

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO COUNCIL

17 FEBRUARY 2016

REPORT OF THE ASSISTANT CHIEF EXECUTIVE & MONITORING OFFICER

CONSULTATION ON THE LOCAL GOVERNMENT (WALES) DRAFT BILL

1. Purpose of Report

- 1.1 To provide Members with information to enable a response to be drafted for the consultation on the Local Government (Wales) Draft Bill.

2. Connection to Corporate Improvement Objectives / Other Corporate Priority

- 2.1 The consultation impacts on the future of local government in Wales and therefore is relevant to all improvement objectives and priorities.

3. Background

- 3.1 The published guidance on the draft Bill provides that the purpose of the draft Bill is to establish new Counties by the merger of existing Counties and County Boroughs, to establish a new and reformed legislative framework for Local Government democracy, accountability, performance and finance, and to establish a statutory Public Services Staff Commission.
- 3.2 Members will be aware of the background to the proposed legislation. The proposed legislation provides proposals for a significant change not only to the structure of local government in Wales but also its internal administration.
- 3.3 The Minister's introduction to the draft Bill is at Appendix A to this report. Responses to the consultation can be made on the form provided for Members at Appendix B. Members will have been provided with a briefing on the implications of the draft Bill prior to the consideration of the report at Council and will be provided with any proposed draft responses from that briefing.
- 3.4. Members will note that the contents of this report provide a broad overview of the draft Bill and not an in-depth review. There are questions asked within the consultation on matters that are not contained within the draft Bill. The report advises on those matters.

4. Current situation / proposal

- 4.1 The remainder of the report provides an overview of the draft Bill. The consultation questions are within Appendix A.

PART 1 LOCAL GOVERNMENT AREAS AND COUNTY COUNCILS

- 4.2 Part 1 and Schedules 1 to 5 of the draft Bill contain provisions for the reorganisation of county and county borough councils in Wales and establishment of new councils from 1 April 2020.
- 4.3 Shadow authorities will assume a number of finance functions, which includes the calculation of the new council's budget. The intention is to enable the shadow authorities to exercise functions prior to the beginning of the 2020-2021 financial year. The provisions enable access to the valuation lists to ensure bring about harmonisation of council tax charges in the new authority from 2020.
- 4.4 Similar provisions apply to local non-domestic rating lists. There are provisions to ensure that new councils establish a council fund from 1 April 2020 and provides the Welsh Ministers with the power to make regulations specifying the accounting requirements in respect of the fund. There is further provision on the power of the Welsh Ministers to make regulations detailing the process for precepting.
- 4.5 The proposed Local government areas for the 1 April 2020 are set out in the table in Schedule 1. Whilst there are two options for consultation, the proposal for Bridgend County Borough Council is identical in both options. Each of the counties has the name given to it in the first column of the table in Schedule 1. Each county council has the name of the county with the addition of the words "County Council" or, if the council decides, the word "Council". Other than Powys existing councils will cease to exist on the 1st April 2020.
- 4.6 Each of the county councils has a council consisting of either an elected mayor and Cabinet or a Leader and Cabinet. The chair of a county council must as now be elected annually by the council and a member of the executive of a county council, or an assistant to the executive, may not be elected as the Chair of the council. A county council may determine that its chair is to have the title of "mayor" in which case the deputy chair will be the deputy mayor.
- 4.7 A county council may determine to have a presiding member. In this case the same provisions apply as to a deputy and the prohibition against that person being on the executive or an assistant.
- 4.8 The first ordinary elections of councillors of the new councils are to be held on 2 May 2019. After the first ordinary elections of councillors of the new councils, each new council is a shadow authority. From there the ordinary elections are to take place in 2023 and in every fifth year after 2023. The term of office of every such councillor is five years.

- 4.9 Part 1 also deals with administrative issues modifying legislative provisions enabling functions to transfer to the new authorities along with staff, property and liabilities etc. Welsh Ministers are provided the power to make consequential, supplementary provisions.
- 4.10 Part 1 of the draft Bill therefore determines the area and name of the new authorities. It provides for election to shadow authorities, makes financial provision and transfers functions from the old to the new authorities. It provides for the appointment of a chair (Mayor) or a 'Presiding Member'. There is also provision for a High Sheriff and Lord Lieutenant to be appointed to the new administrative areas.

