

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Council

14th February 2020

LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL

Joint Report of the Chief Executive (S Phillips), the Assistant Chief Executive and Chief Digital Officer (K Jones) and the Head of Legal Services (C Griffiths) in discussion with the Leader of Council, Councillor R G Jones

Author: Mrs K Jones, Assistant Chief Executive and Chief Digital Officer

Matter for Decision

Wards Affected: All wards

Purpose of Report

1. To bring the Local Government and Elections (Wales) Bill to the attention of all Members of Council.
2. To invite Members of Council to comment on the proposals contained therein.
3. To authorise the Chief Executive to prepare and submit the Council's response to the proposals via the Welsh Local Government Association.

Executive Summary

On 18th November 2019, the Welsh Government published the Local Government and Elections (Wales) Bill. The Bill aims to reform and strengthen local government and to improve electoral arrangements.

The Bill contains wide ranging proposals that, if implemented, will have a significant impact on the Council. The main components of the Bill seek to:

- enable 16 and 17 year-olds and foreign citizens living in Wales to vote in council elections;
- ensure councils encourage local people to take part in local government;
- ensure councils are open and transparent; and

- ensure councils have the tools and powers they need to work well, both on their own and with other councils.

The Welsh Local Government Association (WLGA) has been working with Welsh Government and with local government stakeholders to assess the suitability of the proposals and the impact (including the financial impact) of the range of new duties that would be introduced by this proposed legislation. Attached at Appendix 1 is the evidence submitted by the WLGA to the Equality, Local Government and Communities Committee of the National Assembly for Wales which, in the opinion of officers, provides a measured assessment of the proposals.

Members are invited to consider the WLGA position set out in Appendix 1 and indicate whether they support this position, or wish to offer alternative views on the Welsh Government's proposals.

Financial Appraisal

There are significant new financial impacts that arise from a number of the proposed new duties which are highlighted in the analysis undertaken by WLGA. It is essential that these additional financial burdens are reflected in new financial allocations to local government by Welsh Government if these proposals are to be implemented. There is no capacity to implement these proposals within the existing financial constraints.

There is a proposed new duty of general competence within the proposals which has the potential to assist the Council in raising new sources of income. However, as presently drafted, there is concern that power may be a power of last resort rather than first resort.

Integrated Impact Assessment

There is no requirement for the Council to undertake an impact assessment as these are Welsh Government's proposals and it is for the Welsh Government to undertake its own impact assessment. The WLGA have sought to identify the impacts on local government if these proposals are to be taken forward and this forms part of the evidence attached at Appendix 1.

Valleys Communities Impact

There are no specific valleys impacts that arise from these proposals.

Workforce Impact

The new duties will create additional workloads and responsibilities for a number of functions within the Council including the Elections Team, Democratic Services, Corporate Strategy, Finance and Legal Services. There will also be further impacts arising from these duties on the wider organisation eg training and development will be required to implement the new performance management framework that will need to be developed to comply with the proposed new duties.

Legal Impact

The proposed legislation will repeal the 2009 Local Government (Wales) Measure which is to be welcomed as the performance duties set out in that legislation are widely regarded as being no longer fit for purpose.

The proposed legislation will impose significant new duties on the Council but will also provide a new power of general competence. The WLGA analysis highlights the risks and opportunities these arrangements will create for local government.

Risk Management

Without adequate lead in times and new financial resources to accompany the implementation of the provisions set out in the Bill, there is a high risk that the Council will not be able to fully comply with the proposed new duties or take advantage of opportunities presented by new powers.

The WLGA assessment suggests that some of the proposals could increase complexity and dilute/weaken democratic accountability. The WLGA have drawn attention to these risks in their evidence with counter-proposals to address such risks.

Consultation

There is no requirement under the Constitution for external consultation on this item.

Recommendations

1. Members note Welsh Government's proposals to reform and strengthen local government and to improve electoral arrangements as set out in the Local Government and Elections (Wales) Bill.
2. Members consider the evidence presented by the Welsh Local Government Association to the Equality, Local Government and Communities Committee and if thought appropriate, endorse the position as set out in Appendix 1.
3. Members authorise the Chief Executive to formally respond to the proposals on behalf of this Council through the Welsh Local Government Association.

