

## LOCAL GOVERNMENT AND HOUSING COMMITTEE

### POLITICAL MANAGEMENT STRUCTURES – CONSIDERATION OF RESULTS OF CONSULTATION EXERCISE

#### Purpose

1. This paper is submitted for information

#### Summary

2. This paper is to inform the Committee of the nature of the responses received to the consultation exercise on Part 2 of the Local Government Act 2000. **As the exercise does not close until 28<sup>th</sup> February, this paper covers the responses received at the time of writing.** (In addition, the Assembly is co-hosting a conference with the WLGA, District Audit and Syniad on 28<sup>th</sup> February which will focus on Part 2 of the Act and will provide a further input to the consultation).

#### Background

3. The Local Government Act 2000 gained Royal Assent on 28<sup>th</sup> July 2000. Its provisions will come into effect in Wales one year from this date, including the various items of secondary legislation which will be considered by the Assembly.
4. Draft Guidance for Wales on Part 2 of the Act (covering political management structures) was produced in September 2000. Although the original timetable asked for responses by the end of November 2000, this was extended until 28<sup>th</sup> February in order to allow time for consideration of additional papers on Access to Information, Area Committees and Alternative arrangements ("The Fourth Option"), introduced as a result of policies included in the Partnership Agreement. **All these papers were circulated to Committee members.**
5. Related draft statutory instruments have also been the subject of consultation over this period and this process is continuing.

#### Consideration

6. Responses to date have been received from a number of local authorities and other organisations. The subjects on which they have concentrated can be allocated to the following headings:
  - The Fourth Option

- Access to information
- Role of scrutiny committees
- Consultation on new structures.

## ***The Fourth Option***

7. The consultation paper "*The Fourth Option*" : *Alternative Arrangements under Section 31 of the Local Government Act 2000* was circulated in the first week of January 2001

8. The response to the Fourth Option proposals has been mixed. Supportive comments have come from those authorities who were experiencing difficulty in matching the legislative requirements on executive arrangements (such as the limits on size of area committees to no more than 40% of the population or area of the authority, or the limit on size of cabinets to 10) with local circumstances. Other authorities have criticised the arrangements as being too inflexible and have expressed a preference for more loosely defined structures. They have raised the point that the DETR's Guidance on Part 2 is less prescriptive in certain aspects about the structure of committees.

9. The Assembly has held the view that it is not appropriate to compare Welsh Principal unitary authorities with small English shire districts existing within two tier authorities (who are permitted to operate alternative arrangements). The powers vested in Welsh local authorities are far greater and this suggests that the decision-making procedures require clearer definition in the regulations. The majority of Welsh authorities have already made considerable progress in adopting executive procedures. However, the Assembly also recognises that a small minority of authorities were facing difficulties in complying with the requirements on executive arrangements. It was therefore possible and practical to design alternative arrangements which particularly met their needs but which could also be utilised by other authorities.

10. Comments have also been received which criticise the proposals to limit the size of the Planning Committee to 20% of the members of an authority and to make the Chairman of Planning a member of the Board of the Council. The limitation on the size of the committee is in keeping with the need to make council procedures more efficient and transparent through a streamlining of the committee structure. The precise limit could be a matter for discussion.

11. Under executive structures, Planning decisions would not be an executive function. It would not therefore be appropriate for the Chairman of Planning to be a member of the Executive. Under alternative arrangements, however, there is no obvious need for this clear distinction. The views of the Committee on this matter would be welcomed.

12. The alternative arrangements draft guidance stipulates that the chair of the principal scrutiny committee should be from a different political party than the chair of the Strategic Board. The views of the committee would be welcomed on whether this should be recommended practice for executive arrangements too.

## ***Access to information***

13. The Partnership Agreement stated that *"we will require Council cabinets to meet in the open under the terms of the Local Government (Access to Information) Act"*. The revised chapter 5 of the Draft Guidance on Part 2, distributed in early January 2001, detailed these arrangements.

14. The majority view received in writing to date has been supportive of the Assembly's position. There has also been a strongly put opinion in favour of authorities having discretion over this matter. It has been argued that forcing executives to make decisions in public will ensure that "real" decision-making takes place in Party groups outside of the authority's constitutional structure without officers being present to advise.

15. On balance, the Assembly has held the view that the gain in freedom of information by cabinets having to be seen to make their decisions and give their reasons in public gaze outweighs this argument. To address the issue of executives being able to deliberate and 'think the unthinkable' in private with the benefit of officers' advice, the Assembly guidance could be amended to make it clear that Cabinet members may meet in private for the purposes of deliberation, with officers present to advise them, provided that they did not take decisions at those meetings which were not covered by the exemptions.

## ***Scrutiny***

16. Comments on scrutiny have focussed on two areas: the need to stress its policy development function and the issue of providing supporting staff for scrutiny committees.

17. Section 21 of the Act makes clear that overview and scrutiny committees have two prime functions: firstly, to scrutinise decisions of the executive and, secondly, to make reports and recommendations to the executive of the authority or the full council.

18. Scrutiny committees have a vital role to play in ensuring that the authority seeks continuous improvement in all that it does. This is particularly important in relation to Best Value, where overview and scrutiny committees have a potentially crucial role to play in ensuring that executive members and officers are genuinely seeking to identify the best options all round for the local community, rather than just looking for marginal improvements in existing services.

19. The Draft Guidance makes clear that it is up to individual authorities to decide whether or not to have officers dedicated to the scrutiny function. This is clearly both a matter of policy and resources. If an authority feels it is unable to afford separate staff for the scrutiny function, it will nevertheless be essential that staff are appropriately trained in the support of this function and also are able to separate any work done in support of scrutiny committees from other work performed for the authority or its executive.

## ***Local authorities' consultation exercise***

20. A number of authorities have raised concerns about the Guidance on consultation from two points of view: first, it will be costly and resource consuming and, secondly, they have done it once already.

21. It is a requirement of the Act that local authorities should consult with their electorates and interested parties before submitting their proposals to the Assembly (before the end of next January). This clearly cannot be achieved without some investment of resources. However, the Assembly will produce guidance on how to conduct consultation later this year and is collaborating with District Audit in a seminar to be held in May. There are a variety of ways in which authorities can engage with their electorate and some may present more economic options, taking account of previous exercises.

22. Although it is true that some authorities carried out quite thorough consultation exercises before introducing pilot executive arrangements, this will have taken place well before the primary legislation was passed. As a result, consultation cannot have offered the electorate the full range of options offered by the Act; this they must now do.

## **Compliance**

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

## **Action**

24. The Committee is invited to comment on the contents of this paper and on any other matter relevant to the consultation.