Consultation

Members have a copy of the consultation form at Appendix A to this report. The administrative aspects of this part of the draft Bill are uncontentious. Members may wish to refer to the voluntary merger proposal made by the Authority.

PART 2 GENERAL POWER OF COMPETENCE

- 4.11 The draft Bill introduces a general power of competence for county councils and 'community councils with competence'. There are restrictions on the power and extent to which it can be used for commercial purposes. The general power of competence gives councils the same power to act as an individual.
- 4.12 It is an important new power. Local authorities are statutory corporations and can therefore only undertake functions within statutory or common law powers. The general power enables an authority (within restrictions) to rely on the wider general power to take a less restrictive review of the way to deliver or provide services to the public. The power extends to providing services anywhere in Wales or elsewhere, for a commercial purpose or otherwise, for a charge, or without charge, with power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
- 4.13 There are however limits to the power, for example the power cannot be used to alter the functions of the authority or to change the executive model of the authority. It is only possible to charge for services when the service is not one that a statutory provision requires the authority to provide to the person and when the person has agreed to the service being provided. Income cannot exceed the cost of provision.
- 4.14 The draft Bill enables a community council to become a 'community council with competence' if it passes a resolution to do so. The community council will be required to meet the competency requirements. These are that:-
- (a) at least two-thirds of the total number of members of the council have been declared to be elected (whether at an ordinary election or at a by-election),
 - (b) the clerk to the council holds a relevant professional qualification, and
 - (c) the council satisfies the audit condition.
- 4.15 The audit condition is satisfied if:-
- (a) the council has received an unqualified Auditor's opinion on the council's

accounts for two consecutive financial years, and
(b) one of those opinions has been received by the council within the period of twelve months ending on the day on which the resolution is passed.

- 4.16 A community council with competence must pass a resolution at each relevant annual meeting of the council that it continues to comply or ceases to hold the general power of competence.
- 4.17 The new power is similar to provisions applicable to English authorities. Its use is dependent on the limitations placed on its use and it is therefore important to ensure that the limitations on its use are appropriate.

Consultation

Members may wish to support the implementation of the general power of competence but encourage the simplification of its application to local government, this to be provided either within the Act or guidance made thereunder.

PART 3 OF THE DRAFT BILL DEALS WITH PROMOTING ACCESS TO LOCAL GOVERNMENT

- 4.18 The draft Bill provides a duty on councils to promote access to, and public participation in, local government. This involves the promotion of access to and public participation in 'connected authorities' including community councils, fire and rescue authorities and national park authorities.
- 4.19 There is a requirement to produce a statutory 'public participation strategy' (which also covers the connected authorities). Councils are also to take 'reasonable steps' to consult the public over budget proposals.
- 4.20 There is also a requirement to establish Community Area Committees. The 'community area' will be defined by the Public Service Board (as per S37 (5) of the Wellbeing and Future Generations Act). Membership is to include ward members along with a member of each relevant community council and other bodies that exercise functions of a public nature with representatives from third sector bodies.
- 4.21 The Community Area Committee is required to prepare and consult on a statement of priorities and objectives annually. Councils may delegate functions to the committees and Ministers may also make directions as to functions.
- 4.22 Further provisions place Authorities under a duty in respect of 'improvement requests'. These require an Authority to enter into discussions with certain community bodies for the purpose of improving local outcomes. A community group or community council is able to make written 'improvement requests' to the Authority in respect of how it believes outcomes could be improved. This may include proposals for services to be delegated and delivered by others. The Authority has a duty to agree to an improvement request, and report on the decision publically unless there are reasonable grounds not to.

- 4.23 There are further provisions for improving public access to local authority meetings. The provisions include the webcasting of meetings but also enable the public to film meetings and make a running commentary of meetings.
- 4.24 Authorities are to be required to encourage the public to participate in decision making by the council, and in decision making by other local authorities in the council's area. The Authority is to prepare and publish a strategy setting out how it is to comply with its duty to encourage participation in decision making.
- 4.25 The Authority is to make provision for holding meetings where members of the public may scrutinise the exercise of functions by councils operating executive arrangements. Members of the public are to have the opportunity to speak at meetings of community councils open to the public.

Other obligations are to publish a guide to accompany its constitution and make copies of the guide available on request and to publish an electronic and postal address for each of its members. There is an important obligation to improve the involvement of children in the decision making of the authority.

Consultation

This part of the draft bill contains significant changes to the way in which local government is administered.