Reason for Proposed Decision

To ensure Members of Council are formally briefed on the content of the proposed legislation and the likely impacts of those proposals on local government. Further, that Members of Council have an opportunity to formally indicate their position on the proposals and communicate this to Welsh Government via the Welsh Local Government Association.

Implementation of Decision

The decision is proposed for immediate implementation in order to meet the consultation deadline set by Welsh Government.

Appendices

Appendix 1 - WLGA Evidence: Stage 1: Local Government and Elections (Wales) Bill, Equality, Local Government and Communities Committee
National Assembly for Wales, January 2020

List of Background Papers

Local Government and Elections (Wales) Bill

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WLGA Evidence

Stage 1: Local Government and Elections (Wales) Bill

Equality, Local Government and Communities Committee

National Assembly for Wales

January 2020

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three national park authorities and the three fire and rescue authorities are associate members.
2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.
3. It seeks to provide representation to local authorities within an emerging policy framework that satisfies priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
4. The Local Government and Elections (Wales) Bill [the Bill] is a significant and substantial piece of legislation covering a broad range of democratic, governance, organisational and structural reforms and is the culmination of several years of policy consultation, including a Draft Bill and successive Green and White Papers.
5. The WLGA welcomes the opportunity to provide evidence to the Equality, Local Government and Communities Committee National Assembly for Wales's Stage 1 consideration of the Bill.
6. The WLGA has particularly welcomed the constructive dialogue and engagement with the Minister for Housing and Local Government. Local government reform has been discussed with leaders during the past 18 months initially through the Local Government Working Group chaired by Derek Vaughan and subsequently via the Local Government Sub-Group of Partnership Council.
7. Under the auspices of these groups, there has also been constructive engagement between officials from Welsh Government and local government

to consider the implications of some of the anticipated reforms and what future statutory guidance or regulations might need to include.

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8. The Regulatory Impact Assessment [RIA] estimates that the total cost of the Bill to local government over 10 years would be £16.3m (including transitional costs of £2.95m and recurrent costs of £13.35m). The WLGA considers some of the estimated costs in more detail in the response below. The WLGA's core stance is that the Welsh Government should fully fund any new national initiatives or the implications of any legislation on local authorities.

Part 1: Elections

9. The proposals for electoral reform include several that were included in the Welsh Government's Consultation on Electoral Reform in 2017 and align with many of the wider electoral reforms to be introduced through the Senedd and Elections (Wales) Bill.

10. These are some of the most fundamental reforms included in the Bill, and will have a significant impact on local democracy, local authorities and, in particular, electoral services administration.

Extending the franchise to 16-17 year olds (Section 2)

11. The WLGA supports this proposal as a key part of widening democratic engagement and participation.

Extending the local government franchise to citizens from any country (Section 2)

12. The WLGA agrees that citizens from any country who have moved and settled in Wales should have the right to vote in local elections.

13. The Welsh Government recognises that the extension of the franchise to 16-17 year olds and foreign citizens will have an impact on local electoral administration. The WLGA welcomes the Minister for Housing and Local Government's commitment (in her letter to the Committee on 19th December) to provide an £1m additional funding for 2020-21 and will 'consider the need for financial support'.

14. The Regulatory Impact Assessment (RIA) however estimates an additional cost of extending/promoting the franchise of £912,000 in both 2020-21 and 2021-22, as well as an extra £267,000 in any election year. The RIA also notes that the Welsh Government had estimated that the Senedd and Elections (Wales) Bill would incur £636,000 cost to local government for the changes to the EMS software.

Two voting systems (Section 5)

15. The WLGA does not support the proposal to allow authorities to choose their own voting system as it believes there should be a clear and consistent voting system across all local authorities to avoid complexity and risk of voter confusion.

16. When this was previously considered as part of the Consultation on Electoral Reform, the WLGA was supportive of the Electoral Commission's response in 2017 stated:

"...we would note that allowing councils to decide which electoral system to use in their own area could create significant risks and challenges, particularly in relation to voter understanding of how to cast their vote...The question of public awareness around two different electoral systems for one set of elections is likely to be a major challenge and one where there is a very real risk of confusion to electors if this type of change is implemented."

