

# **LOCAL GOVERNMENT AND HOUSING COMMITTEE**

**WEDNESDAY 20<sup>TH</sup> MARCH 2002**

## **CHANGES IN THE CONSTITUTIONS OF LOCAL AUTHORITIES FOLLOWING THE LOCAL GOVERNMENT ACT 2000**

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### **Purpose**

1. To inform the Committee and seek its views on the changes in the political structures of principal councils, introduced under the provisions of Part 2 of the Local Government Act 2000.

### **Summary and Recommendations**

2. The Committee is invited to note the contents of this report. In particular:
  - All principal councils submitted proposals for their new structures, as required, by the end of January 2002.
  - 19 authorities have indicated their intention to operate leader and cabinet models, with the other three – Gwynedd, Merthyr Tydfil and Powys – choosing to operate alternative arrangements (the Fourth Option).
  - Amongst authorities that stated a preference (17), in no case have the authority proposed an option different to that preference.
  - 16 authorities have been informed that their proposals fully meet statutory requirements. Further information is required from the other 6. In the case of Conwy, this will involve further consultation.

### **Timing**

1. Local authorities were required to submit proposals for new political arrangements by 31<sup>st</sup> January 2002. They are then expected to bring their new constitutions into line with

their proposed structures, in time for them to operate from the end of May this year. The committee has been involved in monitoring this process since 1999.

## **Background**

2. The Local Government Act 2000 ("the Act") was enacted on 28<sup>th</sup> July 2000, with most of its provisions, including a suite of secondary Assembly legislation, coming into force one year later.

## Executives

The Act introduced the concept of executive, or cabinet, style governance for local authorities. Local authorities were offered a menu of different executive models from which they could choose. These were:

- An elected mayor plus a cabinet
  - A leader plus a cabinet chosen either by the leader or the council
  - An elected mayor plus council manager
1. In all forms, neither the council chair nor vice chair could be a member of the executive. The executive, other than in the "council manager" option, has a maximum size of 10. Rules on political balance do not apply to executives.
  2. Regulations introduced by the Assembly set out what functions of the council must not be or may not be executive functions. The net effect is to leave the majority of decision-making power in the hands of the executive with the whole council maintaining the functions of approving the budget, the overall strategy of the council and quasi-judicial functions such as development control and licensing.
  3. Local authority executives may, in turn, delegate their powers to individual members of the executive, to a sub-committee of executive members or to an officer of the council.
  4. The Assembly has, in addition, introduced regulations to allow the delegation of executive functions to area committees, joint committees with other councils or to another local authority (or its executive) altogether. The Act defines an area committee as one which contains no more than 40 percent of the population or the area of an authority. It includes all the members within its area.

## Alternative arrangements – The "Fourth Option"

5. The Act was amended shortly before its final reading in order to allow small district authorities in England to opt out of executive arrangements and to operate a streamlined committee system. The Assembly was also given regulatory power to allow this option in Wales. The Partnership Agreement of October 2000, establishing the coalition government in Wales, included the pledge that all Welsh authorities would have this option.
6. The Assembly used its regulatory powers to design these alternative arrangements according to the needs of Welsh local government. They retain a corporate decision taking focus appropriate to the wider powers of a unitary authority while addressing some of the practical difficulties encountered by authorities which had area committees which did not fit the definition laid down for the executive model (see para 7), or which had a tradition of independent or politically balanced leadership which did not fit well with a model based on "Westminster" lines.
7. The Assembly regulations set up a Board of the Council, a politically balanced committee of the council which would have very similar powers to an executive but which could be marginally bigger in larger authorities and would be subject to override by the full council at any time. There would be a Principal Scrutiny Committee as watchdog over the Board. This committee could have sub committees which included members of the Board, in order to encourage collective debate on policy and service development. Area committees could be far more flexible in their size and number.

### Overview and Scrutiny

8. Mirroring to an extent the role Assembly Committees, the Act establishes that all authorities must establish overview and scrutiny committees. These have the power to scrutinise decisions of the executive or committees of the council, to refer matters back to the council for discussion, and to more generally review matters which are relevant to the area of the council - including those which go beyond the direct functions of the executive or council (e.g. healthcare or crime).
9. No member of an executive can belong to a scrutiny committee but they can include non-councillors (who cannot vote, except in the case of church and parent governor representatives on education scrutiny committees). Scrutiny committees can summon executive members and officers to attend their meetings. Their membership must be politically balanced. Assembly guidance recommends that councils consider giving all or some of the chairs of these committees to opposition members. It also recommends a separate Audit Committee, similarly chaired by an opposition member.

### Access to information

10. The Assembly has been commended quite widely on having more straightforward regulations on openness than is the case in England. In Wales, all cabinet decisions must be made in public (though they may "deliberate" in private). All decisions of an executive, even if delegated to an individual, must be recorded together with the

associated reasons for those decisions and must be accessible to the public.

## **Consideration**

11. Most Welsh local authorities have been operating an interim cabinet model for some time, in advance of the legislation coming into force. This has required them to agree ways of ratifying cabinet decisions, where the cabinet is not politically balanced. They have generally found that this model has worked well as far as taking decisions is concerned. This was reflected in the fact that 15 authorities expressed a preference for the leader and cabinet model in their consultation material. Two other authorities expressed a preference for the fourth option, leaving 5 who declined to express a preference.
12. Local authorities were required to carry out a consultation following which they submitted proposed models to the Assembly by the end of January 2002. 19 out of the 22 authorities submitted proposals for leader and cabinet models while the other 3 opted for alternative arrangements. In no instances have authorities proposed to operate a model different to that which was their stated preference.
13. 16 authorities have been informed that their proposals fully met statutory requirements. These are:

Blaenau Gwent

Bridgend

Caerphilly

Carmarthenshire

Gwynedd

Isle of Anglesey

Merthyr Tydfil

Monmouthshire

Neath Port Talbot

Newport

Pembrokeshire

Powys

Swansea

Torfaen

Vale of Glamorgan

Wrexham

14. There are a further 6 councils from whom further information is required. In most cases, this is technical information and it is likely that the authorities will be able to meet statutory requirements without difficulty. In the case of Conwy County Borough Council, however, they have decided to conduct further consultation and review their proposals on its completion.
15. Following this, it is expected that authorities will formally adopt their new constitutions and political management structures by the time of their 2002 Annual General Meetings, normally held in May.

## **Compliance**

16. The information in the background notes (above) relates to various provisions of Part 2 of the Local Government Act 2000. Section 25 of the 2000 Act require proposals be submitted to the Assembly in line with directions issued under subsection (5). Guidance on executive arrangements was issued under the provisions of section 38.

## **Contact point**

Local Government Modernisation Branch 2