- (a) Members may wish to comment that the authority already undertakes significant public consultation on its budget setting. It is suggested that Members comment that a prescribed consultation process is inappropriate as what may work in one area will not in another. The use of social media and other forms of communication outside the formal meeting scenario has been demonstrated as increasingly the way in which the public wish to be communicated with.
- (b) Members may wish to express concern at the implementation of a duty to promotion of access to and public participation in 'connected authorities'. It would seem sufficient for Authorities to exercise the duty in respect of themselves unless regulations provide that the duty is only in relation to joint working arrangements.
- (c) Members may wish to express concern at the operation of the Community Area Committee (CAC) being a local authority committee which has a membership of unelected and unaccountable persons. This particularly the case when exercising executive functions. It is possible for this committee to have a majority of membership not represented by the County Council.
- (d) Members may question the process of undertaking Improvement Requests. The authority undertakes many forms of consultation with the public on service needs and provision. The process involved in Improvement Requests appears extremely bureaucratic and has the ability to be as costly to the authority as the Foi process.
- (e) Members may wish to raise issue with the proposal to provide public access to meetings. The authority already webcasts meetings however the costs and practical ability to webcast all meetings of the authority may require further

consideration. Members may wish to respond seeking the removal of the statutory obligation to take a written record of each meeting (the minute) where webcasting is provided.

- (f) Members may wish to comment on the ability of the public to make their own recordings and provide a running commentary on proceedings within a committee. Members may take the view that this will be obtrusive and enable 'selective editing'. It may appear unnecessary in the event of the meeting being webcast.

PART 4 DEALS WITH THE FUNCTIONS OF COUNTY COUNCILS AND MEMBERS

- 4.26 The draft Bill provides new duties upon Councillors. These include:
- Attend at all committee/council meetings of which the councillor is a member.
 - Hold of 4 surgeries each year.
 - Respond to correspondence within 14 days.
 - Undertake training deemed mandatory by the council.
 - Publish an annual report.
- 4.27 Breach of these duties is to be investigated and reported to the Standards Committee which has powers of sanction. There are also duties on Group Leaders to take 'reasonable steps to promote and maintain high conduct of standards by members of the group'.
- 4.28 The Leader (or elected mayor) is to set objectives for the executive, and requires candidates who wish to stand for elected mayor or executive leader to prepare a written manifesto. It also enables the appointment of members as assistants to the executive.
- 4.29 Councils are required to replace the term and role of 'head of paid service' with that of 'chief executive'. The Leader (or elected mayor) must also set and review objectives for the Chief Executive. The leader must prepare and publish a report on the above, and share it with all members.
- 4.30 Changes are made to Scrutiny enabling voting rights for co-opted members. There is also provision for annual reports of scrutiny.
- 4.31 There are also important provisions on ensuring members have training on equality and diversity. Standards Committees are also to make annual reports.
- 4.32 In summary this part of the draft Bill provides for Members to attend meetings unless there is good reason not to do so. Members are also required to hold surgeries for the electorate at least four times per year. There are standards in respect of members responding to correspondence and to complete training. It will now be a statutory requirement for Members to provide annual reports.
- 4.33 Enforcement of these provisions is through the Standards Committee. The Monitoring Officer must refer complaints to the chair of the committee and if either the chair or the Monitoring Officer considers that it should be investigated the investigation will take place and the matter be put to the Standards Committee. The

Standards Committee will have the power to censure, suspend or partially suspend for up to six months.

- 4.34 The draft Bill also provides for group leaders to take steps to promote standards, the leader is required to set objectives for the executive to achieve and report on the progress in achieving the objectives and publish this. Prior to the election of a Leader candidates must provide a manifesto and all candidates must be provided an opportunity to promote their manifesto at a meeting of the authority prior to the election.
- 4.35 New provisions enable Members to be appointed to assist the Executive to be titled 'Assistant to the Executive'. These to be appointed by the Leader. Assistants are not members of the Executive but may attend and speak and subject to further guidance the Authority's executive arrangements will detail the number appointed.
- 4.36 The draft Bill also provides for the Chief Executive to require sufficient staffing to undertake the functions of the Authority. The Leader is to set objectives for the Chief Executive.
- 4.37 In respect of Overview and Scrutiny the provisions enable co-opted members to vote at committee. There is also a power to require the implementation of joint Overview and Scrutiny meetings.

