

## **LOCAL GOVERNMENT AND HOUSING COMMITTEE**

### **LOCAL GOVERNMENT ACT 2000 – CONSIDERATION OF NEW PROPOSALS**

#### **Purpose**

1. This paper is submitted for information.

#### **Summary**

2. This paper is to inform the Committee of the progress made in the consultation on Part 2 of the Local Government Act 2000 in Wales and of action arising from the Partnership Agreement, "Putting Wales First". It contains (attached as **Annex 1**) a paper which is proposed as the basis for further public consultation.

#### **Background**

3. The Local Government Act 2000 gained Royal Assent on 28 July this year. Its provisions will come into effect in Wales one year from this date unless the Assembly chooses to commence at an earlier date.

4. The Partnership Agreement, "Putting Wales First", introduced a number of new proposals impacting on the implementation of the Act when it was announced last month. The most significant of these was the decision to introduce an Assembly Local Government Bill which would include provisions which require local authority cabinets to meet in the open under the terms of the Local Government (Access to Information) Act; give councils the opportunity to form area committees with delegated powers and budgets; and offer them a fourth option of adopting a modernised committee structure with enhanced scrutiny powers in place of the Cabinet system.

#### **Consideration**

5. Draft Guidance on Part 2 of the Local Government Act 2000, on executive arrangements, was issued to local authorities and other interested parties in September. At that time, consultees were asked to respond with their views on the Guidance by the end of November. Although there have been a number of responses, the majority of authorities have delayed

pending receipt of the Assembly's proposals in relation to Alternative Arrangements (attached as **Annex 1**). For this reason, it has been agreed that consultation be extended until the end of February.

6. Consultees have also begun to receive copies of draft statutory instruments required to introduce the items of secondary legislation through the Assembly. This process will continue over the next two months.

### Access to information

7. The Draft Guidance on Part 2 of the Act applied the existing provisions of Part VA of the Local Government Act 1972 to executive committees of the authority but proposed adding a further exemption, more limited in scope, to enable cabinets to deliberate in private. The effect of the Partnership Agreement is to remove that proposed exemption. The draft guidance will be amended to reflect this, and the consultation will draw attention to this.

### Area Committees

8. The Partnership Agreement stated that the Assembly would encourage the formation of Area Committees with delegated powers and budgets. The draft guidance recognises that area committees can play an important role in giving local people a voice in the decision making process and outlines various ways in which area committees might achieve this. It also spells out that executives may delegate powers and budgets to such committees, so long as this does not detract from efficiency, transparency and accountability in decision making.

9. The attached paper on the "fourth option" makes clear that the Assembly sees an important place for area committees in non-executive arrangements also.

### Alternative arrangements

10. Section 31 of the Local Government Act 2000 enables the Assembly to make available to local authorities in Wales the option of non-executive arrangements, described in the Partnership Agreement as a "fourth option". As a matter of equity, this option would need to be available to all Welsh principal councils.

11. Section 32 of the Act allows the Assembly to specify what these alternative arrangements might be. The attached draft consultation paper puts forward proposals which are designed to secure efficient, transparent, and accountable decision making. It is intended that this matter

be the subject of wide consultation, including discussion at the Partnership Council, after discussion at the Committee.

## Timetable

12. The introduction of these new proposals has an inevitable effect on the previously agreed timetable. The revised timetable attached as **Annex 2** allows a further three months for consultation on Part 2 of the Act, including the proposals on the fourth option. It is proposed that the Assembly legislation should come into effect on 28 July 2001, at the same time as the Act itself. Local authorities are then to be given a period of 6 months during which they must consult with their local electorates and interested parties and then submit their proposed new structures. The Assembly has powers to set by order the date by which all authorities must send their proposals to the Assembly. On the timetable proposed, this date would be 31 January 2002. The original target of all new structures being in place by May 2002 could still stand.

## **Compliance**

13. Section 106 of the Act, which the Assembly has already brought into effect, enables the Assembly to introduce the items of secondary legislation and guidance which form the basis of the consultation exercise. Guidance on Part 2 of the Act is issued under Section 38.

## **Action**

14. The Committee is invited to comment on the contents of this paper and its attachments. The Committee may wish to discuss these matters further at the end of the consultation period.

## **Contact**

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## "THE FOURTH OPTION": ALTERNATIVE ARRANGEMENTS UNDER SECTION 32 OF THE LOCAL GOVERNMENT ACT 2000

### Introduction.

1. 'Putting Wales First' commits the Assembly to implement in a co-ordinated and systematic fashion, the new primary legislative framework established by the Local Government Act 2000. Within a programme of secondary legislation and statutory guidance (an 'Assembly Local Government Bill'), councils will be:

(a) required to meet in the open under the terms of the Local

Government (Access to Information) Act;

(b) given the opportunity to form area committees with delegated powers and budgets;

(c) offered a fourth option of adopting a modernised committee structure with enhanced scrutiny powers in place of the Cabinet system.

2. This paper discusses the way forward with regard to the fourth option, to be made available by regulations under Section 32 of the Local Government Act 2000 ("alternative arrangements").

3. Under this option an authority would not operate an "executive" in the sense of the Act, but it must nevertheless have scrutiny committees and a committee structure that is efficient, transparent and accountable in line with the principles of the Act. It is important to emphasise therefore that an alternative arrangement does not and cannot mean local authorities maintaining existing committee structures or methods of working (i.e. the status quo). The fourth option would have to demonstrate streamlining of committees and clear delegation of responsibilities for decision making. It would need to complement the role of councils in seeking Best Value and providing community leadership.

