relating to the authority; and
 - c. any employee or member of the authority;

in order to assist them in the discharge of any function exercisable by them by virtue of this Direction;

- 6 to co-operate with the Welsh Ministers, the Commissioners and Welsh Assembly Government officials in relation to implementing the terms of this Direction;
- 7 to permit one of the Commissioners, nominated by the Commissioners, to attend as a non-voting member of the Standards Committee meetings and to ensure that that Commissioner receives all agendas and committee reports and minutes of that committee as soon as they become available to the members of that committee;
- 8 to ensure that all members and officers of the authority in engaging with the Commissioners have regard to the authority’s Protocol for Member/officer Relations and treat the Commissioners as if they were Members for the purposes of that Protocol;
- 9 to scrutinise the Commissioners in the exercise of the executive functions of the authority as if, for the purposes of the authority’s Constitution, the Commissioners were the executive.

SCHEDULE 2

Part 1

Authority functions exercisable by the Welsh Ministers

The following functions are exercisable by the Welsh Ministers;

- 1) designation of a head of paid service under section 4(1) of the 1989 Act;
- 2) appointment of an officer under section 151 of the Local Government 1972 (as amended);
- 3) designation of the monitoring officer under section 5 of the 1989 Act;
- 4) approving changes to the authority's current constitution (version 1.9 dated 6 October 2010) and making such new constitution as they may deem necessary under section 37 of the Local Government Act 2000 (without prejudice to the authority's obligations under section 37 to make copies of the up to date constitution available for inspection etc).

Part 2

Authority functions exercisable by the Commissioners on behalf of the Welsh Ministers

The following functions are exercisable by the Commissioners on behalf of the Welsh Ministers:

- 1) all functions which are the responsibility of the executive of the authority in accordance with any enactment and in particular section 13 of the Local Government Act 2000, the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales) Regulations 2007 (SI 2007/399) (W.45), the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)(Amendment) Regulations 2009 and the authority's constitution;
- 2) all such functions of the authority where in accordance with paragraph (4)(b)(i) of this Direction the authority proposes to make a decision that would not accord with the recommendation of a statutory officer or where the authority proposes to take action in the exercise of a function which would not comply with or implement the recommendation of a statutory officer in accordance with paragraph (4)(b)(ii) of this Direction.