Consultation

(a) Member's performance: Members may wish to support the review of performance overall but question the specifics of the provisions. Members will be aware of the '6 month rule in respect of attendance and may take the view that amendment to this legislation is an alternative method of ensuring performance. Members may also take the view that enforcing the undertaking of surgeries is a limited view of the practical realities of local government. The use of social media and open involvement in the ward and an expectation of 24 hour access of the public may be seen as making surgeries a small part of the daily life of members. Members may wish to comment that the most effective surgeries are those that include assembly Members and Members of Parliament.

The publication of annual reports and the need to undertake training may be less contentious however the response to correspondence within 14 days again brings a considerable administrative burden to the Authority in centrally processing all communication.

- (b) The provision for Group Leaders to promote high standards in Group may not be contentious to members.
- (c) Executive objectives set by the Leader may also not be contentious although it can be argued that the executive are answerable to the electorate and council in any event.
- (d) The provision for the Head of Paid service to be known as the Chief Executive is unlikely to be contentious however; the provisions go further and enable the Chief Executive to dictate staffing and resources within the authority. Members

may be of the view that this removes Members ability to determine the structure of the Authority. Members may prefer a compromise enabling the Chief Executive to advise Members of required resources.

- (e) The requirement for written manifesto for candidates for Leader may be considered problematic given the time between an election and the establishment of administrations

PART 5 OF THE DRAFT BILL PROVIDES FOR THE IMPROVEMENT OF GOVERNANCE.

- 4.38 Part 5 sets out arrangements for a new regime to improve the governance of county councils; it in most part removes the previous legislative provisions. There is a general duty on county councils to make, implement and comply with governance arrangements for the purpose of securing good governance; accountability; and economy, efficiency and effectiveness in the use of resources.
- 4.39 There is a duty to prepare and publish a corporate plan, consult on it, maintain it under review and report on progress made against it. The draft Bill provides prescription as to the contents of a Corporate Plan.
- 4.40 In addition there is an annual duty to undertake and publish a self-assessment, this in connection to the duty of good governance. Finally there is also a duty to commission a peer assessment. The peer assessment report and council's action plan in response must be published. There is also provision for Ministerial powers of intervention, support and commissioning of a governance review.
- 4.41 A significant change to the regulation of local authorities is in the requirement of the Wales Audit Office, Estyn and CSSIW to carry out a combined assessment of an Authority. The Authority must prepare a formal response to the combined assessment.
- 4.42 Audit Committees are renamed Corporate Governance and Audit Committees with membership changing to a third lay members with the chair a lay member. The Committee's role in considering regulatory and assessment reports is strengthened.
- 4.43 The draft Bill provides for the continuation of corporate plans and self- assessment. In addition however there are new provisions relating to Peer assessment and a duty on regulators to carry out combined assessment of governance arrangements of a county council. Much of the provision is to be supplemented by further regulation.
- 4.44 The draft Bill provides for the Audit Committee to be named the Corporate governance and Audit Committee. The role of the committee is to be strengthened in respect of corporate governance and will include a membership of one third lay members.

Consultation

- (a) Members may welcome the continuation (albeit with significant prescription) of the corporate plan and self -assessment processes. Members may view the implementation of peer assessment as an additional unnecessary statutory imposition that when taking other forms of assessment into account is unnecessary.

- (b) Members may wish to agree and welcome the implementation of a combined assessment by regulators in the hope that it will reduce the regulatory burden on the authority.
- (c) Members may wish to express concern in relation to the constitution of the Corporate Governance and Audit Committee, this being chaired by an independent member and consisting of one third independent members.

PART 6 OF THE DRAFT BILL PROVIDES FOR THE REVIEW OF COMMUNITY COUNCIL ARRANGEMENTS.