17. Furthermore, it would be administratively complex and confusing if an STV election was held on the same day as 'first past the post' community and town council elections and that larger electoral wards would need to be created which may undermine the local links between a councillor and his/her community.

Change of electoral cycle for principal councils from four years to five years (Section 14)

18. The WLGA supports the proposed extension from 4 year terms to 5 years.

Qualification and Disqualification for election and being a member of a local authority (Sections 24-26)

19. The WLGA supports approaches to make it easier for people to stand for election and encourage a broader cross-section of the community to consider standing.

20. The WLGA therefore supports proposed changes to the eligibility criteria allow a citizen of any country to stand for election.

21. The WLGA however does not support the proposal to allow council staff to stand for election in their own authority. Lifting such a restriction is unlikely to have a significant impact in encouraging more candidates to stand but would disproportionately impact on good governance and employment relations. There would be a risk of increased employer-employee tensions, potential conflicts of interest and team and managerial relationships being undermined. Staff at all levels have to demonstrate impartiality and a responsibility to serve the council as a whole; this risks being compromised should an employee stand or serve as a councillor. There is a risk that where an individual is unsuccessful,

he or she may have implicitly or explicitly publicly criticised colleagues, councillors or council policies during campaigning, which may affect their ability to continue in their employed role following the elections.

22. The WLGA supports proposed amendments to disqualify individuals, from standing for election, or holding office as a member of a principal council or community council in Wales, if they are subject to a the notification requirements of, or an order under, the Sexual Offences Act 2003.

Meeting expenditure of returning officers (Section 28)

23. The Bill clarifies that Returning Officers can only claim expenses properly incurred in the running of a local government elections. Personal fees in respect of services rendered during the conduct of a local government elections could not in future be claimed as they would not be deemed as “expenses”.

24. The Welsh Government has opted not to proceed with the previously consulted upon proposal to incorporate the Returning Officer role within that of the Chief Executive. The WLGA did not support this proposal on grounds of local discretion, as not all Chief Executives acted as Returning Officers; the Welsh Government’s position is therefore welcome.

25. When the Welsh Government previously consulted on the removal of Returning Officer fees, the WLGA’s view was that an option would be for any remuneration for the oversight of local elections to be included within a single consolidated salary for the position (of whichever senior officer fulfilled the Returning Officer role).

26. Such an approach, and the removal of a specific Returning Officer fee, would require a proper re-evaluation of the post which had incorporated the substantial Returning Officer role, as noted in ALACE’s submission to the Committee. The additional demands, responsibilities and personal risks of being a Returning Officer are significant and should not be dismissed. A form of this arrangement is already operated by several employing councils in Wales, where the Chief Executive is also contracted to be the Returning Officer but for no additional fee beyond their evaluated salary.

Part 2: General Power of Competence

27. The WLGA welcomes the proposed introduction of the power of general competence in Wales and has long called for the introduction of the power.

28. Whilst this new power is welcomed as it provides confidence and reinforces local government’s core community leadership role. The LGA’s submission notes that the power’s introduction in England

'...has assisted in providing councils greater confidence in some areas of activity and led to less legal resource being spent on considering whether an action is vires (within their authority), it has not made a radical change for councils to date.

29. The power, as drafted, is however constrained by pre-commencement limitations. As noted in the Lawyers in Local Government Wales (LLG) submission to the Committee, there are 42 UK wide and 3 Wales-only Measures/Acts with 'Local Government' in the title and wider local government-related legislation may have pre-commencement limitations on Welsh authorities. The interplay between the power and a range of other legislation creates complexity and multiple possible risks. These limitations are likely to constrain creative use of the power, which may instead be used as a power of last resort rather than first resort.

30. This is further expanded in the LGA and LLG submissions to the Committee and the LLG Wales submission outlines some potential improvements to the proposed power.

Part 3: Promoting Access to Local Government

Duty to encourage local people to participate in local government (Section 46)

Strategy on encouraging participation (Section 47)

31. The WLGA is supportive of the spirit of the Welsh Government's ambitions as councils are committed to promoting democratic engagement, public participation and openness and transparency.