4. It is also important to stress that the introduction of the fourth option does not in any way invalidate the work which most authorities have done already on executive arrangements. The National Assembly envisages that most authorities in Wales will want to proceed to introduce executive arrangements as they have been planning to do. They will have the National Assembly's full support in doing so. A small number of authorities do however have problems in matching their local circumstances to the detailed definitions of executive arrangements set out in the Act. The fourth option is seen primarily as being of interest to them, although as a

matter of equity it will be made available to all authorities.

## The Way Forward

5. The Assembly intends to offer a simple and easily understood single set of alternative arrangements. This would have mandatory requirements, but it would also contain significant discretionary elements to give local authorities the flexibility to tailor it to their local circumstances.

6. The key features would be as follows:-

(a) The full Council would retain the role of agreeing the constitution, including the scheme of delegations. The scheme of delegations would need to make it clear that the full council was responsible for debating and agreeing the overall policy and financial framework within which all decisions should be taken. This would include the approval of the budget and the adoption of strategic plans. Within this framework, the remaining functions of the Council (other than development control and licensing functions and any other quasi judicial functions) would be delegated to a Committee of the Council, referred to in this paper as the Board of the Council. The Board, in common with all committees of the Council to be created under the fourth option (other than Area Committees) would not be exempted from the political balance requirements. It would have a maximum of ten members or 20% of the Council (whichever is greater).

(b) The Board of the Council would be able to delegate to individual Board members or sub-committees of its members, and if the Council wished to establish Area Committees, to those Area Committees also. The scheme of delegations, including financial or other limits on delegated authority, would need to be approved by the full Council. The constitution might provide that the scheme of delegation was to be reviewed annually by the full Council but the main delegation to the Board would have to remain a fundamental element.

(c) If the Area Committee option is chosen, the Council's constitution must specify at least three areas, each containing a minimum of 15% of the authority's population, and such that all members of the Council are members of one and only one Area Committee. The chair of an Area Committee may be a member of the Board.

(d) The Council's constitution shall also provide for the delegation of development control, either to a Planning Committee (whose Chair is to be a member of the Board) or alternatively to Area Committees. In any event the Council's constitution shall provide that the Board of the Council shall have power to direct that any

such delegated decision shall be referred to a meeting of the full Council for decision. The Council's other quasi-judicial functions such as licensing shall similarly be delegated, either to the Planning Committee or to a single, separate committee.

(e) The Council's constitution shall create one Scrutiny Committee referred to in this paper as the Principal Scrutiny Committee of which no member of the Board may be a member. Where there is more than one recognised party group on the Council, the chair of the Principal Scrutiny Committee shall not be a member of the same party group as the chair of the Board.

(f) The Council's constitution shall create not fewer than three or more than six further scrutiny committees of each of which up to three Board members may be members (but may not be the Chair), referred to in this paper as Subject Committees. The constitution shall provide that each Subject Committee shall not be a decision-taking committee but shall have an important role in reviewing and making proposals to the Board or to the Council itself for the development of council policies, as well as scrutinising decisions taken by the Council. However the constitution may not fetter the Board's freedom of action by requiring that matters be routinely considered by subject committees before decisions are taken by the Board. The limitation on the number of formal subject committees is not intended to preclude the establishment of informal member or member/officer working groups to tackle cross-cutting task and finish policy reviews.

(h) All Board and committee decisions would take place in public with full public access to relevant papers, in accordance with the requirements of Part VA of the Local Government Act 1972 (inserted by the Local Government (Access to Information) Act 1985).

(i) Decisions which fell outside the policy and financial framework would need to be referred back to the full council. The Principal Scrutiny Committee, and the Subject Committees, exercising their scrutiny role, would have powers to refer back any decision made but not implemented which they believed did not comply with the scheme of delegation or the policy and financial framework agreed by the council. An appropriate mechanism by which the Council could call in and review decisions of the Board before they are implemented would form part of the scheme of delegation.

(j) No committee would have a membership of more than 10 or 20% of the Council, whichever is the larger (except for area committees). Any Planning Committee (or Area Committee to which development control decisions were to be delegated) would be required to have a minimum membership of eight.

Committee chairs are to be equitably shared between party groups.

(k ) Nothing in the council's constitution is to inhibit the ability of the Council's committees to delegate functions to officers of the Council.

## Annex 2

### REVISED TIMETABLE FOR IMPLEMENTATION OF THE LOCAL GOVERNMENT ACT 2000

29 <sup>th</sup> November	LGH Committee considers proposed fourth option and other changes introduced by Partnership Agreement.
8 <sup>th</sup> December	Addendum to draft guidance issued covering alternative arrangements, access to information
28 <sup>th</sup> February 2001	Closing of consultation.
late February - March	LGH Committee discusses results of consultation
12 <sup>th</sup> July (subject to OCG / Business Committee)	Target date for Plenary debate to complete legislative process
28 <sup>th</sup> July	Legislation and Statutory Guidance into force
1 <sup>st</sup> August	Local authorities open consultation process on new arrangements
31 <sup>st</sup> January 2002	Local authorities to submit proposals to Assembly
31 May 2002	New arrangements in place