- 4.45 The draft Bill requires the Local Democracy and Boundary Commission for Wales to undertake a review of community council arrangements to be established on 1 April 2020. There are also requirements to consider the training needs of Councillors.
- 4.46 The Local Democracy and Boundary Commission for Wales (“the Commission”) must conduct a community council review in relation to each of the counties in Wales, (but the Commission may begin to conduct the reviews at any time before 1 April 2020).
- 4.47 A “community council review”, means a review of the communities in the area of the county conducted for the purpose of recommending that a county council makes changes in respect of:
 - (a) councils for communities and common community councils in the area of the county, and
 - (b) the electoral arrangements for communities in the area of the county.
- 4.48 The Commission may recommend that the council
 - (a) establish a separate council for a community;
 - (b) dissolve a separate council for a community;
 - (c) group two or more communities together under a new common community council;
 - (d) add one or more communities to a group of communities for which there is a common community council;
 - (e) separate one or more communities from a group of communities;
 - (f) dissolve a group of communities and its common community council;
 - (g) give a name to a new, or change the name of an existing, council for a community or common community council.
- 4.49 The provisions relate only to Community Councils and detail provisions for a review of boundaries etc. given the change that will have taken at county level to administrative areas. There are also proposals to extend terms of office to the five year standard. There are training requirements for community council members similar to those that exist in County Councils. There are provisions that impact on county councils in determining which training should be compulsory. The powers of the Standards Committees do not appear in relation to community councillor training.

Consultation

Members views are sought

PART 7 OF THE DRAFT BILL DEALS WITH WORKFORCE MATTERS.

4.50 Workforce matters are provided in the establishment of a Public Services Staff Commission and provision for Ministers to issue guidance which may be prescriptive in that it can include the size and composition of the Workforce, recruitment and retention of staff and the management, organisation and remuneration of staff of a new authority.

- The Welsh Ministers may issue guidance to public bodies about workforce matters.
- A public body to which guidance is issued must have regard to it.
- Guidance under this section may be issued to a particular public body, public bodies of a particular description or to public bodies generally.
- Before issuing, revising or withdrawing guidance under this section, the Welsh Ministers must consult—
 - (a) each public body to which the guidance relates,
 - (b) any trade union which is recognised (within the meaning given by the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by a public body to which the guidance relates, and
 - (c) such other persons as the Welsh Ministers consider appropriate.
- The Welsh Ministers must publish any guidance issued under this section (including revised guidance) on a website and in such other form as they think fit.

4.51 More specifically “workforce matters” means:-

- planning by public bodies in relation to the size and composition of their workforce;
- the recruitment and retention of staff of public bodies;
- the management, organisation and remuneration of staff of public bodies;
- training and development of staff of public bodies;
- the provision of information to staff of public bodies (including trade unions representing staff) about decisions affecting their work and about opportunities to contribute to those decisions;
- There is to be a public services staff commission
- The Commission must provide such advice on workforce matters as the Welsh Ministers may request.
- The Commission will be disbanded in 2021

Consultation

Members may find the proposals uncontroversial

PART 8 OF THE DRAFT BILL IS THE INTERPRETATION SECTION

4.52 Contains general provisions regarding interpretation and commencement. The commencement of most provisions are unknown without further regulation however the following are intended to come into force within 2 months of Royal Assent (2017):

- Establishing new councils (Chapters in Part 1)
- general power of competence (Part 2)

- Improvement Requests (Chapter 4 of Part 3)
- Review of community councils (Part 6)

The consultation includes issues that do not form part of the draft Bill.

- Right of Recall of councillors

4.53 In the event of a Councillor being suspended due to breach of the Model Code. Ward electors are proposed to have the ability to raise a petition calling for a by-election. If a petition was signed by at least twenty percent of the electorate in that ward, a by-election would be called.

Consultation

Member's views are sought

- Simplification of Remote Attendance Provisions

4.54 The remote attendance provisions have caused technical and practical issues for local government. The provisions are of particular use in larger authorities however and a simplification of regulations may be considered by Members to be positive.

Consultation

Members may wish to approve of the proposal

- Roles and Responsibilities of Chief Executives

4.55 This proposal is for the Returning Officer role to be the duty of the Chief Executive without further remuneration.

Consultation

Members may wish to consider whether the proposal removes the independence of the Returning Officer role

- The removal of the Designated Independent Person process

4.56 The proposal removes the statutory protection for the chief executive, chief Finance Officer, Monitoring Officer and head of democratic services. The process ensures that the dismissal of any of those officers is only undertaken after an investigation and report of a designated independent person. The purpose of the process has been to ensure that there is independence in the investigation process and recommendation to Council. The process has been criticised as being time consuming and expensive. The proposal in the draft Bill is to remove the process and for Council to vote on the dismissal of these officers.

Consultation

Members views are sought

- The clarification of council functions and responsibilities.