32. There is already a requirement on local authorities to 'involve' the public through the Wellbeing of Future Generations (Wales) Act 2015 and it is therefore not clear what additional value a new 'public participation duty' on local authorities would achieve.

33. The Bill proposes a duty on local authorities to encourage 'local people to participate in the making of decisions by the council' and lists several areas to be covered in a participation strategy (S47 (2) a-f). Authorities promote and publish much of this information currently, have engagement strategies and involve the public, through various consultation and engagement processes around budget-setting, service design and development of strategies.

34. Councils are also increasingly involving the public in service delivery through alternative delivery models or asset transfers to community and town councils and community groups. Many councils already provide for public involvement in formal council decision-making processes, for example, through questions to cabinet, committees or councils and some already provide for submission of public petitions.

35. The WLGA however recognises that there is always potential for improvement, innovation and sharing of good practice; the latest National Survey for Wales show that only 19% of people agreed that they could influence local area decisions. There are some paradoxes in terms of public perception and public engagement in decision making and public services generally¹, however, councils are committed to improve their approaches to public participation. This will be a core theme within the WLGA's future improvement support programme for local government, which the Minister for Housing and Local Government has agreed to resource.

36. The WLGA does not support that the proposed participation duty or strategy duty (to be placed on councils) should extend to cover other 'connected authorities' such as community and town councils and national park authorities (S46 (2&3)). Although local authorities work in partnership with those bodies, such a proposed 'hierarchical' relationship undermines their own status, accountability and sovereignty as separate For example Hansard's annual Audit of Political Engagement typically reveals mixed levels of public involvement in participative activity (such as consultations or petitions) and a Welsh Government survey of public engagement in 2015 showed that 59% of those surveyed said they would not participate in local consultation (33% were too busy and 26% were not interested) and only 45% were interested in having a say in local government activity or how local government is run in Wales <https://gov.wales/docs/caecd/research/2015/150612-public-views-opinions-community-engagement-localgovernment-final-en.pdf>

Furthermore, this will inevitably have resource implications for councils and, critically, clouds accountability and responsibility for delivering on any public participation duties. A local authority cannot be responsible for the participation in other levels of government as the responsibility (and risk of non-compliance) should rest with them as separately accountable bodies.

37. If such participation duties are to be introduced, they should apply separately to each of the specified bodies. As noted by the South Wales Fire and Rescue Authority's response, this duty was to apply to Fire and Rescue Authorities when first proposed in the 2016 Draft Bill, however, these bodies have not been included in this Bill.

Duty to make petition scheme (Section 49)

38. The WLGA supports the replacement of community polls with a duty to make a petition scheme; this reform will reduce burden and costs for local authorities, as well as encouraging a more accessible and immediate mechanism for communities to express their views.

Duty on principal councils to publish official addresses (Section 50)

39. The proposed duty is supported as it permits councils to provide a general council contact address for councillors, rather than councillors' personal addresses. This is an approach several councils have already adopted and is a reform which the WLGA has called for, given some members' concerns about privacy in the current environment where intimidation and harassment is a risk.

Electronic broadcasts of meetings of certain local authorities (Section 53)

40. Most councils already webcast many of their meetings and are committed to openness and transparency. Most authorities are concerned about the potential increase in cost, and the balance of this additional cost with public interest, particularly for some committee meetings.

41. Public viewing figures and engagement with council webcasts however varies and tends to be limited. Viewing figures vary from authority to authority and from meeting to meeting, with full council meetings and planning meetings tend to be most popular, but only receiving between 100-350 views (depending on the size of the council). Other committees tend to have low viewing figures and local authorities therefore question the added value of additional costs and administrative burdens of broadcasting all meetings.

42. Webcasting can be costly, in terms of broadcast equipment, server and/or streaming costs and additional staff for administration and technical support. A duty to broadcast all public meetings is likely to require (based on a typical council experience) an increase from broadcasting 7 committees (Full Council, Cabinet, 4 Scrutiny committees and 1 planning committee) to an additional 13 committees, although some of these may meet less frequently, plus any joint meetings that the authority hosts.

43. Webcasting all public meetings may reduce councils' ability to hold formal meetings in communities, as mobile equipment is more expensive, requires additional technical support and broadband/data availability may be problematic. This would particularly impact scrutiny meetings where good practice for community engagement includes holding meetings in community venues. There is also a risk that a requirement to broadcast all public meetings could result in a reduction in the quality, navigability and retention of broadcasts for the viewer if this is to be met within available funding.

44. The Regulatory Impact Assessment indicates that the additional costs of broadcasting all council meetings would be in the region of £12,000 per authority per annum, based on a single contract for Wales. It remains unclear whether such a single, all Wales contract is feasible or whether an all-Wales solution could be developed by local government in the future.

45. The RIA is likely therefore to be a significant underestimate, although it is difficult to provide an accurate estimate. Most councils' broadcasting services are provided by one company, although other suppliers are used and one council uses YouTube to broadcast meetings. The navigability of the webcasts and access to meeting documents and archives varies depending on supplier. Councils also broadcast a different number of meetings and different hours of broadcast per year and have different arrangements for archiving broadcasts so that they can be viewed retrospectively.

46. Some councils do not anticipate a significant additional cost (depending on their current coverage or provision), but the average increase of those authorities who have provided estimates is an additional c£24,000 annual costs (with one projecting up to £70,000).

47. Some councils also estimate significant investment in additional equipment with one estimating an initial investment of £250,000 to equip all committee rooms with necessary equipment (should all public meetings are to be broadcast, authorities report the need to equip additional rooms as meetings some meetings will inevitably run simultaneously.) The RIA does not take account of the additional administrative burdens and implications of broadcasting all council meetings; generally broadcasting meetings requires additional staffing resources, including committee and technical staff.

48. LLG Wales' submission notes that there may be implications between this duty and other existing legislative responsibilities such as the Public Sector Equality Duty. When webcasting meetings councils will need to consider possible detriment to those with audio/visual impairments (see S51(1)(a) as well as providing translation via the webcast even where this is not provided within the meeting itself.

Conditions for remote attendance of members of local authorities (Section 54)

49. The WLGA supports the proposed amendments.

50. The WLGA supported the concept of remote attendance when first proposed as it supported access and flexibility for members, but expressed concern during the passage of the Local Government (Wales) Measure 2011 as the legislation made the provisions restrictive and effectively unworkable.

51. The WLGA therefore supports proposals to streamline the remote attendance arrangements in order to promote accessibility and support flexibility for members to attend meetings remotely, reflecting advancements and availability of modern technology.

52. As noted by LLG Wales, a saving provision was not included within the 2011 Measure's proposals for remote attendance but one has been included to ensure the validity of proceedings in the event of broadcasting failing during a meeting (S53(6)). Modern technology is not infallible and data and WIFI services

can be variable and remote attendance could be subject to disruption, therefore an equivalent provision ensuring the validity of proceedings where remote attendance is not available should also be included in the Bill.

Part 4: Local Authority Executives, Members, Officers and Committees

53. This WLGA supports most reforms outlined in Part 4 of the Bill, including:

- Appointment of Chief executives (rather than a head of paid service);
 - appointment of assistants to cabinets and allowing job-sharing leaders or cabinet members;
 - updating family absence provisions in line with those available to employees;
- and
- requiring leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.

54. The WLGA particularly welcomes the proposals to extend family absence provisions, which is in response to a WLGA request.

55. The WLGA also supports the focus on promoting high standards of members' conduct; although standards are generally good and formal complaints to the Public Services Ombudsman are low, the WLGA has committed to championing high standards and challenging poor political discourse through the recently launched Civility in Public Life campaign, working with the LGA, COSLA and NILGA2.

56. The WLGA agrees that chief executives should be subject to robust and effective performance management and local authorities already implement a range of performance management arrangements for their chief executives and senior officers.

57. The WLGA shares a number of ALACE's concerns about some of the provisions of S60 regarding the process for performance management:

- the Bill should be less prescriptive and allow local flexibility for authorities to determine who should conduct a performance review (the Bill suggests the 'senior executive member', however, councils may also wish to involve other members or external peers as appropriate);
<https://www.local.gov.uk/civility-public-life>
- Clause 60(3), which provides for the possibility of publication of performance reviews of chief executives, should be removed. No public employee should have their performance review published. The review should be confidential to members of the council and the chief executive;
- In order to protect personal information, the Bill needs to reference that a report about the review (shared with members) shall be exempt from publication under paragraph 12 of Schedule 12A to the Local Government Act

1972 as such a report contains “information relating to a particular individual”; and

- The WLGA has previously expressed concern regarding Ministerial Guidance making powers with regards the performance management of Chief Executives as there are potential risks of Welsh Ministerial intervention in local relations and arrangements between a local authority or leader and a chief executive.

Part 5 Collaborative Working by Principal Councils

58. Local authorities are committed to working collaboratively with each other and other public services to deliver improved outcomes and has a track record of collaboration and of sharing services.

59. Councils are already delivering radical responses to the challenges faced. The city deals and growth bids, for example, are some of the most ambitious, strategic regional regeneration programmes in a generation - these have come from local leadership, collective investment, risk and reward.

60. Such a commitment to collaboration is underpinned by the fundamental principle that collaboration is a ‘means to an end not an end to itself’. The WLGA has therefore set out a framework of guiding principles to ensure that any collaborative reforms are rooted in clear and viable business cases and subject to local democratic decision-making.

Collaboration Principles

Collaboration, shared services or voluntary mergers should:

- *Be locally-driven and subject to local democratic direction.*
- *Be underpinned by a locally agreed business case that:*

Outlines mutual benefit and a clear understanding of shared costs focuses on outcomes and whether, on balance, it is likely to lead to better public service outcomes - a service collaboration or shared services is not an outcome, but a means to an end. be centred on the delivery of clear outcomes/benefits for the citizens and communities. and ensuring accessible and seamless delivery of services to stakeholders and customers.

- *Where appropriate, take account of existing collaborative arrangements e.g. City deals, Growth Deals and or shared services.*
- *Be shaped by appropriate engagement with service users and stakeholders*
- *Seek to strengthen strategic and operational collaboration and improve the integration of front line services across public service providers.*
- *Maintain transparent and flexible governance with clear local democratic accountability and appropriate scrutiny arrangements established from the start*

- *Be developed with due consideration of “Prosperity for All” and the Wellbeing of Future Generations Act and, in particular, the ‘5 ways of working’.*

In addition, collaborative arrangements or shared services:

- *Will be treated like all services and will be subject to scrutiny and will be reviewed periodically; if an established collaborative arrangement or shared service is underperforming or is not providing value for money for one or more local authorities, it may be appropriate to review, reform or even withdraw from such arrangements. Such decisions will not be made lightly and withdrawal from an established collaborative arrangement should not be viewed as a rejection of the concept of collaboration or a lack of a commitment to reform, but a business decision based on performance, delivery of outcomes or value for money.*

61. The WLGA has also produced a Collaboration Compendium³ which lists over 300 local, regional or national collaborative arrangements or shared services ranging from coordination or delivery of technical services to large-scale, strategic services. The WLGA Council has agreed that the Compendium will be updated and reported annually to encourage a review of existing and consider new potential new collaborations.

62. Authorities already work together collaboratively through various governance mechanisms, including joint appointments, lead local authority models, shared services, local authority owned companies or joint committees (established under the Local Government Act 1972).

63. The WLGA and authorities are therefore supportive of the introduction of *voluntary* Corporate Joint Committees (described in S75 ‘Application by principal councils to establish a corporate joint committee’) as it would provide an additional collaborative model for authorities to choose where appropriate.

64. Several leaders have expressed concern about a Ministerial power to ‘mandate’ regional structures or services, as this would undermine local democracy and accountability. Furthermore, some authorities are concerned about risks to local accountability, increased complexity and administrative burden of alternative regional governance arrangements.

65. Some leaders however regard Corporate Joint Committees as an evolution from existing regional arrangements such as City Deal, school improvement consortia and regional planning and transport arrangements.

66. The WLGA Council has therefore passed a resolution noting that it: ‘...has fundamental concerns over the principle of mandation which is seen as undermining local democracy but will continue to engage and seek to co-produce the Corporate Joint Committee proposals.’

<https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&fileid=2408&mid=665>

67. Much of the detail around how Corporate Joint Committees will be established and how they will operate will be determined through Regulations. This detail includes which specific areas of the listed functions would be delivered through Corporate Joint Committees, which services would be delivered locally or concurrently as well as the governance arrangements of the committees themselves.

68. The proposed Corporate Joint Committees have been the subject of extensive dialogue between the Minister for Housing and Local Government and leaders and has been considered at several WLGA meetings.

69. The Minister has been keen to involve local government in the co-production of any guidance or regulations that might be required following the Bill and the WLGA has committed to engaging with the Minister and officials in developing the concept further. WLGA officials and Monitoring Officers are therefore involved in ongoing discussions to consider the governance arrangements and implications of other relevant statutory requirements should Corporate Joint Committees be introduced in the future.

Part 6: Performance and Governance of Principal Councils

70. The Bill proposes a new performance framework for local government, repealing the Wales Programme for Improvement and performance provisions of the Local Government (Wales) Measure 2009.

71. It is widely recognised that the Wales Programme for Improvement as introduced by the 2009 Measure is no longer fit for purpose; it imposed a range of duties and features that were administratively bureaucratic which has promoted a regulatory burdensome output-oriented rather than outcome-oriented performance framework.

72. Furthermore, many of the objective-setting, planning and reporting aspects of the 2009 Measure have been superseded by the Wellbeing of Future Generations (Wales) Act 2015, which has caused additional complexity (see joint WLGA, WAO and Future Generations Commissioner guidance note4).

73. The Bill outlines a new performance duty based on self assessment and peer (or panel) assessment. Both concepts are well-established and are existing features of the Wales Programme for Improvement currently, but the streamlined performance duties will allow councils to better shape the assessments for organisational self-awareness and self-improvement rather than to meet external regulatory expectations.

74. The WLGA has previously provided extensive support around developing and strengthening self assessment approaches (through the Improvement Grant until 2015), which included guidance, local support and challenge and

the development of a set of core characteristics⁵ to ensure that a self assessment was robust.

<https://www.wlga.wales/future-generations-and-improvement>

<https://www.wlga.wales/self-assessment>

Further self-assessment guidance and frameworks have been developed since, for example, the Future Generations Commissioner's Self Reflection Tool⁶.

75. Self assessment is an established and core feature of both the English and Scottish local government improvement regimes, for example, the Scottish Improvement Service promotes and supports the roll-out of self-assessment through the Public Service Improvement Framework⁷.

76. Councils are committed to improving services and delivering better outcomes for their communities; the WLGA is confident therefore that councils' self assessments will be rounded, robust and used to drive improvements in governance and service provision.

77. There will remain several 'checks and balances' in the system to ensure self assessments are robust; scrutiny and the new governance and audit committees will play a key role, as will informal and formal peer challenge as well as the proposed statutory Panel Assessments. It should also be noted that the Wales Audit Office will retain an audit role through the Public Audit (Wales) Act 2004 and can undertake 'sustainable development' examinations through the Wellbeing of Future Generations (Wales) Act 2015.

78. The Minister for Housing and Local Government has confirmed that she intends to provide improvement grant funding to the WLGA to re-establish a sector-led improvement support resource for Welsh local government. This development is very welcome and will allow the WLGA to provide guidance, promote good practice as well as coordinate peer support and challenge to authorities. The WLGA is currently discussing the scope of the funding and remit with the Welsh Government and intends to work closely with the LGA in developing and coordinating peer challenge arrangements in Wales.

79. The WLGA has previously not supported the introduction of statutory Panel Assessments. The WLGA does not believe these corporate peer assessments should be made statutory as councils would undertake them on a voluntary basis. Making them statutory could turn an existing effective self-improvement process into a quasiregulatory arrangement, which could stifle engagement, openness and ownership and undermine their value. The WLGA and local government professionals are however engaged in constructive discussions with Welsh Government officials to explore how Panel Assessments may be coordinated and delivered as effectively as possible and the WLGA's view is that any guidance should allow local flexibility in terms of panel make-up

and focus, to ensure an authority can tailor it to its own needs and priorities.

80. Corporate peer challenges are credible, effective and well regarded. Peer challenges are independent and can provide some challenging messages to an authority, therefore concerns about any future Panel Assessment's objectivity are unfounded. The effectiveness and value of corporate peer reviews has been endorsed by an independent evaluation by Cardiff Business School in 20178.

https://futuregenerations.wales/resources_posts/self-reflection-tool-2019/

<http://www.improvementservice.org.uk/psif.html>

<https://www.local.gov.uk/sites/default/files/documents/Rising%20to%20the%20Challenge%20February%202017%20-%20FINAL.PDF>

017%20-%20FINAL.PDF

81. Prior to changes in the WLGA's previous improvement role, the WLGA Council had agreed that every council would receive a corporate peer review once during a rolling four year period (as is the case in England) and the WLGA had coordinated 8 peer reviews between 2013-15. Pembrokeshire County Council has commissioned the LGA (supported by the WLGA) to deliver a Corporate Peer Review in February 2020.

82. The proposed Ministerial powers to provide support and assistance and direction (as a last resort) are broadly supported as they largely reflect existing powers. The WLGA however does not support S102 which proposes a Ministerial power to direct a council to provide support and assistance to another council. This should be amended to a Ministerial power to 'request' support from another authority. Councils are committed to providing mutual improvement support and already share expertise and peer support where appropriate; such powers to direct are therefore unnecessary and undermine local democracy. Should an authority decide that it was unable to provide particular support to another authority, such a decision would not be taken lightly and is likely to be due to capacity or resource constraints which may have negative consequences on the performance of the authority itself.

Governance and Audit Committees

83. The WLGA supports the proposed role of new Corporate Governance and Audit Committees. The relationship with and role of councils' overview and scrutiny committees will however need to be reviewed in the new constitutional arrangements to avoid confusion and duplication of roles.

84. The WLGA does not support the proposed changes to the membership of corporate governance and audit committees. Lay members are valued members of audit committees currently, but the balance of membership should be left to local discretion. The proposal to increase the proportion of lay membership and that the chair must be a lay member fetters local discretion

and undermines local democracy, particularly as the reformed committees will have an enhanced role in terms of overseeing the governance and service performance of councils.

Part 7 Mergers and Restructuring of Principal Areas

85. The WLGA and local government are supportive of the concept of voluntary mergers as such reforms are a matter for local discretion and if individual councils jointly develop a business case and agree a merger locally, then they should be supported in their local reforms.

86. A draft 'Prospectus for Voluntary Mergers' outlining guidance and support for authorities has been co-developed through the Local Government Working Group, which was chaired by Derek Vaughan.

Parts 8 and 9: Finance and Miscellaneous Reforms

87. The WLGA supports the provisions to allow PSBs to demerge.

88. The proposed changes to the performance arrangements of Fire and Rescue Authorities have been generally welcomed by Fire and Rescue Authorities. The move away from the current performance management arrangements under the 2009 Measure are supported, as the arrangements are no longer suitable. Whilst there is support for a new performance management system grounded in the National Framework for Fire and Rescue Services, the Bill does not include significant detail and the new performance management system should reflect the differences in risk within communities and across the authority areas, as noted in the submissions from the Mid and West Wales and South Wales Fire Authorities.

89. The WLGA shares the concerns outlined by the Fire Authority submissions regarding the proposal to amend the public inquiry criteria where changes are proposed to any of the elements of the Combination Scheme Order that establishes the Fire and Rescue Authority and Fire and Rescue Service. The public inquiry provisions were introduced in 2004 to ensure due regard was given to the safety of firefighters or the community before significant reforms could be introduced. The proposed amendment would mean that a public inquiry would no longer be held for several areas of significant reform of Fire and Rescue Authorities including changes to the funding mechanisms, governance structures and systems and appointment of officers.

90. There is general support for the proposals which relate to supply of information and power to inspect. The power to give Billing Authorities the right to inspect properties will potentially incur additional costs and the

recognition of this is welcomed. The proposal linking the NDR multiplier increase to the Consumer Price Index in line with England is also welcomed. 91. The Bill also modifies the Local Government Finance Act 1992 to abolish the power for local authorities to apply to consign an individual to imprisonment for non-payment of council tax. This power has already been taken away by regulation and this further change is to place it in primary legislation. Although there may be a slight deterioration in the collection rate as a result, we will continue to work with Welsh Government to consider whether any future amendments to legislation are needed to prevent loss of income through falling collection rates.