4.57 A proposal for:-

- quasi-judicial functions not to be for the Executive.
- approval of the Council's budget and financial planning, including the amount of Council Tax required, to full Council;
- appointments of senior staff reserved to full Council;
- appointment of the Electoral Registration Officer and electoral matters to Council;
- remuneration of Members of the Authority to Council;
- functions related to the provision of services by the Council to the Executive;
- allocation of functions to require the agreement of both Council and Executive; and
- Council's scheme of delegation to be published and be accessible through the Council's website.

Consultation

The proposals enable some discretion to new authorities in the allocation of functions. Members may support this or may take the view that the allocation of functions within local government should be prescribed across all authorities.

- Repeal of Community Polls Duties.

4.58 Under the Local Government Act 1972 a community poll can be demanded at a community meeting. The subject of the poll can be anything which arose at the meeting. The polls are expensive and provide no obligation to abide by the outcome. The proposal is to repeal the provisions. The provisions are to be replaced by duties to enable an e-petitions process. The purpose of which is to enable communities to express views on matters of concern, without the restrictions and costs and enabling a modernisation of the process.

Consultation

Members may consider that the proposal is positive.

5. Effect upon Policy Framework& Procedure Rules

5.1 There is no effect upon the Policy Framework and the Procedure Rules.

6. Equality Impact Assessment

6.1 No equality impact assessment has been undertaken as the Auditor General's Annual Improvement Report is essentially a retrospective assessment of the Council's performance.

7. Financial Implications

7.1 The draft Bill states that “The merging authorities must meet the costs of the transition committee” established under the bill, this will be a joint cost of the joining authorities. The transition committee is to be established by the end of June 2017 and therefore it should be anticipated that in late 2016/early 2017 provision will be required.

8. Recommendation

8.1 That Council determines its response to the consultation.

Andrew Jolley
Assistant Chief Executive
17 February 2016

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Background documents

None

Foreword by the Minister for Public Services

The White Paper *Reforming Local Government: Power to Local People* set out my vision for Local Government in Wales. This is based on activist Councils, engaged in delivering modern, accessible, high quality public services with their local communities. Councils should be acting as community leaders and agents of change, with leadership focusing on excellence, and Councils committed to looking outwards in their place-shaping role.

It also set out the vision for the different spheres of government in Wales and the relationship between them. We wish to see Local Government which is strong, flexible and empowered to deliver the strategic direction set by the Welsh Government in the light of local circumstances. The Well-being of Future Generations (Wales) Act 2015 provides the framework for coordinating the different parts of government in Wales. This Draft Bill and the programme of reform will contribute to better outcomes by ensuring Local Government services are sustainable, integrated and involve the people of Wales.

In June I announced the Welsh Government's preference for the future configuration of Local Government in Wales. Maps, with two options in respect of North Wales, were published alongside this announcement. The maps set out our preference for the future structure in South, Mid and West Wales whilst facilitating further discussion around North Wales. The case in North Wales is finely balanced between two or three Local Authorities. I welcome views, through this formal consultation, on all our proposals for Local Authority mergers.

I understand this is an unsettling time, and I am committed to ensuring the terms and conditions of Local Authority staff are protected so no-one will be disadvantaged by transfer to a new Authority. The Bill will, therefore, also establish a statutory Public Services Staff Commission, a proposal which has attracted widespread support from Local Government. The Public Services Workforce Partnership Council will remain at the heart of the vision to support the development of a world class public service workforce. It will be the primary reference point for the Commission.

This consultation is very much part of an on-going dialogue about the reform of Local Government. I want to hear from you whether our proposals for legislation will help to achieve the objective of creating the 'activist' Councils Wales needs. I would also be interested to hear if you think there is more we might do to achieve this objective.

Leighton Andrews AM
Minister for Public Services

Consultation on the Draft Local Government (Wales) Bill

Consultation response form

The Welsh Government intends to publish a summary of the responses to this consultation. Normally, the name and address (or part of the address) of its author are published along with the response, as this gives credibility to the consultation exercise.

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* required information

Consultation questions

These questions should be read in conjunction with the Draft Bill, draft Explanatory Notes and draft Explanatory Memorandum

PART 1

Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?

BCBC notes that the options within schedule 1 of the draft bill do not provide an alternative option. BCBC sought a voluntary merger which was rejected.

Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?

BCBC has provided its views as part of the submissions of the WLGA

Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?

BCBC has provided its views as part of the submissions of the WLGA

Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?

BCBC has provided its views as part of the submissions of the WLGA

Question 1.5: What are your views on the procedure for naming the new Counties?

BCBC is content with the procedure

Question 1.6: What are your views on the proposed changes to the Local Government election timetable?

BCBC is content with the timetable

Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?

No

Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?

Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?

Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?

Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the counties in existence after 1 April 2020?

BCBC is content with the proposals

Question 1.12: Are there other matters of a technical nature which should be considered?

No

PART 2

Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?

BCBC welcomes the introduction of a general power of competence. The Authority is concerned however that the power is subject to such control that it will not facilitate innovative service provision within local government

Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?

The comments above apply in equal measure.

PART 3

Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?

BCBC is supportive of moves to improve the participation of the public in the decision making of local government. The Authority has considerable concerns however in respect of the proposals in Part 3. The proposals will require significant resource to implement and maintain.

It is unclear how the Authority can support the public to participate in the decisions of other bodies.

The Authority already undertakes consultation on budget setting and has experienced the need to use all forms of social media to adequately reach the public and gain participation.

The Authority is extremely concerned at the practical operation of the Area Community Committees. There is concern that whilst being a committee of the authority it is at least influenced if not controlled by non- elected members of the community.

There is also concern that in delegating functions to the area community committee it is probable that inconsistent decisions will be made within the administrative area of one authority.

This is exacerbated by the prospect of separate authorities delegating different functions to committees. To that end the Authority considers that if the committees are to be implemented there should be a statutory determination of their powers and remit.

The ability of the committee to seek its delegations from the County Council will in the view of the Authority detract from the sovereignty of the elected representatives.

The ability to provide political balance and maintain probity within the CAC requires further consideration within the legislation.

The Authority views the implementation of improvement requests to have the significant burden of FOI requests within the Authority. It can be seen as a charter for certain individuals to disrupt the operation of the council.

Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?

As above

Question 3.3: How should community representatives to sit on community area committees be sought and selected?

BCBC does not agree that no elected representatives should have voting rights on the CAC

Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?

BCBC considers it important that delegations are statutory

Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?

It is no the view of the Authority that it is necessary to legislate further

Question 3.6: Do you have any comments on the revised provisions for 'improvement requests' or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?

As above

Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?

BCBC supports the webcasting of meetings but is concerned in relation to the cost and availability of premises to enable all committees to be broadcast.

Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?

BCBC is supportive of enhancing participation of young people and has long supported a youth Mayor and Council

PART 4

Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?

The Authority is broadly accepting of the performance management of Members but considers that the proposed legislation takes a dated view of the working of Members. Members report that the public do not appreciate the provision of surgeries unless combined with assembly members and members of parliament. The public prefer modern forms of communication through social media and e-mail. Members who are active in the community are also accessible outside specific set times.

The responsibility to provide written responses within a statutory timeframe is considered unnecessary and again does not take account of modern forms of communication. The data collation would be a considerable burden on local authorities particularly as it would require a central control over communication of elected members.

It is considered appropriate for members to undertake training and to attend regularly. The 6 month rule is outdated and does not ensure attendance, it is considered that more thought is required in relation to this provision as attendance alone is not a guarantee of effective working.

Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?

BCBC is broadly supportive

Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?

Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?

No

Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?

Yes

Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?

No

Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?

BCBC accepts that the present DIP system is time consuming and costly. It considers however that there is a middle road rather than losing the protection afforded to officers who must remain independent of the political environment of a local authority. No to provide some protection will limit the ability to recruit persons willing to undertake those duties.

Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?

BCBC is of the view that the current allocation of functions is needlessly complex but does not consider it appropriate for authorities to have different allocations of functions. It considers this to be confusing for the public and counter to the aims of the legislation to make local government more accessible to the public

Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?

no

PART 5

Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?

Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?

No although the proposals remain a significant governance burden on an authority.

Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?

Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self assessment, peer assessment, combined assessment and governance review?

Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?

Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?

Question 5.7: If so, would they benefit from additional legal powers?

Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?

PART 6

Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?

Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?

Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?

Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?

Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?

Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?

Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?

Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?

PART 7

Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?

Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?

PART 8

Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?

ADDITIONAL QUESTIONS

Question 9.1: Are you aware of any consequential amendments to legislation that will need to be made?

Question 9.2: Please provide feedback you think would be useful in relation to the supporting documents published alongside the Draft Bill i.e. Draft Explanatory Memorandum (including the Regulatory Impact Assessment) and specific Impact Assessments.

Question 9.3: We have asked a number of specific questions. If you have any related issues which we have not specifically addresses, please use this space to comment.

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept anonymous please tick the box: