

Communities, Equality and Local Government Committee

Meeting Venue:

Committee Room 2 – Senedd

Meeting date:

26 March 2015

Meeting time:

09.00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda – Supplementary Documents

Consultation Responses to the Local Government (Wales) Bill

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

6 Consultation Responses to Local Government (Wales) Bill (Pages 1 – 95)

Agenda Item 6

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Bil Llywodraeth Leol (Cymru)

**Ymatebion i'r Ymgynghoriad
Mawrth 2015**

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Communities, Equality and Local Government Committee

Local Government (Wales) Bill

**Consultation Responses
March 2015**

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*Ar gael yn Gymraeg | *Available in Welsh

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WLGA and SOLACE Evidence

Communities, Equality and Local Government Committee

Local Government (Wales) Bill

February 2015

Introduction

1. The WLGA and SOLACE welcomes the opportunity to give evidence to the Committee's inquiry into the general principles of the Local Government (Wales) Bill [the Bill].
2. Local government engaged constructively with the Williams Commission and has since sought to work with the Welsh Government in determining a collective response to the Williams proposals. Whilst the Williams Report covered all public services and made many broad recommendations, much of the debate has since focused on structural reform of local government. From the outset, local government through the WLGA recognised the need for some structural reform noting in its submission to the Williams Commission that:

“We fully accept that the current structure of twenty two councils is essentially contested but any proposals for structural change must clearly demonstrate a compelling case for change supported by hard evidence.”

3. The Reforming Local Government White Paper in July 2014 set out the Welsh Government's current preferred map of 12 local authorities and confirmed its intention to encourage and incentivise early voluntary mergers. In its response to the White Paper the WLGA stated:

“There is consensus across Welsh local government and the Welsh Government about the need for public service reform. The size of the financial and demographic challenges facing councils is such that their sustainability into the future is an issue. There are however honestly held and passionate views across local government regarding the nature, scale, timing and timescale of such reform and whether proposed structural changes provide the answer.

Local government has responded constructively and proactively to the debate, putting forward discussion documents outlining a vision for local democracy and local government and alternative options for delivering services differently. A number of authorities have also indicated that they are prepared to further explore options for early voluntary mergers.”

4. The Welsh Government published its Prospectus for Voluntary Mergers on 18th September 2014. On 26th September, the WLGA Council unanimously passed the following resolution:

“The WLGA considers that whilst some authorities do not favour mergers, there are a number of authorities that are prepared in principle to consider voluntary mergers. However, all authorities need considerably more information on the support, including financial support that would be available in order to be in a position to develop a sound business case.”

5. There was overwhelming support, at least in principle, within local government to explore opportunities for voluntary mergers. Three formal expressions of interest, from six authorities, were submitted to the Minister for consideration by the 30th November 2014 deadline. In addition, a further eight authorities confirmed that they were prepared to consider mergers, but either did not have willing merger partners or were constrained from proposing alternative options which required boundary changes. Two authorities were determined as ‘stand alone’ authorities in the map of twelve.
6. Although the formal expressions of interest were rejected on 27th January 2015, the Welsh Government continues to encourage voluntary mergers and intends to produce a further local government map by the Summer 2015.

Comments in response to the Committee’s Terms of Reference:

1. the general principles of the Local Government (Wales) Bill and the need for legislation to:

- **enable preparations to be made for a programme of local government mergers and reform;**
 - **allow Principal Local Authorities to merge voluntarily by April 2018;**
7. The Bill (Section 11 onwards) sets in place appropriate and non-contentious arrangements to enable the preparation for voluntary mergers and subsequent ‘enacted’ mergers of local authorities. The Bill features mechanisms and governance arrangements, such as transition committees and shadow authorities, which are common to previous legislation which initiated the reform of principal authority structures.
 8. There are two sections however which may require further clarification and/or consideration at Stage 2 scrutiny:
 - a. Section 29(1) states that a merging authority cannot undertake certain transactions without providing the detail specified in S29(3) to the transition committee and considering its opinion. However S29(3) does not specify what detail is to be provided.
 - b. Section 31(1) is intended to control land transactions. It governs any transaction where the ‘consideration for the acquisition or disposal exceeds £150,000’. The legislation therefore would not stop a disposal at an undervalue (or for free); for clarity this section could refer to ‘land value’ rather than the more technical legal term of ‘consideration’.
 9. Sections 3-10 set out arrangements relating to the Voluntary Mergers of local authorities. The most significant challenge to this part of the Bill is provision of early clarity and the manageability of timescales (the risks of the electoral review process is explored further below). The Bill allows Ministers to make a range of regulations relating to the governance arrangements of voluntary merging authorities, such as the establishment of transition committees and shadow authorities. The dates for the establishment of these are therefore not on the face of the Bill and are not considered in detail in the Explanatory Memorandum. The WLGA however raised a number of points during consultation on the Reforming Local Government White Paper in September notably that

- for voluntary mergers there was only a proposed 6 months shadow authority period compared to 12 months for later mergers. 6 months is a very short period of time for transition and set up given need for senior officer recruitment, business and financial planning and continuity, establishment of governance arrangements and hand-over.
10. Sections 3-10 relating to the Voluntary Mergers of local authorities appears unusual if not unique in Assembly legislation, as noted in the Explanatory Memorandum, as the Bill seeks to retrospectively give powers to Welsh Ministers (to issue guidance which has already been published i.e. the Prospectus) and to authorities (to make applications for voluntary mergers) before the Bill has been enacted.
 11. It is well documented that whilst the Welsh Government's current preferred map is the Williams Map of 12 authorities and Welsh Ministers now intend to produce a new map by the Summer 2015. Until a new map is produced, it is unlikely that any further expressions of interest or formal proposals for merger will be submitted, as was recognised by the Minister for Local Government in his evidence to Committee on 5th February 2015.
 12. The absence of a final agreed map therefore means that it is difficult to assess the practicability and costs of the Bill in entirety. In particular, the timescales between the anticipated Summer publication of a map and the 30th November 2015 deadline (*or such later date as per (S3(1))*) does impact significantly on the practicability of voluntary mergers – this would allow only around five months to develop a fully costed, consulted upon voluntary merger proposal, compared to the original Prospectus timetable of ten months (from publication of the Prospectus to deadline of 30th June 2015).
 - **amend provision in the Local Government (Wales) Measure 2011 relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates for election as councillors;**
 13. The WLGA supports the provisions in the Bill (Sections 25-27) relating to amending the powers of the Independent Remuneration Panel for Wales with regards undertaking preparatory reviews of remuneration for future Shadow Authorities and/or new Principal Authorities.
 14. The WLGA has been in correspondence with the Welsh Government with regards the implications of the definition of Chief Officers (S35(2)) (for the purposes of the extension of the Panel's remit) as defined in the Localism Act 2011. The WLGA has queried this on the basis that the Localism Act's definition of Chief Officer was based on that of the Local Government and Housing Act 1989 which was introduced for the purposes of political restriction rather than determination of salary levels. The statutory Chief Officer definition therefore also includes 'Deputy Chief Officers' who are described as an officer who '...report directly or is directly accountable...chief officers'. This means that the Panel's workload could be unintentionally but significantly affected by having responsibility for managing pay policy and salary determinations for numerous comparatively junior local government employees.
 15. There are also wider potential implications of the Panel making recommendations as to the level of pay for Chief Officers (from the date of commencement until 2020) which would need to be further considered and covered in Guidance. The Panel's remit would appear to apply to any Chief Officer vacancy that might arise during that period. Notwithstanding the above difference in interpretations around the definition of Chief Officers, the provision will prove challenging in practice if it is applied to individual Chief Officer vacancies in an authority with a number of incumbent Chief Officers. For example, a Chief Officer vacancy arises in an authority with a Senior Management Team of 5 Chief

Officers; the Panel recommends a lower salary for the new post than the other current Chief Officers. The authority will then have to consider either the contractual implications of reducing the salaries of the 4 other Chief Officer posts in line with the Panel's recommendation or discriminate against the one Chief Officer post. Furthermore, there would be equal pay implications if the authority applied the Panel's determination only to the vacant post, where the incumbent Chief Officers were men and the authority decided to appoint a woman to the vacant lower paid Chief Officer role.

16. The WLGA supports S36 which increases the Panel's membership from five to six, which is appropriate given anticipated workload in advance of any mergers, notably around members' remuneration and senior officer salaries.
 17. The WLGA welcomes the amendments to the Local Government (Wales) Measure 2011 regarding the survey of candidates and councillors, these amendments have been shaped by feedback from authorities' experiences of the first statutory survey in 2012. The survey could be further improved with the inclusion of additional qualitative questions, however, this is a matter for regulations.
 - **amend provision in the Local Government (Democracy) (Wales) Act 2013 relating to electoral reviews.**
 18. The provisions relating to electoral reviews (Sections 16-24 and 38) are deemed necessary to provide the Local Democracy and Boundary Commission [the Commission] to undertake any preparatory or electoral review work as early in the merger process as possible. A significant responsibility is placed on the Commission as the electoral review process presents a potential risk to the effectiveness and timeliness of the local government reform programme.
 19. Preparatory work and an early Ministerial direction to conduct an initial electoral review are critical given the potential time and capacity constraints of a local government reform programme. An early direction, for example, in the second anticipated Local Government (Wales) Bill 2016, in advance of enactment however does present (albeit a small) potential risk that early electoral review work could be made redundant should a 'proposed principal area' as set out in a Bill alter as a result of any amendments to the map during the passage of that Bill.
 20. Section 23 appears to introduce a significant 'back-stop' power for Welsh Ministers to make 'electoral regulations if no recommendations [are] made' by the Commission by the date set out in any direction. Whilst a back-stop power may be necessary, this is a significant Ministerial power particularly as the Explanatory Memorandum notes that there is 'No Assembly procedure' for this subordinate legislation. The WLGA and SOLACE believe that whilst a reserve back-stop power may be necessary, the Bill should be amended at Stage 2 to ensure that there adequate consultative safeguards are put in place. S23 currently outlines that should a Minister need to make such regulations, any evidence gathered through the Commission's investigation and consultation should be passed to Welsh Ministers to inform their decision which the WLGA and SOLACE would support, however, it appears Welsh Ministers can then make regulations on electoral arrangements for a proposed principal area without any consultation on the final proposals. The Bill should therefore be amended to ensure that Welsh Ministers also have to follow the Commission's consultative procedures (as set out in Section 20(3) and (4) and produce a final report with publication and local (and mandatory) consultation for between 6 and 12 weeks.
- 2. any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,**

21. The most significant potential barrier to the implementation of the Bill's provisions is whether any authorities decide to make an application for voluntary merger following the publication of a revised map in the Summer. Similarly, successful implementation is dependent on whether any application fulfils the criteria set out in the enacted Bill and any accompanying guidance and whether the appropriate preparatory electoral review work can be completed expeditiously.
22. The resourcing of any voluntary mergers (or enacted mergers) is still an issue of some debate (as was reflected in the Committee's discussions on 5th February); the totality of predicted costs is contested and it remains unclear how (and by whom) any mergers will be funded.
23. Although perhaps unlikely, it also appears a possibility that a voluntary merger process started before the end of this Assembly term could be 'revoked' before completion by a new Welsh Minister in the fifth Assembly term, if for example, an alternative map was introduced by a new administration through a new Bill.

3. whether there are any unintended consequences arising from the Bill,

24. The WLGA is not aware of any unintended consequences arising from the Bill, other than any outlined above.

4. the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum),

21. The financial implications of the Bill appear to be appropriate as far as they go in terms of assessing the costs of known factors, such as the potential cost implications on the Local Democracy and Boundary Commission, the Independent Remuneration Panel and the establishment of Transition Committees and Shadow Authorities.
22. As noted above however, the regulatory impact assessment can only be completed and any financial implications considered when an agreed map is produced and the costs and benefits of (voluntary or enacted) mergers of authorities have been fully and robustly assessed.

5. the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

23. The powers for Welsh Ministers to make subordinate legislation appear appropriate and proportionate (noting the reference to powers under Section 23 above).

Pwyllgor Cymunedau, Cydraddoldeb a
Llywodraeth Leol

Communities, Equality and Local Government
Committee

Cynulliad
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Wales



LG 01a

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Bae Caerdydd / Cardiff Bay

Request from the Committee for additional information

Caerdydd / Cardiff

Daniel Hurford

CF99 1NA

Welsh Local Government Association

4 March 2015

Dear Daniel

Local Government (Wales) Bill evidence session – 26 February 2015

Thank you for attending the evidence session on the Local Government (Wales) Bill on 26 February, along with your colleagues representing local government.

There are a number of issues that the Committee did not have an opportunity to explore with you and your colleagues during the session, due to time constraints. These are set out below:

- To what extent are you content with the provisions in the Bill relating to establishing transition committees and the way in which they will operate?
- Do you agree that the Minister needs to be given a power of direction over transition committees, and if so, why?
- Is it appropriate that audit and scrutiny committees of local authorities will not be able to exercise their functions in relation to anything done by a transition committee? If so, will transition committees be sufficiently accountable, and to whom?
- As only members will be allowed to vote on transition committees, what role do you envisage senior officers having as those committees make preparations for merger?
- Can the WLGA expand on its comments on the July 2014 White Paper that the merger programme “could impact negatively on general officer capacity and expertise as well as on-going service delivery”? How could this be addressed?
- Are there any other particular issues around staffing that would cause concern to local government in respect of mergers, including their views on the role of the Staff Commission?

- In its comments on the July 2014 White Paper, the WLGA raised concern that there were no details about council tax and that “the Welsh Government will have to be clear what its council tax policy is regarding harmonisation”. Have these concerns been addressed?
- What are your views on how issues around the use of the Welsh language should be dealt with when authorities merge, and what role will there be for the WLGA and leaders in this?

It would be helpful if you could submit a co-ordinated response by Friday 13 March.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Christine Chapman'.

Christine Chapman AC / AM

Cadeirydd / Chair

Communities, Equality and Local Government Committee
Local Government (Wales) Bill: Stage 1
Response from the Welsh Local Government Association

WLGA Response to Supplementary Questions:

Communities, Equalities and Local Government Committee Scrutiny of Local Government (Wales) Bill

March 2015

To what extent are you content with the provisions in the Bill relating to establishing transition committees and the way in which they will operate?

The general provisions appear appropriate, subject the commentary below. It should also be noted that the Explanatory Memorandum indicates that the costs of Transition Committees would be an additional cost of c£2m for local authorities over a four year period and that these costs had not been included in the CIPFA calculations for the Transitional Costs, Benefits and Risks of Local Government Reorganisation.

Do you agree that the Minister needs to be given a power of direction over transition committees, and if so, why?

A Ministerial power over direction may be an appropriate back-stop power which might be used, for example, where transition committees were not able to conclude their business before statutory deadlines or where there was significant local disagreement over future direction. It would however be a potentially significant power which would arbitrate over and potentially over-rule local democratic decision-making processes. Clear criteria and guidance should therefore be outlined clarifying why, how and when such Ministerial powers could be used.

Is it appropriate that audit and scrutiny committees of local authorities will not be able to exercise their functions in relation to anything done by a transition committee? If so, will transition committees be sufficiently accountable, and to whom?

Transition committees would be advisory rather than decision-making bodies (S13(1) states that such committees would provide 'advice and recommendations' to merging authorities and shadow authorities). It may therefore be appropriate that audit or scrutiny committees could subsequently exercise their statutory roles when merging authorities or shadow authorities consider or make decisions based on the advice and/or recommendations of transition committees.

As only members will be allowed to vote on transition committees, what role do you envisage senior officers having as those committees make preparations for merger?

Officers would prepare reports, provide appropriate advice, guidance and information as appropriate and as requested by the committees, as is the approach for other local government committees.

Can the WLGA expand on its comments on the July 2014 White Paper that the merger programme “could impact negatively on general officer capacity and expertise as well as on-going service delivery”? How could this be addressed?

Are there any other particular issues around staffing that would cause concern to local government in respect of mergers, including their views in the role of the Staff Commission?

The WLGA's White Paper Response stated that: ‘...in the last re-organisation all staff rather than the very senior officers were guaranteed a job, this is unlikely to be the case in a climate of continuing local government funding cuts. This situation would make the staffing issues more difficult (and more costly), rather than easier. Staff who will not be guaranteed jobs in the new authority may seek alternative employment and this could impact negatively on general officer capacity and expertise as well as ongoing service delivery.’

Much of the Welsh Government's analysis and narrative around the ‘cost-cutting’ agenda of mergers has focused on reduced number of senior officers or reduced number of councillors; the reality is however that a significant number of jobs will be lost at all levels as a result of the merger process. Councils are of course already making significant reductions to workforces as a result of the current financial pressures, in advance of any potential merger reform programme. This will have a potentially significant impact on local employment and economies, as councils are not only the largest local employers but ensure that employment opportunities are distributed throughout Wales’ communities.

Notwithstanding the above issues which relate to impact on morale and the retention of staff to maintain core local services in a period of significant reform, there will be the inevitable impact on capacity given the officer resources required to plan for and manage the merger process. The CIPFA analysis suggested that dedicated senior teams would need to be established to manage mergers – estimated at around 20 staff for a merger of 2 authorities and 30 for a merger of 3 authorities. Corporate and senior professional capacity in Welsh local government is already under pressure, as most councils have already significantly reduced their corporate centres and senior management teams as a cost-saving measure during the recent period. Mergers will be an incredibly complex, time-consuming process with significant implications and risk for senior managers who are currently having to manage and deliver services under enormous, unprecedented pressure of finances and public expectation. It is therefore vital that Welsh Government provides adequate capacity and support for the merger process.

Moreover, it is important to consider the age-profile of senior managers who may be most likely to be affected by and expected to manage the merger process. Many senior officers

are in their mid-50s and a longer timetable for a merger programme will have varying risks; as a result many senior officers will have less of a personal stake in the process as a result and, furthermore, many senior managers will and are already seeking redundancy or retirement in the years in the run-up to mergers as a result of the current financial climate. This contraction of senior manager capacity will further mean a significant loss of 'collective memory', will impact on the collective capacity to self-manage to merger process and will require early succession planning, support and development.

In its comments on the July 2014 White Paper, the WLGA raised concern that there were no details about council tax and that "the Welsh Government will have to be clear what its council tax policy is regarding harmonisation". Have these concerns been addressed?

The 2014 White Paper and the Welsh Government Guidance/Prospectus for voluntary mergers were silent on the issue of Council Tax harmonisation. Council Tax harmonisation is however a fundamental issue as was shown with Home Office plans for Police Authority mergers in 2006. It has significant financial as well as legal and political ramifications and impact on the public acceptability of merger plans. Council Tax harmonisation is not addressed through the Bill, but the Welsh Government will have to provide clear guidance around what its council tax policy and legal considerations are regarding harmonisation. Harmonisation of Council Tax may occur under a number of scenarios i.e. council tax may level down to the lowest of the merging authorities, council tax may equalise around the weighted average or council tax may level up to the highest council. According to CIPFA, in terms of ensuring local financial stability the third option is the most prudent. However, even under this scenario there is a significant amount of income foregone of around £57m over 5 years. There are also potential legal issues around setting different council tax levels in different parts of a county. We note that the Minister in his previous evidence to the Committee suggested that the Welsh Government might seek to 'create a situation legally where it is possible, for a transitional period, for authorities to hold different council tax levels in different parts of their authority.' It would therefore be appropriate that such key matters should be addressed through this Bill.

What are your views on how issues around the use of the Welsh language should be dealt with when authorities merge, and what role will there be for the WLGA and leaders in this?

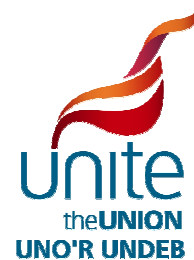
The merger process will be subject to the Welsh Language Standards and the Welsh language implications of merger will be the responsibility of transition committees and shadow authorities. The Williams Commission however noted the need to fully consider the issues of Welsh language with regards the establishment of new authorities: 'We have been particularly mindful of issues around the Welsh language. Several of our respondents urged us to propose boundaries that reflected and sustained public use of Welsh as well as the use of the language as a medium of civic life and administration.' It is therefore important that these issues are covered in guidance (which the Minister confirmed in previous evidence to the Committee) given the potential issue where merging councils have different approaches and policies with regards the use of Welsh in council business and administration, and the

resultant impact on member and officer working, organisational culture and council procedures and policies for the new authorities.



Local Government (Wales) Bill

Unite Wales response



Background

The Local Government (Wales) Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of people working in local authorities across Wales as well as the working for the millions who rely on the services they provide.

General overview

The Welsh Government have recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. The Wales TUC submitted a joint response on behalf of all of the trade unions involved in the Workforce Partnership Council – the social partnership structure for the public services in Wales. The trade union movement argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible. We have been arguing for this for well over 12 months as a response to ever-declining financial settlements and the concurrent push for public service reform.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”¹

We remain concerned for our members that unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce required to deliver them then we will face year on year of redundancies leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public rely on today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

The other general observation from the trade union movement relates to statutory guidance re-issued by the Welsh Government last year – the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code). This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is ‘outsourced’. It provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only have to ‘have regard to’ this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS ‘must’ follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put local government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

Specific Sections of the Bill

The specific sections of the Bill that we intend to concentrate on in our written evidence are set out below. We will be happy to explore these issues further in our oral evidence as well as take any questions on other aspects that Assembly Members may feel affect our membership.

Section 4: Consultation before making merger application

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused us and other TUs extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that the intention of this sub-section is for the authorities to consult with ‘any trade unions or other organisations representing staff employed by....’

The trade union movement has long fought for (and continues to fight for in many workplaces) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions and this clause does not acknowledge this fact, allowing for local authorities to by-pass the recognised workplace trade unions.

We have raised this matter with the Minister for Public Services directly since the publication of the Bill and have sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP) to enable them to make recommendations with regard to these statements. We have very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, we are exploring the relationships between our existing bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model.

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

The final question for the Committee on Section 28 is – is 42 days long enough to enable certainty for staff about arrangements for the new authorities in the event of mergers being imposed rather than volunteered for? We reach no conclusion on this but it is an area that we will continue to monitor closely.

Submitted by Paddy McNaught at Unite Wales

Contact details – paddy.mcnaught@unitetheunion.org



UNISON welcomes the opportunity to comment on the Local Government (Wales) Bill, on behalf of our members employed in Local Government.

UNISON is the largest Local Government trade union in Wales organising over 50,000 members across 22 local authority based branches.

Summary

The Minister for Public Services laid the Local Government (Wales) Bill before the National Assembly for Wales on Monday 26th January 2015.

At the same time he issued a written statement which outlined his rejection of the voluntary merger prospectus he had received.

This piece of legislation outlines the procedures for any authorities going down the route of merger; sets out the legislation for the transition committee arrangements, the electoral arrangements, the remuneration arrangements and restraints for any future merging authorities.

This Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much

uncertainty as possible from the thousands of people working in local authorities across Wales as well the millions who rely on the services they provide.

General Overview

The Welsh Government has recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. UNISON submitted a response to this White paper. UNISON argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”ⁱⁱ

UNISON remains concerned for our members that, unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce required to deliver them, we will face year on year mass redundancies leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public rely on today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

Last year statutory guidance was re-issued on the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code) by the Welsh Government. This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is ‘outsourced’. It provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only have to 'have regard to' this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS 'must' follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put local government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

As stated in our response to the Reforming Local Government White Paper, UNISON would like to reiterate that there is no need for moving powers and responsibilities centrally. By retaining current powers and responsibilities and by expanding their remit, Local Authorities will become more accessible, democratic and accountable. However, with any additional powers or responsibilities must come appropriate funding.

Whilst the Welsh Government is cutting funding to public services and the cuts, largely dictated by the Coalition Government in Westminster, have resulted in highly constrained resources for Welsh local authorities. Mergers, whether voluntary or otherwise, should not become a short-sighted approach to coping with reducing budgets.

Wales cannot have world class facilities in one sector and inadequate servicing in another - there needs to be a consistent approach across the board which provides a commitment to public sector staff. The costs of mergers, whether voluntary or otherwise, should be classified as a new burden on local authorities and therefore fully funded by the Welsh Government - not taken from Local Government budgets at the detriment of local services.

Specific Sections of the Bill

Section 4: Consultation before making merger application

UNISON supports a statutory commitment to consultation before voluntary mergers are undertaken. This section outlines the key individuals and organisations that will be consulted as part of any voluntary proposals to pursue merger under this Bill.

UNISON believes that community groups and local organisations should be continually briefed on the timetable and reorganisation of Local Government so that they are fully aware of all events.

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused us and other TUs extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that the intention of this sub-section is for the authorities to consult with ‘any trade unions or other organisations representing staff employed by....’

UNISON and the wider trade union movement has long fought for (and continues to fight for in many workplaces) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions and this clause does not acknowledge this fact, allowing for local authorities to by-pass the recognised workplace trade unions.

UNISON has raised this matter with the Minister for Public Services directly since the publication of the Bill and has sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

As stated above UNISON welcomes the Welsh Government’s reissuing of the Code of Conduct for Workforce Matters which sets out to prevent the establishment of two tier workforces delivering public services that have been transferred out of the public sector.

In order to address UNISON’s concern that currently Local Authorities only have to have consideration of this Code and are not bound to apply it. UNISON would therefore like to see the Welsh Government extend legislation to make the application of this Code mandatory for all Local Authorities, not just Health bodies.

So, in addition to where Section 10 makes reference to the Transfer of Undertakings (Protection of Employment) Regulations 2006, provision for the statutory application of the Code of Conduct for Workforce Matters with regards to local authority mergers, made as a result of this legislation, should be included.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

It is essential a new Clause is introduced to provide statutory provision for a Public Sector Staff Commission/er to advise on the workforce matters that directly arise out of any voluntary or forced local government merger. Most of the 22 local authorities in Wales have completed the Single Status negotiations and have introduced pay and grading structures and those outstanding will be completed before any mergers are undertaken. As such, the Public Sector Staff Commission should be tasked with advising on a pathway that leads towards a common framework within the public sector in Wales that supports and enables the objective of service integration.

Within the above context, a Public Sector Staff Commission/er should advise on a single pay and grading structure for local government in Wales and arrangements for sector wide bargaining for common terms and conditions within the framework established by the National Joint Council.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP) to enable them to make recommendations with regard to these statements.

The publication of a pay policy statement can better inform the wider general public as to the remuneration of the local government workforce, particularly highlighting the differences between the lowest paid officers and local authority chief executives. In our response to the Reforming Local Government White Paper, UNISON expressed support for “the attempt to ensure openness and transparency” in relation to pay and recruitment.

Mergers between local authorities, whether voluntary or otherwise, can lead to increases in privatisation and outsourcing of public services to private corporations. Section 28 should be expanded to cover the services merged authorities may provide via provision of contract with another public, private or third sector service provider. This will ensure transparency across all public services and uphold the principles behind Section 28 across all local authority public services.

UNISON has, however, had very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, UNISON

and the other trade unions are exploring the relationships between our existing bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model.

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

20 February 2015

LG 03a

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Additional information from Unison Wales



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Christine Chapman AM
Chairperson Communities, Equality and
Local Government Committee
National Assembly for Wales
Cardiff Bay
Cardiff , CF99 1NA

18 March 2015

Dear Christine

I am responding to the further queries that you raised, on behalf of the Communities, Equalities and Local Government committee, in your letter dated 9 March 2015.

UNISON's views on the Welsh Government's proposals for a Public Services Staff Commission

Please see attached UNISON's submission to the Welsh Government on this matter which includes our views on the proposals and timescale. It would certainly seem appropriate, from UNISON's view point, for the Local Government (Wales) Bill to include explicit reference to the proposals to establish a Staff Commission(er) and the important role it could play in ensuring the concerns of staff are appropriately dealt with during the reorganisation of Local Government in Wales. Failure to include the need for the establishment of a commission(er) prior to council mergers, whether voluntary or otherwise, would at best heighten the fears and uncertainties currently being experienced by staff and, at worse, would fundamentally undermine the process and threaten the success of any merger. UNISON would liked to have seen the Public Services Staff Commission(er) created, on a statutory basis, as soon as possible as there is work to be undertaken immediately, on an all-Wales cross public service basis, in relation to workforce planning to mitigate the effects of the financial austerity across the public services, a role we envisage for any Commission(er).

Wording of section 4(1)(g)

As detailed in our submission to your committee: "UNISON and the wider trade union movement has long fought for (and continues to fight for in many workplaces) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions and this clause does not acknowledge this fact, allowing for local authorities to by-pass the recognised workplace trade unions." In other words the

employers and the trade unions have established consultation and collective bargaining mechanisms which is not the case for '*any organisation representing staff*' the formulation used in section 4 (1) (g). Therefore the trade unions would like to see '*any organisation representing staff*' to be replaced with '*recognised trade unions*' failure to do so could be interpreted as an undermining of, long fought for, established recognition and collective bargaining arrangements.

How appropriate and practical are the provisions in sections 3 to 10 particularly in terms of time scales?

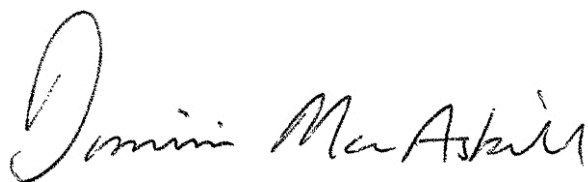
It is UNISON's view that there are unlikely to be any further expressions of interests from councils wishing to pursue a course of voluntary merger until the Minister for Public Services, in the summer, publishes a 'new map' of how the Welsh Government see local government looking in the future. This then would provide a very limited window of time, before the November 2015 deadline, for councils to put together a business case for any merger proposal. In addition the provision of a 6 month period for a shadow authority for councils who chose to go down a voluntary merger process is a very tight timescale to deal with the transfer of governance, business and financial arrangements and, not forgetting, the need to bring together two separate workforces into one.

Pay policy statements and extension of the functions of the Independent Remuneration Panel (IRP).

UNISON shares the view of Richard Penn, Chair of the Independent Remuneration Panel, which he articulated in his evidence to your committee. In Mr Penn's evidence he questioned whether the IRP had the skills or expertise to take on the proposed additional responsibilities and suggested that these were much more appropriate tasks to be undertaken by the Public Services Staff Commission. This view fits in with UNISON position on the establishment of a Staff Commission(er) as detailed above and in the attached document.

I hope that you, and your committee, find these additional comments helpful in your consideration of this Bill and thank you again for inviting UNISON to provide evidence on this important issue.

Yours sincerely,

A handwritten signature in black ink, reading 'Dominic MacAskill'.

Dominic MacAskill
REGIONAL MANAGER
HEAD OF LOCAL GOVERNMENT



Welsh Government Consultation on Public Services Staff Commission

UNISON Cymru Wales Response

Introduction

1. UNISON is Wales' largest public service union representing over 90,000 public service workers. UNISON welcomes the intentions from the Welsh Government to establish a Public Services Staff Commission to advise Welsh Ministers and public service organisations on the workforce matters needing action and resolution. We hope the responses to this consultation will stimulate discussion and ensure that the trade union and labour movement is fully involved in developing responses to the current challenges.

Background

2. It is vital that the Welsh Government has a strong vision of the Wales we want for the future, a view of the steps necessary to achieve it, and how the Public Services Staff Commission or an alternative fits into this. The Welsh Government should also provide a strong, clear narrative which outlines the expectations it has for the Welsh Public Service Workforce. UNISON welcomes ongoing engagement to deliver this and achieve effective reorganisation while ensuring public service staff are fairly and equitably treated.
3. Since the Williams Report, UNISON has called on the Government to ensure that the Welsh public service is treated fairly and respectfully. An open, transparent and effective Commission can help Wales protect our valued services by providing the opportunity to ensure that the public service workforce is at the heart of discussions about quality and sustainability.
4. Public Services, and Local Government in particular, have a crucial role in reducing inequality to help deliver a fairer Wales. Inclusion and cooperation are the foundations on which the Welsh Government can renew and reinvigorate the Welsh public service delivery system and should not be ignored throughout this process.
5. It is imperative that any approach is not just a talking shop, but rather a catalyst for transformational change across Wales. The Welsh Government has a good record in crafting solutions suitable for Wales such as their

successful programme to tackle youth unemployment attracting attention from the rest of the UK.

6. In regard to the makeup of local councils, UNISON is not wedded to a specific number but are supportive of the organisations boundaries being coterminous with the Health body boundaries. This would greatly assist in moving forward with the necessary integration of Health and Social Care services and towards a one public service for Wales.

The Workforce Partnership Council

7. The Welsh Government already has a successful social partnership body chaired by the First Minister for public service employers and staff trade unions to discuss both specific and cross public services issues above the official collective bargaining machinery. In UNISON's view this body, the Workforce Partnership Council, has been effective and efficient for both sides in providing a forum for raising, discussing and progressing common issues.
8. The Welsh Government are consulting about establishing a new body, The Public Services Staff Commission, to deal with the staffing issues connected with the major Local Government re-organisations over next three years but also to be a forum for making recommendations on innovation, best practise and future challenges going forward.
9. UNISON does consider that specific independent work on Local Government re-organisation would be helpful to all parties and the Welsh Government for a variety reasons. Our concern is that the new body may overlap with the work of the established Workforce Partnership Council and given tight budgets this cannot be justified on cost or effectiveness grounds.
10. In coming to this conclusion, we also considered a variety of innovation or new issues that cross all Welsh public services, such as:
 - health/social care integration
 - staff education, qualification levels and training
 - new technology, on-line services and related new jobs and skills
 - Personalised budgets and services
 - Universal Credit
 - Introduction of new EU public procurement directive in 2015 with new options for social, environmental and labour provisions
 - Increasing proportion of older workers as no default retirement age with different needs
 - Flexible Working in light on 2014 extension of right to request
 - New areas for Apprenticeships
 - Zero Hours Contracts
 - Cuts in funding
 - Shortages of qualified staff in key areas such as social work or NHS

11. We came to the conclusion that all these issues would need to be discussed at both the Workforce Partnership Council and the new Public Services Staff Commission if created and this would cause confusion.
12. However, we have considered an alternative which builds on the best of the existing social partnership but would be a resource that could advise on Local Government re-organisation and innovation and best practise to address future challenges.

Building on the best – a Public Services Commissioner

13. UNISON believes that instead of a Commission the Welsh Government could have an independent Public Services Commissioner, a single post with a small team of staff with different expertise, who could work with Ministers and the Workforce Partnership Council.
14. This would avoid the duplication of two bodies reporting to ministers, reduce costs and have the advantage of some independent assessment of UK, EU and international evidence of successful public service reform that might work in the Welsh context.
15. The Commissioner could be given specific inquiries and remits by the Workforce Partnership Council (WPC) to investigate upcoming issues and challenges in Welsh Public Services and report back to the WPC with recommendations for government, employers and staff.

We would be prepared to expand on this option further on request.

Formal Consultation Questions

16. We will respond to the main consultation questions for the record.

How would this relate to existing “bargaining arrangements”?

17. The non-statutory Staff Commission or Commissioner should not supplant existing pay and terms and conditions collective bargaining arrangements within the public service sectors.

Q How best should the Workforce Partnership Council and the Public Services Staff Commission work together?

18. The Workforce Partnership Council (WPC) has demonstrated how the Welsh Government, trade unions and employers in the public sector can work in partnership in the interest of protecting our valued public services. As set out above we believe that a Commissioner, not a Commission, would work best with the Workforce Partnership Council.

Q Are the public bodies listed in paragraph 49 the appropriate bodies to be included in a public service wide remit?

19. The Careers Wales company ‘Careers Choices Dewis Gyrfa’ should be included in the list of public bodies covered in the Commission’s or Commissioners remit. Careers Choices Dewis Gyrfa is an all Wales public service that gives people of all ages free and valued career advice which assists in career development and transition which will be an important component of any restructuring of public services. Wholly owned by the Welsh Government, UNISON believes the Careers Wales company should be

incorporated into the public bodies list in paragraph 49 to ensure that it can be an integral part of the one public service Wales vision.

20. For a truly shared, collaborative and citizen centred set of public service values UNISON also believe that Further and Higher Education institutions should be covered by the remit of the non-statutory Commission or Commissioner. Any public sector body that receives funding from the Welsh Government should be included. This would provide an all-encompassing remit which would represent the entirety of the Welsh public service workforce.

Q Is the approach outlined in paragraphs 50 to 55 the appropriate approach?

21. UNISON agree that the Commission, or Commissioner, should be independent but have access to a range of experts, who would not only offer a range of relevant skills and experience in workforce matters and organisational development but, who have also the conviction to see the Public Service Commission or Commissioner role succeed and develop.
22. The remit of the Commission or Commissioner needs to be developed so that it is set in the context of supporting public service provision and opposing privatisation. The marketised public services in England, which UNISON opposes, have seen loss of expertise, compliance expense, secrecy and a lack of sharing best practise for commercial gain. Service improvement might only happen at the tender stage after 4 to 7 years and does not happen continuously in such a model.
23. The Commission/er needs to look at the whole public sector and its remit should also cover and apply to staff in private sector and voluntary organisations that deliver public services under contract.
24. We agree that Welsh Ministers should take direct advice from the non-statutory Commission or Commissioner via the WPC. The proposed advice to Welsh Ministers and the WPC should be published online and circulated directly, through newsletters, to the public services workforce and to the relevant organisational groups to demonstrate openness and transparency for all stakeholders.

Q Do you have any views about the timing of the establishment on the non-statutory Staff Commission?

25. UNISON welcome that the Commission or Commissioner will be set up prior to the voluntary Local Authority mergers taking place in order to ensure that the affected workforce are treated in a fair, equitable and consistent manner during the restructuring process.
26. Although we understand why the Commission or Commissioner should initially be set as a non-statutory body and that this could allow it to be more innovative and challenging, UNISON believes the Commission or Commissioner should either transfer to a statutory body as soon as possible or gain some other form of statutory underpinning in order to provide the necessary authority for the Welsh Government, WPC and the public sector employers to act on the recommendations.
27. Moreover, the Commission/er should continually brief the WPC and public sector staff on the timetable and reorganisation of local government, and other public sector restructurings, so that they are fully informed of all events and changes.

Q Do you have any further comments on the functioning of the non-statutory Staff Commission?

28. Its authority and relationship with the WPC and Welsh Ministers needs to be clearly defined. The advice and recommendations published by the Commission or Commissioner should be clear and presented in a way that makes it extremely difficult for them to be misinterpreted or ignored. The way recommendations are phrased will be of vital importance.
29. UNISON recommend that the Commission or Commissioner should itself conduct mini-consultations annually to ensure it evolves and adapts in line with what public services require. Consultations could be organised online and include an initial short questionnaire which monitors views over the years. This could then be collated at the end of the reform to measure the impact of the reorganisation on public service workers.

Q Are the skills and experience identified in paragraph 57 correct? & Are there any skills and experience which the non-statutory Staff Commission requires which is not included in the list?

30. We agree that the skills, experience and capability of the Commission/er and their team will be extremely important to establish its credibility and therefore believe that the skills need to be expanded upon.
31. UNISON welcome that the team should have knowledge of local government but should also have an extensive knowledge of public services as a whole to fulfil a wider role than local government reorganisation.
32. In addition the Commission or Commissioner need to have access to impartial expert advice and research capacity and are not reliant on civil servants to drive the work of this body. This would ensure that the Commission or Commissioner is sufficiently resourced to be able to pursue the remits set by the WPC. Job evaluation will be an integral part of the remit and therefore should be included in the list of skills. Members of the Commissioners team should have experience of previously delivering job evaluation in order to understand the complexities that arise from this area.
33. UNISON calls for a commitment from the Welsh Government that the Commission or Commissioner is not overly reliant on civil service support. The civil service work well in an administrative role, but their views should continue to be impartial and recommendations made purely by the Commissioner.
34. The appointment of the Commission or Commissioner should reflect the diversity of Wales and be conducted in an open, transparent and fair way.

Q Are the proposed communication processes outlined in paragraphs 59 to 62 appropriate?

35. The communication processes outlined in paragraphs 59 to 62 outline the need to communicate, but lack substance on exactly how this will be achieved. UNISON welcome the circulation of regular bulletins but how, at what interval and where the information is shared needs to be defined. We recommend that the Commissioner has its own website.
36. In addition to a website, the Commission/er should utilise social media channels, such as Twitter. When bulletins are sent out, the defined bodies in paragraph 57 and all public sector stakeholders should be encouraged to, at

minimum, make staff and interested bodies aware of the Commission/er website.

37. UNISON welcome further consultation to ensure the work programme remains current, flexible and adaptable to the changing circumstances for public sector workers in Wales.

Q Are the proposed links between the non-statutory Staff Commission and the IRP appropriate?

38. UNISON welcomes the Welsh Government's intention to extend the provisions in the Local Government (Democracy) (Wales) Act 2013 in relation to the Independent Remuneration Panel for Wales (IRP) to include all Local Authority chief officers for the duration of the local government merger programme.
39. We agree that that there will need to be a close and effective working arrangement between the IRP and the non-statutory and statutory Public Services Staff Commission or Commissioner.
40. However, the proposed links between the non-statutory Staff Commission or Commissioner and the IRP will need further consideration to avoid an unforeseen consequences i.e. under the amended regulations, Local Authorities would no longer be able to offer Chief Officers vacancies, with salaries over £100,000, as 'suitable alternative employment' in a redundancy situation and would require all such vacancies to be advertised externally. This could force councils to make senior staff redundant which would create problems for authorities restructuring at the higher level and increase transitional costs.

Q Are there other priority workforce issues the non-statutory Staff Commission should be engaged with?

41. UNISON support that the Commission or Commissioner will not supplant existing bargaining and negotiating mechanisms. The Commission or Commissioner should not only act as a reactive body but also proactively engage with other priority issues that occur across the public sector in Wales as a result of this reorganisation.
42. The Commission or Commissioner should be tasked to focus on maintaining directly provided integrated public services with a valued and motivated workforce that will attract and retain talent for the future.
43. Equality should be at the heart of the Commission/er's consideration and part of this will be to ensure that restructured public services can deliver equality proofed single status pay structures.
44. Other important issues for the Commission/er to develop are: developing redeployment opportunities across public sectors; developing 'best practice' and consistent discretionary policies and support; the harmonisation of Terms & Conditions; ensuring pension portability; ensuring education and support are available for all grades of staff to ensure continual service quality improvement and to ensure there are consistent engagement and negotiation mechanisms with the recognised trade unions.

45. In some defined circumstances it may be appropriate for the Commission/er to play an arbitration role between public sector employers and their recognised trade unions.

46. If the Welsh Government is fully committed to improving the Welsh public sector then strong incentives to continue working in the public sector must be provided. In light of job mergers, the opportunity of career progression, pathways and development should be enhanced.

Q What additional powers might Welsh Ministers need to effectively support the work of the statutory Staff Commission, for example, powers of direction or guidance?

47. A statutory Commission/er will be able to make directions and guidance which Ministers, the WPC, unions and public sector employers should have to consider.

Q Will making statutory provisions for the Staff Commission in the second Local Government Bill to be introduced in to the National Assembly for Wales in the Autumn of 2016 enhance the standing of the Commission?

48. Yes, if a Commissioner

Q Should the Staff Commission be given powers to issue guidance in its own right, or should it only be able to make recommendations to the Welsh Minister about issuing guidance?

49. UNISON believes that the Commission or Commissioner should be given powers to issue guidance in its own right, working with the WPC. Guidance should be issued in collaboration with the WPC. The powers described in paragraph 71 are correct in that the Commissioner should have the ability to issue statutory guidance in its own name, working with the WPC and that there may be times when it is more appropriate that the Welsh Ministers address certain issues. The majority of the time it should be the Commissioner with statutory powers which issues directions to the new bodies being created, after consulting and receiving direction from the WPC.

Q What powers will the statutory Staff Commission need in order to provide accurate and authoritative guidance?

50. UNISON believes that the Commission/er whether non statutory or statutory needs sufficient powers to enable it to fulfil its remit, thus ensuring its guidance is followed.

Q Are the powers described in paragraphs 71 and 72 the right ones?

51. UNISON agree that the Commission/er will also need a power to require existing Local Authorities and any other public bodies to supply relevant information on proposed mergers and restructures.

52. Quantitative data is important in order to analyse and measure the impact of the Reform programme on the public sector workforce, but qualitative information should also be gathered. Qualitative information will provide an in-depth source of information for the Commissioner, Workforce Partnership Council and Welsh Government which may provide an insight in the issues affecting the public service workforce.

Q What additional powers might Welsh Ministers need to effectively support the work of the statutory Staff Commission, for example, powers of direction or guidance?

53. Welsh Ministers should be able to accept recommendations, act on guidance and direction from the Commissioner and WPC, provide feedback and information when requested, provide early warning to the WPC and Commissioner of any planning substantive changes to previously agreed arrangements and provide early warning of any proposed changes to senior management teams.

Q Should the statutory Staff Commission be time limited and phased out at the end of the current reform programme?

54. The Commission/er should not be time limited or constrained to Local Government restructuring, as this body will be crucial in further monitoring and influencing staffing matters and assisting the WPC whilst the wider public sector is restructured. It would also represent a commitment by the Welsh Government to investing into the future of the one Public Services Wales vision.

Q How could the statutory Staff Commission best support the embedding of the social partnership approach?

55. Social partnership requires a real commitment from public service staff and the Welsh Government. The Staff Commissioner would best support the social partnership by having a clearly defined and agreed relationship with the WPC.

56. UNISON Cymru Wales are grateful for the opportunity to assist the Welsh Government with its reorganisation of Local Government and we are happy to provide further assistance if required.

LG 04

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: GMB Wales and South West Region

**GMB –
Britain's
General Union
Response to:**



**Welsh Governments
Consultation Document on**

Local Government (Wales) Bill 2015

Date of issue: 26th January 2015

Action Required: Responses by 23rd February 2015

Date of Submission: 23rd February 2015

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GMB response to Welsh Government: Local Government (Wales) Bill 2015.

BACKGROUND

The Local Government (Wales) Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of staff who work for local authorities across Wales as well as for the millions of people in our communities who rely on the services that they provide.

General overview

The Welsh Government has recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. The Wales TUC submitted a joint response on behalf of all of the trade unions involved in the Workforce Partnership Council – the social partnership structure for the public services in Wales. The Trade Union Movement argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible. The GMB and its sister Trade Unions have been arguing for this for well over 12 months as a response to ever-declining financial settlements and the concurrent push for public service reform.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”¹

We remain concerned for our members that unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce planning required to deliver them, then we will face year on year redundancies, leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public want and rely upon today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

However as a general point, at this stage, I would like to flag up the need to look to protect and enhance the position of Councils that have completed Job Evaluation/Single Status and or have also implemented the Living wage. A Staff Commission/er could ensure that there is not a retrograde step in this regard, but could look to apply a consistent approach across from the old to the new Authorities. In addition, a Staff Commission/er could ensure that the legal requirement for Equal Pay is applied across Local Government in Wales and thereby reduce the threat for further equal pay claims being made, especially where those authorities that have completed Job Evaluation/Single Status negotiations, merge with ones that have not yet completed this task.

The other general observation from the GMB relates to statutory guidance re-issued by the Welsh Government last year – the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code). This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is ‘outsourced’. The Code provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only has to ‘have regard to’ this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS ‘must’ follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put Local Government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

Specific Sections of the Bill

The specific sections of the Bill that we intend to concentrate on in our written evidence are set out below. We will be happy to explore these issues further in our oral evidence as well as take any questions on other aspects that Assembly Members may feel affect our membership.

Section 4: Consultation before making merger application

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused the GMB extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that

the intention of this sub-section is for the authorities to consult with 'any trade unions or other organisations representing staff employed by....'

The GMB and the trade union movement has long fought for (and continues to fight for) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions via the appropriate National collective Bargaining arrangements, and this clause does not acknowledge this fact, thereby potentially allowing for local authorities to by-pass the recognised workplace trade unions in this process.

We have raised this matter with the Minister for Public Services directly since the publication of the Bill and have sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP), to enable them to make recommendations with regard to these statements. We currently have very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, we are exploring the relationships between our existing National Collective bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model. (We would welcome further clarity upon this point, and opportunity for response if necessary, as the bill progresses)

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er

and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

The final question for the Committee on Section 28 is – is 42 days long enough to enable certainty for staff about arrangements for the new authorities in the event of mergers being imposed rather than volunteered for? We reach no conclusion on this but it is an area that we will continue to monitor closely.

**Response to The Communities, Equality and Local Government Committee
consultation on the Local Government (Wales) Bill**

The terms of reference for the Committee's inquiry are:

To consider:

1. The general principles of the Local Government (Wales) Bill and the need for legislation to:
 - enable preparation to be made for a programme of local government mergers and reform;
 - allow Principal Local Authorities to merge voluntarily by April 2018;
 - amend provision in the Local Government (Wales) Measure 2011 relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates for election as councillors;
 - amend provision in the Local Government (Democracy) (Wales) Act 2013 relating to electoral reviews.

The general principles appear to be sound and the legislation is necessary.

2. Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,

None that have not already been taken into account.

3. Whether there are any unintended consequences arising from the Bill,

One unintended consequence of allowing voluntary mergers could be that applications for ad hoc mergers might not conform to an agreed national vision for local government re-organisation.

The Welsh Government currently requires local authorities to work together in regional consortia to provide school improvement services through its National Model for Regional Working, although the statutory responsibility remains with individual local authorities. If local authorities across more than one consortium merge this could create unhelpful complexity in the system. The role of the National Model for Regional Working in delivering school improvement is raised in the consultation paper with reference to a national model for education service delivery but there is little expansion of this line of thinking.

4. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum,

In addition to the costs identified in the Explanatory Memorandum, there may be short-term costs if the regional consortia for school improvement are reorganised or stood-down as a result of the emergence of the new principal authorities.

5. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).

No comment.

WELSH GOVERNMENT CONSULTATION
Local Government (Wales) Bill

CONSULTATION

Introduction

This response to the consultation on the Local Government (Wales) Bill is presented by Welshpool Town Council of Triangle House Union Street Welshpool SY21 7PG
Tel 01938 553142 email wtcouncil@btinternet.com
The Bill was discussed at a meeting of the Council dated 18th February 2015.

Background

The Williams Report was published early in 2014 with recommendations with regard to both Principle and Local councils. Since that time there has been uncertainty as to what form local government will take in the future.

The Williams Report suggested 10-12 principle authorities in place of the current 22. Powys County Council was left as a single unit in those recommendations but linked with the Health Board.

There have been several statements by the Minister but to date there is no confirmation of the final plan expected.

This bill sets out the start point for local government reform.

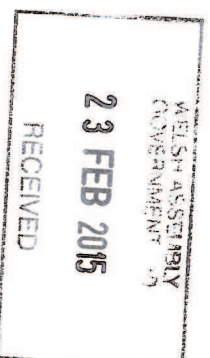
Consultation

The consultation runs until 13th March following which the Bill will go forward towards enactment.

General Outline

The general outline and main points of note are:

1. The Minister has not yet issued any decision on the number or make up of principle authorities so this bill does not refer to any specific proposals with regard to the number of authorities there might be in Wales.
2. The bill gives the power to the Minister to implement proposed local government reform.



3. The bill sets out a programme for the implementation of any voluntary mergers and any imposed mergers of principle authorities which is:
 - i. Voluntary merges by 2018
 - ii. Compulsory mergers by 2020
4. Those authorities who merge voluntarily will have delayed elections from 2017 into 2018.
5. The bill contains provisions to control authorities' actions and finances in a lead up to a merger.
6. The boundary commission will be asked to advise on new boundaries once the decision has been made by the Minister on which authorities there are to be.
7. There are provisions for shadow authorities to enable the merging of principle authorities; however these are to be paid for by the merging authorities.
8. The remuneration panel will be adjusted to allow them to be involved in setting the salaries and expenses of principle authority Councillors and senior officers.

Proposed response

The proposed response on behalf of Welshpool Town Council is set out below:

1. The bill is generally supported subject to the comments below.
2. There is a need for clarity and a need to remove the uncertainty which current exists within both Principle and Local Councils.
3. The Minister is urged to make clear announcements on which authorities are to merger as soon as possible.
4. The Minister is urged to bring forward details of the future of Town and Community Councils at the same time.
5. The period of 2020 for new authorities is too long and should be brought forward following an early decision on mergers.
6. There should be help for merging authorities by the Welsh Government with regard to shadow authorities and transitional arrangements.
7. The new remit for the remuneration panel is supported.

R A Robinson FRICS AILCM
Town Clerk
18th February 2015

LG 07

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Independent Remuneration Panel for Wales

Local Government (Wales) Bill

Communities, Equality & Local Government Committee

Written Evidence from the Independent Remuneration Panel for Wales

The Independent Remuneration Panel for Wales (IRPW) has considered the Local Government (Wales) Bill and has agreed the following as written evidence to the Communities, Equality and Local Government Committee concentrating on those sections of the Bill that have implications for the Panel's work and its future functions.

About the Independent Remuneration Panel for Wales

The Panel is independent of central and local government and was established to determine the range and levels of allowances payable by county and county borough councils to their councillors and co-opted members with voting rights. The Panel's remit was extended under the Local Government (Wales) Measure 2011 to include the remuneration of members of national park authorities, fire and rescue authorities, and community and town councils in Wales. The Panel consists of a Chair, appointed by the Minister and four other members. The Panel must produce an annual report setting out its remuneration framework every year, and may produce supplementary reports at any time.

Section 63 of the Local Government (Democracy) (Wales) Act 2013 amended the 2011 Measure by inserting section 143A which enables the Panel to take a view and make recommendations, in relation to Principal Councils and Fire and Rescue Authorities, on anything in their Pay Policy Statement which relates to the salary of a Head of Paid Service. Principal Councils and Fire and Rescue Authorities are obliged to then have regard to any recommendation the Panel makes in relation to what is in their Pay Policy Statement concerning Chief Executives' pay.

The current Panel members, both individually and collectively, have considerable experience and knowledge of local government in Wales both as officials and as elected members and have appreciate the wider implications of the Local Government (Wales) Bill.

Implications of proposed mergers on remuneration of elected members

The Bill's proposal to enable mergers of the existing 22 Principal Councils has potentially significant implications for the remuneration generally of councillors and, in particular, of those holding senior positions in the new authorities. At this stage the likely size (in terms of councillor numbers) of each of the merged councils has not been determined although the Panel has assumed that there is likely to be a reduction from the current total of 1254 councillors.

The Panel has analysed the populations and revenue budgets of the new authorities as proposed by the Williams Commission. This analysis indicates that there will be considerable and significant variations in the size of authorities with populations ranging from over 470,000 to just over 100,000 and revenue budgets (based on current estimated figures) ranging from over £600m to £230m.

The Panel would need to take these variations into account when considering the appropriate levels of remuneration of leaders, members of the executive and other senior post-holders as there will be significant differences in the levels of responsibility. The outcome of reviews to be undertaken by the Local Democracy and Boundary Commission for Wales and the resultant representation ratio of members to electorate could also impact on the Panel's consideration of appropriate remuneration. The Panel will also continue to have regard to affordability and reasonableness in all its determinations.

It is not inconceivable that in future the IRPW might have to consider bespoke remuneration frameworks for each council once the Bill has been implemented and the Panel is ready to respond to these issues when the detailed decisions about the size of councils and electorates emerge. To develop and maintain individual frameworks would increase the workload of the Panel considerably and the provision for increasing the Panel's membership from five to six in Section 36 of the Bill is welcomed by the Panel.

The salaries of Chief Executives and Chief Officers of the proposed shadow authorities

The Panel notes the intention to extend the current powers in respect of salaries of Heads of Paid Service (Chief Executives) and Chief Officers to the shadow authorities. If it is considered appropriate to develop/extend the powers of the IRPW in this way, it will be important to examine the skill set of the Panel members to ensure that there is the necessary capacity to undertake this wider role. Once again, taking these extra responsibilities into account, the IRPW welcomes Section 36 of the Bill which would increase its membership from five to six, particularly given the far greater number of officers for which the Panel would become responsible in relation to their salaries.

Diversity within council membership

The Panel's visits during 2013 to each principal council in Wales demonstrated that there are major issues in respect of diversity in the representative role. The current balance of gender, age and ethnicity is clearly not representative of the population of Wales or of individual local authority areas. We recognise that this is not unique to local government, but the proposed reform provides an opportunity to influence this situation.

The Panel supports the proposals at Section 37 of the Bill and considers that the survey of local authority candidates is a will provide useful benchmarking data regarding diversity in local government in wales.

Richard Penn

Chair of the Independent Remuneration Panel for Wales

Archwilydd Cyffredinol Cymru
Auditor General for Wales

LC 08

Communities, Equality and Local Government Committee
Local Government (Wales) Bill: Stage 1
Response from: Huw Vaughan Thomas, Auditor General For Wales

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Date: 26 February 2015
Our ref: HVT/2279/rgb
Page: 1 of 1

Dea Cwrt

Consultation on the Local Government (Wales) Bill

Thank you for your letter of 28 January inviting me to give evidence to the Committee in respect of the inquiry you are undertaking into the general principles of the Local Government (Wales) Bill.

My written submission is attached. I look forward to appearing before the committee on Thursday, 12 March 2015.

Huw
HT
HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Enc: Auditor General for Wales Evidence

Comments in response to the Committee's Terms of Reference:

1. The general principles of the Local Government (Wales) Bill and the need for legislation to:

- enable preparations to be made for a programme of local government mergers and reform;
- allow Principal Local Authorities to merge voluntarily by April 2018;
- amend provision in the Local Government (Wales) Measure 2011 relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates for election as councillors;
- amend provision in the Local Government (Democracy) (Wales) Act 2013 relating to electoral reviews.

1.1. The general principles of the Bill appear appropriate. However, in light of the Minister's decision to reject the three expressions of interest in voluntary mergers, it must be questionable whether the voluntary merger provisions of the Bill will be required. In addition as the response to question 2 below indicates there may be practical difficulties as regards the timetable for implementing voluntary mergers following the planned confirmation of the merger map in the summer of 2015.

2. Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them.

2.1. The timetable for voluntary mergers will be difficult to achieve. The transfer date is specified in section 2(8) as 1 April 2018. However, to achieve this date it would appear to be necessary for:

- Authorities to have sight of the Minister's map of the proposed compulsory mergers—there would seem to be little point for authorities to enter into detailed discussions with authorities which they may not be merged with.
- Authorities to hold detailed discussions with the authorities with which they are to merge (and which it seems they would in any event be required to compulsory merge in 2020).
- Members of each council to formally resolve in full council to pursue a voluntary merger.
- Volunteering authorities would need to formally draw up merger proposals in accordance with Ministerial guidance issued under section 5.
- Authorities to undertake extensive public consultation in accordance with section 4, before submitting an application.
- An application to be submitted to the Welsh Ministers by 30 November 2015 (or such later date specified by Welsh Ministers in regulations).

2.2. Even if the deadline for applications was pushed back to say 1 April 2016, the requirement under section 7 to establish Shadow Authorities prior to the merger would leave a challenging timescale to put in place all of the arrangements necessary to run a shadow authority.

3. Whether there are any unintended consequences arising from the Bill.

3.1. There is a risk that the provisions in relation to senior pay in section 28 of the Bill might lead to inconsistency of interpretation, as is currently the case in the reporting of senior pay in local authority statements of accounts. To avoid any such inconsistency it will be necessary to provide a clear and unambiguous definition of 'chief officers' covered by section 28 of the Bill.

3.2. Section 4 of the Bill requires local authorities, prior to submitting an application for merger, to consult with a range of stakeholders. In addition to any persons that authorities themselves might deem appropriate, it would be desirable if the Bill made a particular stipulation that authorities must consult those that they are in formal co-operation arrangements with, for example the Local Service Board, Local Safeguarding Children Board and Youth Offending Team Management Boards.

3.3. Procedural defects in merger work, such as omission of consultation, can lead to claims for Judicial Review, as indeed occurred in respect of several areas during the restructuring of local government in England in 1994-97. Such claims lead to additional expenditure and delay.

4. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)

4.1. The costing set out in the Explanatory Memorandum does not seem to give a full overview of the likely cost of the Bill. Appendix A on page 104 has the title "Costing the Options" but appears to be confined to the cost of transition committees. Tables 17 and 18 on pages 96 and 97 could be taken to summarise Welsh

Government and local government costs but many items are marked "N/A", and para 208 on page 95 says "there are a few areas (notably policy intention 4) where it has not been possible to produce an estimate at this stage." However, the Bill appears to provide complete primary legislative provision for voluntary mergers, and it would therefore be appropriate for the Explanatory Memorandum to give cost estimates for such voluntary mergers. It is worth noting that the Assembly's Research Service paper on the Bill includes more comprehensive cost estimates for local government restructuring overall.

4.2. The Bill has implications for my audit of authorities' accounts. As shadow authorities will in all probability need to spend public money, it would be appropriate to have specific provision for regulations to provide for the audit of their accounts. An appropriate means of this would be designation of shadow authorities as local government bodies for the purposes of section 12 of Public Audit (Wales) Act 2004, which could be made in regulations. It would be helpful to have confirmation of the Welsh Government's intentions in this area.

4.3. The timetable for local government reorganisation in Wales coincides with the proposed first year of early closure of accounts in local government, as required by

HM Treasury, which will add to the challenging timescale for both auditors and authorities. On the basis that the first merged authority came into being on 1 April 2018, the first statement of accounts (2018-19) for that authority would need to be audited by July 2019. During the preceding year (2017-18) the statement of accounts of the demising constituent authorities and the Shadow authority and Transition Committee would need to be audited by the end July 2018, which will be a challenging deadline.

4.4. Also the audit of the demising authorities' accounts for 2017-18 would need to have regard to the necessary approvals for the transactions referred to in sections 30, 31 and 32. However leaving such work until year end accounts in summer 2018 will be of little assurance since the actual transactions may have taken place by then. It would therefore be necessary to do some specific audit assurance work between April 2017 and March 2018 for this purpose.

4.5. The financial values applied to the relevant land acquisition/disposal provisions appear to be low. Applying these thresholds could impair an existing council's ability to run the day to day business of the authority. The transition committee/shadow authority could potentially be considering significant numbers of contracts, in addition to planning for a merger, and this might delay legitimate and necessary projects.

4.6. Para 235 of the section of the explanatory memorandum on post implementation review states:

"The functions of the Wales Audit Office (WAO) in respect of auditing public spending would remain an important contribution to monitoring the effectiveness of existing Authorities as joint working arrangements increasingly emerge. The WAO carries out a programme of audits on Principal Local Authority statutory accounts on an annual basis. The auditors set out their findings and recommendations through the audit certificate (the audit opinion) and a report to the Local Authority. The Auditor General encourages auditors to resolve issues with Local Authorities wherever possible through these means. The recommendations are statutory and Principal Local Authorities are required to act on these recommendations."

4.7. This paragraph 235 is unfortunately inaccurate in several respects:

- It should state "Auditor General for Wales" rather than "Wales Audit Office" in order to correctly reflect legal functions.
- The relevance of my audit of accounts to the post implementation review process is unclear. Work in respect of satisfying as to arrangements for securing economy, efficiency and effectiveness, and improvement assessments as undertaken under the Local Government (Wales) Measure 2009 will be more relevant to monitoring the effectiveness of the merger process as opposed to any audit of accounts work. In addition, I will be considering the reform programme as a potential study topic under section 41 of the 2004 Act to help provide post implementation review.
- The Auditor General's recommendations are not statutory in the sense that audited bodies have to comply with them (although there are statutory

provisions in terms of how recommendations should be considered in certain circumstances, for example under section 25 of the Public Audit (Wales) Act 2004).

5. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

5.1. I have no comments on the appropriateness of the proposed powers.

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Mrs Christine Chapman AM
Chair
Communities, Equality and Local Government Committee
National Assembly for Wales
Cardiff Bay
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25 February 2014

Dear Chair

Local Government (Wales) Bill: Written Evidence

Thank you for the opportunity to provide the Commission's views on the Local Government (Wales) Bill and its role in delivering recommendations for new electoral arrangements to Welsh Government for proposed new principal councils.

After careful consideration, the Commission believes there are areas where legislative provision could be made to enable the Commission to effectively consider and make recommendations for electoral arrangements for the new authorities. There are also more general issues to the Commission which it believes it should raise at this juncture; none more important than the issue of timing for when the Commission will be enabled to conduct the reviews.

Reviewing the new authorities will be more complex and resource intensive than the reviews planned under the previous ten-year review programme. The Commission wishes to work with Welsh Government to identify the level of resources required to undertake the programme of work within the timescales required and to achieve appropriate outcome in terms of the quality of the recommendations submitted to Welsh Ministers.

This response has been split into sections reflecting the Committee's terms of reference:

1. The general principles of the Local Government (Wales) Bill and the need for legislation.

In a general sense, the proposal to reform the structure of local government in Wales is not an issue for the Commission to consider and it will acknowledge the decisions of Ministers and the National Assembly in this regard. With respect to the Bill now under consideration, the Commission welcomes its proposals, especially the power for the Minister to direct the Commission to undertake the initial reviews of proposed principal councils.

2. Potential Barriers to Implementation and whether the Bill takes account of them.

The Commission is of the view that the essential matters for enabling progress to be concern resolving issues that would prevent the Commission from having sufficient time made to undertake the initial reviews and to provide clarity with regard to essential issues. The resolution of some of these issues lie in the Bill and others in executive action that would complement the Bill. They can be identified as follows:

1. Bill provisions.

The Commission welcomes specific measures that enable progress to be made.

- The Commission currently is not empowered to review proposed principal councils; Section 16(1) empowers the Minister to direct the Commission to undertake initial reviews; the use of that power would enable the review process to commence at an early date.
- The provision enabling the Commission to start the process of initial reviews on the day on which Royal Assent is received Section 41(2). Action would be subject to the issue of the Direction by the Minister.
- Amendments of the Local Government (Democracy) (Wales) Act 2013: the removal of the 'Pre-election period' as this will assist in the timeliness of the period available for the review process, and the power to re-start the 10 year programme following the completion of the round of initial reviews.

The Commission, however, has reservations concerning the following and respectfully requests that consideration be given to changing the provisions of the Bill as introduced in the areas indicated:

- Review: Initial Consultation.

The Commission believes consideration should be given to Section 20 with regard to consultations on a initial review before the draft proposals are published. The procedure for carrying out initial reviews as set out in the Bill requires firstly consultation on the Commission's proposed Policy and Practice for undertaking reviews, followed by the notification of a review and an initial consultation period, the publishing of a draft proposals report, a week's pause, a further consultation period (6 to 12 weeks) and the submission and publication of a final proposals report.

The Commission recognises that in the ordinary course of a ten year electoral review programme that this process is entirely appropriate. However, in the case of this special programme of initial reviews, and the tight timescales the Commission is likely to be given, that an exception should be made to allow the Commission to complete its activities in a timely fashion.

The Commission's experience of previous electoral reviews is that 60% of the representations received at the initial consultation stage are requests to maintain the existing arrangements. The programme of electoral reviews of the new merged authorities as envisaged will inevitably result in proposals for electoral arrangements that vary fundamentally from the existing arrangements. In anticipation of these changes the numbers of representations received during the initial consultation that call for maintaining the existing arrangements are likely to be even greater than under previous reviews. It is the Commission's view that such representations would not add value to the review process.

In terms of undertaking a review, the requirement of an initial consultation is of concern to the Commission because the processing of representations is resource and officer intensive. All representations must be logged and acknowledged, summarised for the report, considered and included in proposals' summaries. Schemes for electoral arrangements cannot effectively be considered until after the representations period finishes. This problem is exacerbated by the majority of representations being received at end of the consultation period. The time required for the initial stage of a review is therefore not just the number of weeks of the consultation period but several more weeks for the processing and consideration of the representations.

The Commission has noted that the procedures for parliamentary reviews carried out by the Boundary Commission for Wales (under the PVSC Act 2011) do not require an initial consultation stage. This allows the Boundary Commission for Wales to take an initial independent objective view of arrangements.

In conducting the programme of reviews envisioned in the Bill, the Commission's policies and procedures for the initial reviews will be published and widely circulated before the start of the programme of initial reviews. It is intended that the policies and procedures document will include a timetable and details of the proposed numbers of councillors for the new local authorities. Prior to the start of each review the Commission will hold meetings with the officers of the local authorities and make presentations explaining the review process to the Council Members and also to the Community Councils in the area under review. In this way all those with an interest in a particular review will have had the opportunity to understand the review processes and procedures and will have been encouraged to participate in the review. If a significantly truncated period of time is provided in order to conduct reviews the removal of this provision could prove critical to the Commission.

In conclusion therefore, the Commission requests that, for this particular programme of initial reviews under this piece of legislation, consideration be given to removing the requirement to undertake this initial consultation period (Section 20(1)(a)).

- Difference between Eligible Population and Registered Electorate.

The Bill requires the Commission to take into account any discrepancy between the number of electors on the registers and those eligible to vote. These statistics, to the level of detail and accuracy that the Commission require, do not exist at present.

Population data is only accurately held in the year of the Census. All other population statistics are estimates which are corrected, after the fact, by the following Census.

Details of population estimates below electoral ward level are not available at community or community ward level in Wales. The Lower Super Output Areas (LSOAs) which are the smallest units which the Office of National Statistics produces either do not match these boundaries or are larger than these areas. In fact some of the LSOAs (or combined LSOAs) do not match many of Wales' electoral ward boundaries and are, in fact, estimates of population rather than an authoritative source of actual population.

Due to these technical issues, using population data would significantly restrict the ability of the Commission to create electoral wards as the population data for community and community wards does not exist at present.

However, the Commission recognises the introduction of IER has raised concerns in this area and the Commission will use the estimates for population that are available; the existing wards as they were in 2011. Whilst helpful in the reviews where we are amalgamating whole electoral wards together to form new ones, it will not be possible where we are splitting existing electoral wards.

Ideally, until an exercise to create new population data for community and community wards is made, then this provision should be suspended from reviews the Commission undertakes.

The Commission accordingly suggests that consideration be made to recommending the deletion of the relevant provisions in Section 18.

2. Ministerial Decisions

An essential factor in enabling the Commission to start its work and to conduct reviews is the date of issue and content of a Direction given by the Minister under his proposed powers contained in Sections 16 and 17. A Direction could potentially contain:

- (a) the order and number of reviews;
- (b) the deadline for submitting proposals;
- (c) direction or guidance on the number of elected members for each proposed council;
- (d) any variance in the ratio of electors to elected members in electoral wards contained in a Direction or guidance;
- (e) mandatory consultees; and,
- (f) further additional factors or definitions to consider.

Factors affected by a Direction include :

- Review Programme Timing

The key issue to the Commission, in terms of delivering electoral arrangements for the new local authorities, is receiving a Direction authorising the start of initial reviews as soon as possible after the date of Royal Assent. Enabling the maximum amount of time will allow the Commission to conduct the reviews in a timely fashion. A significant delay in receiving a comprehensive Direction and starting reviews will jeopardise the review programme.

Differing starting points will impact on significant factors, such as recruitment of Commission staff and review policies and procedures. A clear Direction is sought from Welsh Government as soon as is practicably possible.

- **Number of Elected Members**

An essential factor in undertaking a review of electoral arrangements is the number of members that will be elected to a new principal council. Accordingly it is critical that an early indication is given of numbers of members and stated in set in the Direction or Guidance. It is noted that the White Paper *'Power to Local People'* considers the issue of elected members.

Alternatively, If the Commission were to be required itself to determine the appropriate number of members per council, then a proposal on this subject would require undertaking open consultation which would be a time consuming exercise. By way of illustration, the last exercise on numbers of councillors for the 22 existing authorities, took 18 months from inception to completion. The existing model and methodology was specifically designed for the present 22 local authorities, with their varying characteristics in terms of population size and density, and urban/rural nature of authorities. Once an agreed map has been determined, the Commission would therefore need to undergo a similar process to seek agreement on a new model for the appropriate number of members for each new Principal Council. This would have significant implications on the ability of the Commission to complete the timetable on time.

Accordingly, the preferred resolution is for the number of members to be stated in a Direction or in Guidance issued soon after the date of Royal Assent.

3. Unintended consequences arising from the Bill.

The Commission has not so far identified any unintended consequences to the part of the Bill relating specifically to the Commission. However, there is concern that provisions for voluntary mergers, (Sections 3 and 5) could have a significant impact on the Commission's programme of reviews. As drafted, the Bill would enable proposals for voluntary mergers to be made up to and after 30th November 2015, the latter date being dependent on future Regulations. The Commission is concerned that, if any such proposals were made, which would require making and publishing new Regulations and Ministerial Guidance, the timing of the review programme as currently understood could be placed in jeopardy. This could be remedied by making Directions giving revised dates for the completion of the reviews but it may result in elections for new principal councils being held on different dates.

4. Financial implications.

Part 2 of the Explanatory Memorandum has the financial implication to the Commission of the Bill. These figures were taken from estimates indicated to Welsh Government. Since November, the introduction of the Bill and rejection of the voluntary mergers further planning and estimates have been provided to Welsh Government. The Commission is glad that the estimated costs provided to Welsh Government have been included in their projections and the Commission will continue to provide updated estimates as the Bill progresses and any changes are made.

5. Appropriateness of Powers for making Subordinate Legislation

The powers to make subordinate legislation in respect of those which effect the Commission seem entirely appropriate.

Supporting Information

To support its evidence the Commission thought it useful to set out to the Committee its interpretation of the Bill in terms of its timing and the Commission's activities:

Order	Timing	Activity
1	July 2015	A map is published for proposed new local authorities in Wales
2	November 2015	This Bill receives Royal Assent
3	December 2015	The Commission is directed to undertake initial reviews of proposed merged local authorities
4	December 2015	The Commission publishes its Policy and Practice for consultation
5	Early Spring 2016	The Commission commences its first initial review
6	Spring 2018	The Commission has submitted reports to Welsh Government on all initial reviews
7	May 2019	Shadow local government elections are undertaken on the new merged authorities
8	May 2022	Local government elections for all local authorities

From the above it will be seen that it will be highly desirable for the Commission to work to a clearly understood timetable. As described above, the timing and contents of the Direction from Welsh Government is critical to preparation for and conduct of reviews and to meet the anticipated deadline for making recommendations to Welsh Government. It follows that a delay in issuing the Direction carries the risk that there is a significant likelihood that the Commission will not have sufficient time to make recommendations to Welsh Government as required.

These concerns and timetables are all predicated on the map reflecting Welsh Government's preferred Option (Williams Option 1 – 9 initial reviews), the Bill passing as it is presently written and a shadow local government election in May 2019. Changes to the map, Bill provisions or date of the election will change the Commission's programming and activities.

We are grateful for the invitation to be present before the Committee and to offer to the Committee the Commission's considerations upon on this important proposed enactment.

Yours Sincerely,



Owen Watkin OBE DL
Chair
Local Democracy and Boundary Commission for Wales

LG 10

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Chief Constables in Wales

I am responding to the request for consultation feedback on the above Bill by the 13th March 2015. This e-mail represents the views of the Chief Constables in Wales.

Structural Changes: Chief Constables feel that it would be inappropriate to comment on the need to merge or reform local authorities. However, it is important that police forces are engaged in further specific consultation on the mergers because of the importance of coterminosity with force boundaries and, where possible, with internal force structures to support partnership work.

The current alignment of public service boundaries is not consistent and whilst this Bill is not designed to resolve these matters, the creation of additional inconsistency should be avoided.

Notification of and /or the lead in times for the implementation of change should be sufficient to allow partner organisations to implement any necessary change either to their own organisations or to partnership arrangements.

LG 11

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Local Authority Human Resources Directors (Wales)
Network

HRD

Local Authority Human Resources Directors (Wales) Network
Grŵp Cyfarwyddwyr Adnoddau Dynol Llywodraeth Leol (Cymru)

Committee Clerk
Communities, Equality and Local
Government Committee
National Assembly for Wales
Cardiff Bay CF99 1NA

Date: 11th March 2015

E-mail: hardag@caerphilly.gov.uk

Telephone: 01443 864309

Address:

Caerphilly County Borough Council

Penallta House, Nelson Road

Tredomen

Ystrad Mynach

Hengoed

CF82 7WF

Dear Sir/Madam

Consultation on the Local Government (Wales) Bill

I am writing in response to the consultation as the Chair of the HR Directors (HRD) Network (Wales). The HRD Network (Wales) consists of the most senior HR Officers for the 22 Welsh Local Authorities. Our members have considerable practical experience of managing the wide range of workforce issues that are found in local councils, which are complex organisations deliver a plethora of different services through a diverse workforce with a varied range of skills and backgrounds.

It is the HR Heads and their teams in local government that will be at the sharpest end of any public service reform impacting upon staff and we are concerned to ensure that our knowledge, understanding and experience of workforce issues in local government are given due weight and utilised effectively at an all-Wales level. We are therefore pleased to be able to make this submission of evidence on the Bill.

Our evidence is wholly concerned with Section 35 of the Bill which proposes the temporary extension of the current function of the Independent Remuneration Panel (IRP) in relation to Heads of Paid Service in local government to changes in the salary of all local government 'chief officers' as defined under the Localism Act 2011. We would offer the following views:

1. Section 35 of the Bill as it is currently drafted will create significant operational problems for local government and indeed the IRP. This provision will mean that councils will need to consult the IRP on any

proposed change to the salary of any of its 'chief officers' *'which is not commensurate with a change to the salaries of the authority's other staff'*.

2. The policy intention behind this provision as explained within the White Paper '*Reforming Local Government –Power to the People*' is to drive down what the Welsh Government regards as 'the excessive cost' of management in local government and introduce 'greater consistency' by subjecting senior salaries to external scrutiny by an independent body.
3. We feel that there exists within Welsh Government a serious and prejudicial misconception about the size and costs of local government senior management teams (particularly when related to the rest of the devolved Welsh public sector including Welsh Government itself). This was evidenced by the wholly inaccurate account of these that was published in the current White Paper *Reforming Local Government: Power to the People*.
4. Unfortunately, it appears that Welsh Government is formulating policy based on these misconceptions and the evidence from a small minority of exceptional cases rather than on the basis of evidence from the majority of councils. Policy is also being formulated without any real understanding of the unintended consequences that may ensue. For these reasons we feel it is essential to explain the practical impact of the provision it is proposed to introduce via the Bill:

Number of Officers that Will be Affected

5. The policy intention may be to focus on senior salaries in local government. However, Section 35 of the Bill states that the definition of 'Chief Officer' to be used is that contained in section 43(2) the Localism Act 2011. This is as follows:

(2)In this Chapter "chief officer", in relation to a relevant authority, means each of the following—

- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
- (b) its monitoring officer designated under section 5(1) of that Act;
- (c) a statutory chief officer mentioned in section 2(6) of that Act;
- (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
- (e) a deputy chief officer mentioned in section 2(8) of that Act.

6. The definitions are drawn directly from the Local Government and Housing Act 1989 (which actually uses them to denote officers whose posts will be politically restricted so for quite a different purpose). It can be seen that 2(e) above, 'a deputy chief officer' is included in the definition of 'Chief Officer'.
7. The LG&HA goes on to define 'a deputy Chief Officer' as follows at 8) below:

'(8)In this section "deputy chief officer" means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.'

8. This means that for the purposes of the Localism Act an officer who reports directly to a 'Chief Officer' is also a Chief Officer for the purposes of the Act (unless the post's duties are purely secretarial or clerical in nature).
9. This is not in any way indicative of large 'senior teams'. Local government actually has relatively few Chief Officers in most councils in current times, generally 3 or 4 at most. However, Operational Heads of Services and other middle managers will often report directly to this much reduced cadre of chief Officers. This has become more and more the case in recent years due to the flatter structures put in place to save money. Therefore what we find is Chief Officers with many direct reports and wide spans of control. Their jobs have actually increased many fold in terms of complexity and responsibility.
10. There is some confusion as local government's definition of 'Chief Officer' is not the same as that in the Localism Act. Heads of Service wouldn't be considered or referred to as 'Chief Officers' within local government and generally wouldn't be part of a council's senior team directly under the CEO.
11. It can be seen then that the group encompassed by the definition of 'Chief Officers' under the Localism Act is quite large, and also that it does not correspond to an authority's Senior Management Team under the Chief Executive (it is much wider than this). The WLGA has surveyed authorities to see how many officers there are who either report to the Head of Paid Service or a statutory or non-statutory Chief Officer and the total is **566.5** at the current time.

Issues that Will Need to be Referred

12. As the Bill is currently written, once it is law councils will have to refer the following salary issues in relation to any of the 566.5 officers to the IRP for a decision:

- Nationally negotiated contractual cost of living awards for those on CO terms and conditions (including any heads of service on CO terms and conditions) if these are different to the rest of the workforce (as happened this year - they got less).
- Changes connected to restructuring for posts from relevant head of service upwards (where these involve Heads of Service reporting to COs)
- Re-grading applications for posts from relevant head of service upwards
- Any posts for advertisement for replacement officers including relevant heads of service where the salary is changing
- Honoraria payments (even in line with stated policy) for relevant heads of service upwards
- Market forces payments (even if in line with stated policy) for relevant heads of service upwards
- Implementation of JE exercises for Heads of Service upwards

This may not be an exhaustive list.

13. The impact of this would be that councils will be unable to make many day to day decisions about operational pay, grading and organisational design matters for a sizeable group of officers, and the IRP will find itself swamped with referrals. Additionally a good portion of the referrals will be far more complex in nature than those relating to the salary of Chief Executives' and will necessitate a detailed understanding of a council's existing structures and proposed changes.

14. We note that the Welsh Government's regulatory impact assessment on the Bill details at paragraph 147 the need for 'expanded capacity' for the IRP in relation to the Bill's provisions. This is identified as one additional member. We consider that this will be insufficient given the size of the cadre of local government officers that will need to have any salary changes referred to the IRP. We also consider that the impact assessment should encompass the considerable cost to local government of the preparation of potentially high numbers of submissions to the IRP under this provision.

15. We further believe that the impact assessment does not recognise the range of additional detailed knowledge and skills which members of the IRP will need to have in order to make informed and accurate decisions on a range of complex organisational design and remuneration matters.

Equal Pay and Other Discrimination and Legal Issues

16. A further issue relates to the fact that in dealing with individual chief officer posts or groups of posts referred to it, the recommendations of the IRP may impact on other posts in the authority.
17. For example with Heads of Service or Directors there will be a number of related posts at that level, and a pay structure for that Group, in relation to other groups, will have been developed and agreed within the authority. If, for example, one post falls vacant and it is proposed to change the post and salary prior to advertisement, or it is otherwise subject to a proposed salary change and the IRP makes a recommendation for a lower salary, then this may well be out of kilter with the other salaries in the related posts.
18. In these circumstances it will be difficult for the council to treat this one post differently and implement a lower (or indeed higher) salary. There may also be an incumbent chief officer and imposing a salary cut would create a breach of contract issue in such cases. If it is a new post then there could be an equal pay issue if, for example a woman is recruited to a new post with a lower salary than the rest of the related posts at that grade within the authority, or an ethnic minority or disabled person is.

Potential Impact on Recruitment and Retention of Local Government Chief Officers in Wales

19. A further issue is the potential impact on the recruitment of Chief Officers to local government in Wales. We already have a situation in Wales (since July 2014) whereby the 2014 amendments to the Standing Orders (Wales) (Regulations) 2006 introduced a requirement to externally advertise all Chief Officer vacancies with a salary of £100K or over.
20. This means that existing local government Chief Officers in Wales at that level have less employment protection than their counterparts in England, or any other part of the public Sector. This is because this requirement means that if they are 'at risk' of redundancy they cannot be offered any existing vacancies that would otherwise be 'suitable alternative employment'. These must be advertised externally and if an

external candidate is successful they must be made redundant at the expense of the tax payer.

21. A further impetus to drive down senior local government salaries in Wales is hardly going to assist in making Welsh local government an attractive place to work or help in attracting good candidates from a wide field across the UK.
22. In the run up to local government re-organisation councils are going to need strong senior teams to steer the changes through. However, the 2014 Standing Order amendment referred to already makes it likely that senior local government officers will be looking elsewhere for employment at that time (as they will not have any vacancies in the new authorities ring-fenced to them and will be in open competition with external candidates). A compressed salary structure relative to England and / or other parts of the public sector is likely to make it difficult to recruit effective replacements.
23. We fully appreciate that S.35 of the Local government (Wales) Bill is intended to increase transparency, accountability and consistency in matters of local government senior pay. We have no difficulty with these principles save for the proviso that with regard to consistency it must be assured that it is always apples and apples that are being compared. However, it is our strongly held view that the Section 35 provisions are very much a sledgehammer to crack a nut, in that they are wholly disproportionate to the real size of the problem they are aiming to resolve. Further in terms of the difficulties and problems that would ensue as a result of their becoming law, the end can in no way be considered to justify the means.

I very much hope these views will be given full consideration in the consultation and due weight attached in terms of the collective response. We are of course more than willing to assist the Welsh Government should there be a wish to consider alternative and more workable arrangements for regulating senior pay than the current proposals.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gareth Hardacre', with a stylized flourish at the end.

Gareth Hardacre
Chair, HRD Network (Wales)



LG 12

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Blaenau Gwent County Borough Council

12 March 2015

Committee Clerk

Communities, Equality and Local Government Committee

National Assembly for Wales

Cardiff Bay, CF99 1NA.

Dear Sir/Madam,

Consultation on the Local Government (Wales) Bill

Blaenau Gwent County Borough Council welcomes the opportunity to give evidence as part of the Committee's inquiry into the general principles of the Local Government (Wales) Bill.

The Council's Corporate Management Team have considered the request as outlined in the letter dated 28 January 2015 from Christine Chapman AC/AM. This was carried out taking into consideration the response submitted by WLGA and SOLACE in their evidence in February 2015. It is considered that the response from the WLGA and SOLACE covers all the points that this organisation would wish to highlight, particularly given Blaenau Gwent County Borough Council was an authority which indicated we were prepared to explore an early voluntary merger.

Furthermore, we will be looking to respond to the consultation being carried out by Welsh Government on the *Reforming Local Government: Power to Local People* by 28 April 2015.

We welcome correspondence in the medium of Welsh or English. / Croesawn ohebiaith trwy gyfrwng y Gymraeg neu'r Saesneg.

Regards,



Bernadette Elias

Head of Policy & Performance (on behalf of the Chief Executive)



Cyngor Bwrdeisdref Sirol

Blaenau Gwent

County Borough Council

We welcome correspondence in the medium of Welsh or English. / Croesawn ohebiaith trwy gyfrwng y Gymraeg neu'r Saesneg.

a better place to live and work
lle gwell i fyw a sweithio

LG 13

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Conwy County Borough Council

I am responding on behalf of Conwy CBC to the consultation on the Local Government (Wales) Bill.

My Council supports the representations made by the WLGA and SOLACE

We fully understand that the Bill provides for consultation over a proposal for a voluntary merger but would wish to highlight that the provisions would be very extensive which could bring specific pressures to meet the proposed deadline of 30th November taking account of the process to develop an Expression of Interest, have it approved for consultation and then consider the outcome of the consultation.

We would also like to make a general comment related to local government having already making a significant contribution to having a more efficient and cost effective management regime since 1996 when the 22 current local authorities came in to existence which replaced 8 former County Councils and something like 34 former Borough and District Councils.. As a consequence 42 management teams were replaced 22. It is appreciated that this not specifically referred to in the Bill or supporting documentation but it an indication of local government responding to new ways of administration.



LG 14

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Welsh Language Commissioner

Committee Clerk

Communities, Equality and Local Government Committee

National Assembly for Wales

Cardiff Bay

CF99 1NA

SeneddCCLLL@Cynulliad.cymru

13/03/2015

Dear Clerk

Consultation on the Local Government (Wales) Bill

1. The Welsh Language Commissioner welcomes the opportunity to comment on the Local Government (Wales) Bill. The following comments specifically relate to the principles of the Bill and any unintended implications which could derive from the Bill. Also, attention is drawn to specific clauses in the context of the requirements of the Welsh Language (Wales) Measure 2011.
2. The principal aim of the Commissioner is to promote and facilitate the use of the Welsh language. This entails raising awareness of the official status of the Welsh language in Wales and by imposing standards on organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles underpin the work of the Commissioner:

- In Wales, the Welsh language should be treated no less favourably than the English language;
- People in Wales should be able to live their lives through the medium of Welsh if they choose to do so.

In due course, secondary legislation will introduce new powers allowing the setting and imposing of standards on organizations. Until then, the Commissioner will continue to inspect statutory language schemes through the powers inherited under the Welsh Language Act 1993.

The post of Commissioner was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme; interference with the freedom to use Welsh in Wales and, in future, complaints regarding the failure of

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5-7 Heol Eglwys Fair
Caerdydd CF10 1AT

Welsh Language Commissioner
Market Chambers
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0845 6033 221
post@comisiynyddygymraeg.org
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

0845 6033 221
post@welshlanguagecommissioner.org
Correspondence welcomed in Welsh and English



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Commissioner

organizations to comply with standards.

One of the Commissioner's strategic objectives is to influence the consideration given to the Welsh language in policy and legislative developments. Thus, one of the Commissioner's principal roles is to provide comments in accordance with this remit, acting as an independent advocate on behalf of Welsh speakers in Wales who might be affected by these proposed changes. Such an approach is advocated to avoid any potential compromise of the Commissioner's regulatory functions and should the Commissioner wish to conduct a formal review of individual bodies' performance or the Welsh Government's performance in accordance with the provisions made in the Measure.

3. Welsh Language (Wales) Measure 2011 Standards

You will be aware that the Right Hon. Carwyn Jones AM, First Minister laid the Welsh Language Standards (No.1) Regulations 2015¹ before the Assembly on 3 March 2015, and a vote to approve them will be held at the Plenary Meeting of the National Assembly on 24 March 2015. If approved, the standards will come into force on 31 March 2015, enabling the Welsh Language Commissioner to issue Compliance Notices for the first set of standards to 26 organizations. These organizations will have to comply with the standards relevant to their organizations within a period of 6 months, commencing on the day the compliance notice is issued to them. The Welsh Government and the 22 current local authorities are among the 26 bodies. They will be required to comply with standards in 5 areas, namely:

- Service delivery
- Policy making
- Operational
- Promotion
- Record keeping

4. The Commissioner has already submitted comments to the Welsh Government on two consultations on local government reorganization namely on the *Welsh Government*

¹ [http://www.assembly.wales/laid%20documents/sub-ld10115%20-%20the%20welsh%20language%20standards%20%20\(no.%201\)%20regulations%202015%20rheoliadau%20safonau%20%80%99r%20gymraeg%20\(rhif%201\)%202015/sub-ld10115-e.pdf](http://www.assembly.wales/laid%20documents/sub-ld10115%20-%20the%20welsh%20language%20standards%20%20(no.%201)%20regulations%202015%20rheoliadau%20safonau%20%80%99r%20gymraeg%20(rhif%201)%202015/sub-ld10115-e.pdf)



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Commissioner

*White Paper: Reforming Local Government*² and the *Public Services Staff Commission*³. Our comments regarding the reorganization of local government have focused on the impact of the reorganization on Welsh and bilingual workplaces and how to plan the workforce in order to facilitate compliance with the requirements of the Welsh Language (Wales) Measure 2011. Also, the implications of local government reorganization on the communities served should be taken into account, especially as there is a relationship between the use of language in the workplace and in the community.

The workplaces or sections of the workplaces of many local authorities operate either bilingually or in Welsh only. Therefore Welsh is the working language of many officers. This is the result of purposeful planning and policy decisions over a number of years. Also, as a result of the Welsh Language (Wales) Measure 2011, a number of organizations will be required to comply with operational standards, namely standards involving the use of the Welsh language within a body's internal administration. It is important that the changes resulting from the Local Government (Wales) Bill do not undermine people's ability to use the Welsh language at work and that rather, it provides an opportunity to increase bilingual workplaces and the opportunity for workers to work and use their skills in the Welsh language. Indeed, one of the Welsh Government's strategic areas in its strategy document on the Welsh language *A Living Language: A Language for Living*⁴ is to increase opportunities for people to use Welsh in the workplace, also noting that 'the workplace also has a role in building the confidence of Welsh speakers to use the language in other areas of their lives'.

5. Welsh is spoken in every community in Wales, and it is the main natural daily language for many of those communities. The sustainability of the Welsh language as the main language of a number of these communities is a cause for concern, especially following the 2011 Census results, which show, not only a reduction in the number of Welsh speakers in Wales, but also a significant reduction in those communities where Welsh is spoken by over 70% of the population. This is as a result of inward migration and outward migration, especially of Welsh speaking young people migrating from their communities to find work. Local authorities are one of the main employers in Wales. It is therefore

2

[http://www.comisiynyddygydraeg.org/English/Publications%20List/20141001%20LL%20C%20Ymateb%20i%20ymgynhoriad%20ar%20ddiwygio%20Llywodraeth%20Leol%20\(Terfynol\).pdf](http://www.comisiynyddygydraeg.org/English/Publications%20List/20141001%20LL%20C%20Ymateb%20i%20ymgynhoriad%20ar%20ddiwygio%20Llywodraeth%20Leol%20(Terfynol).pdf)

<http://www.comisiynyddygydraeg.org/English/Publications%20List/2015013%20LL%20S%20Response%20of%20Welsh%20Language%20Commissioner%20Public%20Services%20Staff%20Commission%20White%20Paper.pdf>

⁴ <http://gov.wales/docs/dcells/publications/122902wls201217en.pdf>



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essential that any changes made to local authorities resulting from the Local Government (Wales) Bill should reinforce Welsh communities by ensuring employment and opportunities to use the Welsh language in the workplace.

6. In particular, we would like to submit comments on the following sections of the Local Government (Wales) Bill in this letter:

- i. Section 5 Guidance about merger applications
- ii. Section 10 Other consequential etc. provision
- iii. Section 13 Functions of transition committees
- iv. Section 16 (4) (d)
- v. Section 17 Directions and guidance to Commission

7. Section 5 Guidance about merger applications, and specifically, guidance regarding 'matters that should be taken into account in formulating the proposal contained in an application under section 3(1)' Section 5 (1) (d))

It is fair to note that local authority mergers could affect opportunities for people to use the Welsh language. We would expect that guidance issued by Welsh Ministers regarding merger applications would include guidance about taking into account matters involving the Welsh language, and especially statutory duties regarding the Welsh language.

8. Section 10 Other consequential etc. provision and in particular Section 10(4) (a)

Here, we would expect that the liabilities of merging authorities include liabilities to comply with the requirements of the Welsh Language (Wales) Measure 2011.

9. Section 13 Functions of transition committees, and in particular 13(1)(a) and 13(1)(b)

In accordance with 7 above, we would expect that transition committees will provide advice and recommendations to merging authorities regarding facilitating the transfer of liabilities involving compliance with the requirements of the Welsh Language (Wales) Measure 2011.

10. Section 13 Functions of transition committees, and in particular 13(2) - giving direction

Here, we would expect that the directions given by Welsh Ministers will require transition committees to consider local authority liabilities to comply with the requirements of the Welsh Language (Wales) Measure 2011. Also, in accordance with what is noted in 4 and 5 above, we consider that it would be positive for the transition committee to consider



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providing advice and recommendations to the merging authorities regarding how to extend the opportunities to work through the medium of Welsh and bilingually in the merging organizations, including taking into account the suitability of making the Welsh language the internal administration language of the merging organizations.

11. Section 13 Functions of transition committees, and in particular 13(4) - giving directions

From the explanatory memorandum, we understand that the guidance issued under the Bill requires that transition sub-committees ensure that matters involving the Welsh language are considered here. We expect that the guidance issued by Welsh Ministers would require transition committees to take into account local authority liabilities to comply with the requirements of the Welsh Language (Wales) Measure 2011. The explanatory memorandum also notes the need to ensure that awareness of matters involving the Welsh language is part of the work culture of new authorities from the onset. We consider that it would be positive for the transition committee to provide advice and recommendations to the merging authorities regarding how to extend the opportunities to work through the medium of Welsh and bilingually in the merging organizations, including considering the suitability of making the Welsh language the internal administration language of the merging organizations.

12. Section 16 (4) (e)

We consider that the name of any electoral ward or community ward would include a Welsh and English name, or a Welsh name only.

13. Section 17 Directions and guidance to Commission

We consider that the directions and guidance to the Commission would include directions and guidance in accordance with the policy making standards noted in 7 above.

Furthermore, we believe that they should also take into account the linguistic make up of the communities that they serve.

14. Thank you for the opportunity to submit written evidence to you regarding the Local Government (Wales) Bill. I would be happy to contribute further to the investigation, and provide oral evidence should you so wish.

Yours truly,

Meri Huws



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Welsh Language
Commissioner

Welsh Language Commissioner

LG 15

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: South Wales Fire and Rescue Service

Committee Clerk

Communities, Equality and Local Government Committee

National Assembly for Wales

Cardiff Bay,

CF99 1NA.

Dear Sir / Madam

Response to Consultation on the Local Government (Wales) Bill

Thank you for the opportunity to contribute to the consultation process for the above Bill.

The Service has considered the issues in relation to the specific impacts to the proposed provision (section 10(9)) to suspend the requirement under the Fire and Rescue Act 2004 for the Welsh Ministers to hold an inquiry if they wish to revoke or amend a Fire and Rescue combination order as a consequence of a voluntary merger, even if Fire and Rescue authorities may not agree with the proposed changes.

Yours faithfully

Paul Mason

Station Manager – Staff Officer (ELT)

For – CHIEF FIRE OFFICER

SOUTH WALES FIRE AND RESCUE SERVICE

RESPONSE TO CONSULTATION ON THE LOCAL GOVERNMENT (WALES) BILL

In relation to your latest correspondence dated 28th January 2015, and your inquiry into the general principles of the Local Government (Wales) Bill, please find the following observations from South Wales Fire and Rescue Services Perspective in relation to the proposed provision (section 10(9)) to suspend the requirement under the Fire and Rescue Act 2004 for the Welsh Ministers to hold an inquiry if they wish to revoke or amend a Fire and Rescue combination order as a consequence of a voluntary merger, even if Fire and Rescue authorities may not agree with the proposed changes:

We would not look to frustrate the legitimate wish of two or more local authorities to merge or delay any amendments to the orders, although as a Fire and Rescue Service our current Strategic Planning is provided for 2015 – 2020. This strategic plan outlines the strategic direction for the next five years and how we intend to meet the challenges over this time frame in order to continue to deliver a high quality service and meet the needs of our communities. It incorporates the longer term community and organisational challenges, with short term service improvements required to support and complement our longer term objectives. Although, it must be emphasised that the current planning framework also looks at the emerging issues both internal and external, ensuring

there is sufficient flexibility to amend and adapt to such emerging issues which have the potential to impact on the Service as a whole.

Our planning framework has been revised to bring together two distinct but complementary pieces of Welsh Government legislation. Firstly, the Fire and Rescue National Framework which requires each Fire and Rescue Authority (FRA) to publish a strategic plan setting out its medium to long-term strategic goals. Also as an “improvement authority” under the Local Government (Wales) Measure 2009 we are required to set, consult and report against annual improvement objectives. By taking this approach our annual improvement objectives will focus on supporting the delivery of our long-term strategic aims. Furthermore the plan has paid due cognisance to the six priorities set out in the Fire and Rescue National Framework 2012 Onwards in developing our strategic objectives.

As a Service we have a statutory duty to demonstrate continuous improvement in the services we deliver to the public, which can be challenging at the best of times. However, we also know that the economy continues to impact on our budgets, with a worst case scenario predicting that we will need to make budget savings between £10m–£20m by 2020. With this in mind we have recently completed our fire cover review, to ensure our resources are correctly located according to the risks within our communities. This includes a holistic review and restructure of stations, personnel, appliances and equipment resulting in considerable savings to meet the continued austerity needs and reducing budgets we potentially face in the future. Our medium-term financial plan enables a measured and timely approach to addressing current funding challenges and is the foundation for our long-term planning assumptions.

These planning assumptions are robust and prioritised on the basis of the current structure, budget, size of the organisation and area covered by the organisation. If this was to change overnight as a consequence of a voluntary merger our plans would require a complete review and overhaul, which could result in the decision making process being flawed

as the planning assumptions would or could dramatically change in many facets. The difficulties in planning for the unknown are enormous and potentially costly to the said organizations involved.

As a minimum we believe the Fire and Rescue Services need to be consulted and be an integral facet of any decision making process due to the potential and significant implications in relation to future:

Budgets / Business plans

Personnel & Human Resource Issues

Appliances, Equipment, Resources & Assests

Fire Cover provisions, Organisational risk profiles, population, demographics, geographical area changes / boundaries

Relationships and Partnership networking, LSB's, current & future collaborations

The efficient and effective planning of the Fire and Rescue Service is paramount and a Welsh Government requirement which has the potential to be compromised if the proposal to disapply the requirement to hold a local inquiry where a variation to the boundaries of the Fire and Rescue authorities is made as a consequence of a voluntary merger.

The increased additional costs for such a voluntary merger are also an unknown quantity, which have the potential to adversely impact on organisations that are already placing additional burdens and increased capacity on a reducing workforce through lean systems approach.

Until the nature, scope and details of any variations to voluntary mergers are known and fully detailed, complete additional costs or not cannot be assessed. However, costs are likely to be significant for organisations with small and reducing budgets which are already committed.

LG 16

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: North Wales Fire and Rescue Service

13 March 2015

Committee Clerk

Communities, Equality and Local Government Committee

National Assembly for Wales

CARDIFF BAY

CF99 1NA

Dear Sir/Madam

Consultation on the Local Government (Wales) Bill

Thank you for your letter dated 28 January 2015 inviting comments on the above, and specifically on the proposed provision to suspend the requirement under the Fire and Rescue Services Act 2004 for the Welsh Ministers to hold an inquiry if they wish to revoke or amend a Fire and Rescue combination order as a consequence of a voluntary merger.

In response North Wales Fire and Rescue Service wish to make the following observations to assist the Communities, Equality and Local Government Committee's consideration of the Bill:

1. We note the reference in the explanatory memorandum at paragraph 47 to a continuing duty to consult in the absence of an inquiry - "However, the duty to consult on such changes will still apply". We assume that this refers to the duty on the principal local authorities that are considering entering into a voluntary merger (section 4 of the bill) but would welcome the inclusion of clarification that this is what is meant;
2. In the event of boundary changes of existing FRAs to avoid having one new local authority served by two FRAs, this would inevitably impact upon all the other local authorities served by the FRAs, not only the merging authorities. We therefore suggest the inclusion of a reference to this secondary effect framed around the need to consult with all affected authorities;

Continued

3. Again, with reference to boundary changes to existing FRAs, we would welcome additional consideration by the Committee of the many advantages of co-terminosity of authorities and the benefit of having mergers that contribute to achieving or maintaining co-terminosity of authorities in an area.

Yours faithfully

Simon A Smith
CHIEF FIRE OFFICER

Local Government (Wales) Bill

RNIB Cymru Consultation Response

13 March 2015

RNIB Cymru is pleased to have the opportunity to respond to the consultation on the Local Government (Wales) Bill. The reorganisation and merging of local authorities throughout Wales provides an opportunity to provide better social outcomes for blind and partially sighted people. However, there is a likelihood of unintended consequences if attention is not paid to the best practice which has been formed over a number of years and the expertise of different authorities across the country.

RNIB Cymru would like to give a response to the Local Government (Wales) Bill framing our evidence around the delivery of services in local areas.

1. About RNIB Cymru

RNIB Cymru is Wales' largest sight loss charity. We provide support, advice and information to people living with sight loss across Wales, as well as campaigning for improvements to services and raising awareness of the issues facing blind and partially sighted people.

The impact of sight-loss is often far-reaching, impacting on all parts of a person's life. This means that all those who are involved in providing services to blind and partially sighted people should be engaged in working together and making it as easy as possible to access support and services.

2. About sight loss

- There are currently 106,000 people in Wales living with sight loss. (1)
- It is estimated that the number of people living with sight loss in Wales will double by 2050. (2)

- The prevalence of sight loss increases with age: one in five people aged 75 and over are living with sight loss; one in two people aged 90 and over are living with sight loss. (3)

3. Local Government (Wales) Bill

Losing your sight creates multiple barriers to independence. Thus many people with sight loss rely on support from public services to maintain their independence and promote their wellbeing.

However, too often RNIB Cymru is told of people who have recently lost their sight being left to fend for themselves – and all too often they are sinking into depression and isolation. We hear of unacceptably low levels of support given to people with sight loss, leaving many isolated and in some cases incapable of even leaving their own homes. It is vital that local government reform ensures a focus on public services to promote the wellbeing of blind and partially sighted people. If it fails to do this, it will undermine the positive vision set out by the Welsh Government in the Wellbeing of Future Generations Bill.

At present, any of the proposed mergers from the Williams' Commission would cut across existing service provision. For example the North East Wales Sensory Support Services (NEWSSS) is an example where cross-authority collaborative services have been introduced as a response to cost saving exercises by local authorities, as well as a recognition of the need for experts to work together across a geographical area.

There is also an example of these services in the Gwent area; Caerphilly manages the provision for five local authorities, Caerphilly, Blaenau Gwent, Monmouth, Newport and Torfaen since April 2012.

Current financial constraints mean it is unlikely that funding for such services will rise again, and it should be within this context that these functioning collaborative services are viewed.

These services have become important parts of the community and any proposed merger should take into consideration the good work which has been done over the last few years and ensure that

it is not lost, resulting in deteriorating outcomes for people with sight-loss.

The Gwent wide adult safeguarding board (GWASB) terms of reference states that they are accountable to the authorities which they are made up of. These agencies cut across the community and involve the full range of services from health boards, police authorities and even registered social landlords.

RNIB Cymru would like to ensure that functioning boards such as the two mentioned are not broken up, or if it is necessary to do so, the models they have adopted are learnt from and implemented across the rest of Wales. As these authorities have been ahead of their time in working across local authority boundaries, the lessons from their work and best practice should be the basis for the restructure of local authorities.

The Local Government (Wales) Bill provides a once in a life-time opportunity to link up all municipal authorities and align priorities for social care and safeguarding policy priorities. Ideally any realignment of services would follow the existing health board structure, or at least not have a local authority brought into existence where there is more than one health board serving the area.

For more information please contact:

Emma Sands
Public Affairs Manager
RNIB Cymru
029 2082 8560

References

- (1) Estimate based on Access Economics 2009, Future Sight Loss UK 1: The economic impact of partial sight and blindness in the UK adult population, RNIB, and Office of National Statistics (2014), Subnational Population Projections, Office of National Statistics.
- (2) Access Economics 2009. Future Sight Loss UK 1: The economic impact of partial sight and blindness in the UK Adult Population.

(3) Access Economics 2009. Future Sight Loss UK 1: The economic impact of partial sight and blindness in the UK Adult Population.



Committee Clerk
Communities, Equality and
Local Government Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

*Gofyrner arn/
Please ask for:*

**Chief Fire Officer
C Davies**

Rhif Est/Extn. No.

4401

E-bost/E-mail:

c.davies@mawwfire.gov.uk

Fy Nghyf/My Ref:

CD/MT

Eich Cyf/Your Ref:

Dyddiad/Date:

13 March 2015

LG 18
Communities, Equality and Local Government Committee
Local Government (Wales) Bill: Stage 1
Response from: Mid and West Wales fire and Rescue Service

Dear Sir / Madam

**Response from Mid and West Wales Fire Authority to the Consultation on the
Local Government (Wales) Bill**

Mid and West Wales Fire Authority (MWWFA) would like to register its objection to the proposed provision set out in Section 10(9) of the Local Government (Wales) Bill, "to suspend the requirement under the Fire and Rescue Services Act 2004 for the Welsh Ministers to hold an enquiry if they wish to revoke or amend a Fire and Rescue Combination Order as a consequence of a voluntary merger, even if Fire and Rescue Authorities may not agree with the proposed change".

Whilst MWWFA fully supports the work of Welsh Government to enable a programme of local government mergers and reform, it is concerned that the proposal set out in Section 10(9) of the Bill could result in there being insufficient consideration given to the impact of realigning structural boundaries. The Authority is also concerned of the impact such a proposal would have on local accountability and decision making.

MWWFA therefore does not support this Section of the Bill and would welcome the opportunity to engage fully in consultation.

Yours faithfully

Chris Davies
Chief Fire Officer



**INVESTORS
IN PEOPLE** Silver

LG 19

Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1


Response from: Chartered Institute of Public Finance and Accountancy (CIPFA)

Consultation on the Local Government (Wales) Bill

A Submission by:

The Chartered Institute of Public Finance and Accountancy

March 2015

 the people
in public finance

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money.

Further information about CIPFA can be obtained at www.cipfa.org

Any questions arising from this submission should be directed to:

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1. Executive Summary

- 1.1 CIPFA believes that the mergers of councils should be based on the need to deliver an effective and optimum level of public services. The Welsh Government should ensure any voluntary mergers are de-politicised and decisions are based on a configuration for the optimum provision of public services.
- 1.2 Any boundary re-drawing for the new authorities should be independently completed and the basis for boundary re-drawing established and agreed based on public service provision, taking account of both local need and ability to deliver by the new authorities.
- 1.3 The Explanatory Memorandum¹ for the bill outlines that under the Bill provisions; there will be costs of £1.117m for the Welsh Government and £1.219m for Local Government, the latter being the costs of establishing joint transition committees minus savings made after implementing boundary commission reviews. The Bill provisions do not adequately address the full overall eventual costs of merger. CIPFA has previously estimated this to range between £160m and £268m,² which are likely to place an increased financial burden on local government in Wales at a time when budgets are under increasing pressure.
- 1.4 Urgent consideration should be given to clearly identifying the powers and transaction abilities of both the Transition Committees and Shadow Authorities to minimise risk and ensure appropriate scrutiny and value for money is in place. If not identified in the body of the legislation, these powers should be clearly identified in merger regulations issued by the Welsh Government.
- 1.5 The Welsh Government should outline overall objectives for the merger of Local Authorities in Wales in terms of anticipated efficiencies and savings. These will provide a context for establishing the structures and setting budgets for the new principal authorities.

¹ National Assembly for Wales, Local Government (Wales) Bill – Explanatory Memorandum, Part 2, January 2014.

² CIPFA Report for the Welsh Local Government Association, Report on the Transitional Costs, Benefits and Risks of Local Government Reorganisation, November 2014

2. Basis of Mergers

- 2.1 CIPFA believes that the mergers of councils should be based on the need to deliver an effective and optimum level of public services. The proposed legislation to allow a system of voluntary mergers could lead to merger proposals based on political judgements rather than the best fit for service delivery and the current financial position of authorities.
- 2.2 CIPFA has previously presented a blueprint for public services to the Commission for Public Service and Governance.³ This recommended options for better horizontal collaboration and improving performance management frameworks.
- 2.3 Both of the above recommendations warrant consideration for local government in Wales for:
- Identifying areas where collaboration between local government and other service providers can be maximised and;
 - Identifying the appropriate measures of success for Local Government Reform.

3. Funding the Merger Process

- 3.1 There will be a cost to mergers to be met by councils and the merger proposals (voluntary or forced) should also consider the cost implication and impact on reserves of merger between authorities. This means that there should be consideration of an affordability fit in the proposed new principal authorities, ensuring no one area is disadvantaged by inadequate resources.
- 3.2 Costs for the Welsh Government and for Local Government arising from the merger process are outlined in the Bill Summary document⁴ and the Bill Explanatory Memorandum.⁵ These costs do

³ CIPFA, [The Commission on Public Service Governance & Delivery: A Five Point Blueprint for Public Service Reform in Wales](#), September 2013

⁴ National Assembly for Wales, <http://www.assembly.wales/Research%20Documents/15-009-Local%20Gov/15-009.pdf#search=Local%20Government%20%28Wales%29%20Bill> February 2015

not reflect the full costs associated with the eventual merger process for councils.

- 3.3 CIPFA has previously estimated these costs at between £160m to £268m⁶ relating to people, property, systems and programme costs. Given the financial position of some councils and evidence⁷ that some authorities may be over-relying on balancing their budgets by using reserves; we believe there is a strong case for the Welsh Government to consider financial support, either in the form of direct funding or through regulation allowing councils to mitigate the impact of merger costs.
- 3.4 In Northern Ireland for example, the local government reform arrangements include a significant funding package from the Northern Ireland Assembly amounting to £47.9m.⁸ This covered key areas such as system convergence and rates harmonisation measures.
- 3.5 The Department of the Environment in Northern Ireland have also enabled, through regulation, the ability for councils to capitalise certain revenue costs for funding purposes, mitigating the impact on rate payers.

4. Transaction Powers of Transition Committees and Shadow Authorities

- 4.1 The proposed legislation provides details on the functions of transition committees as well as provisions relating to restrictions on transactions by merging authorities whereby they need to seek the approval of the respective transition committee or shadow authority.⁹
- 4.2 It is unclear in the proposed legislation what transaction abilities the transition committee or shadow authorities have in their own right.

⁵ National Assembly for Wales, Local Government (Wales) Bill – Explanatory Memorandum, Part 2, January 2014.

⁶ CIPFA Report for the Welsh Local Government Association, Report on the Transitional Costs, Benefits and Risks of Local Government Reorganisation, November 2014

⁷ Wales Audit Office, Meeting the Financial Challenges Facing Local Government in Wales, January 2014

⁸ Department of the Environment Northern Ireland – who is funding local government reform?
http://www.doeni.gov.uk/index/local_government/local_government_reform/reform_fags.htm#who_is_funding_local_government_reform?

⁹ Local Government (Wales) Bill [as introduced] sections 7, 11 and 13.

This will be important from the point of view of setting the budget, planning staffing structures for the new principal authority prior to its establishment and to entering into other commitments for the new authority in advance.

- 4.3 CIPFA believes that in order to minimise any risks associated with these transition bodies entering into onerous arrangements or committing the New Principal Authority to large long-term future commitments, these powers should be addressed either through the legislation or through explicit reference in any merger regulations developed.

5. Performance Measures

- 5.1 While not an issue for the proposed legislation, CIPFA would recommend that plans are established to identify the potential benefits from mergers, once agreed, and to set out indicative savings plans and targets. It will be important to firmly have in place overall objectives for this re-organisation, underpinned by achievable and fully costed plans.¹⁰
- 5.2 There is no doubt that Local Government in Wales is under increased financial pressure. The same is true for the public sector in Wales generally. Any savings identified should take into account the potential for collaborative arrangements outside of the Local Government Sector.
- 5.3 CIPFA has previously supported the adoption of a 'place based' model of horizontal collaboration.¹¹ The need to maintain fiscal sustainability in public services, taking account of the expected impact of demographic and other changes, suggests that this approach needs to be more widely embraced as a key step in supporting local priorities, national outcomes and best value for the taxpayer.
- 5.4 A number of agencies in English local government are working on transformational projects across different boundaries.¹² These may serve as examples of how a more place-based approach could operate in Wales.

¹⁰ Supported by the WLGA submission on the Reforming Local Government White Paper, October 2014

¹¹ CIPFA submission to [The Independent Budget Review](#) (April 2010)

¹² DCLG, [Can-do' councils leading transformation of local government](#), 2013

- 5.5 CIPFA would further propose the use of shares services approaches across the new Principal Authorities in the areas of Treasury Management and Capital Investment planning, Finance, IT and HR services. This can facilitate improved data and information as well as effective decision support and efficient use of resources.

Briefing for:	National Assembly for Wales Communities, Equality and Local Government Committee.
Purpose:	The Welsh NHS Confederation response to the Local Government (Wales) Bill consultation
Date created:	19 March 2015

Introduction

1. The Welsh NHS Confederation, on behalf of its members, welcomes the opportunity to respond to the Local Government (Wales) Bill consultation.
2. By representing the seven Health Boards and three NHS Trusts in Wales, the Welsh NHS Confederation brings together the full range of organisations that make up the modern NHS in Wales. Our aim is to reflect the different perspectives as well as the common views of the organisations we represent.
3. The Welsh NHS Confederation supports our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work. Member involvement underpins all our various activities and we are pleased to have all Local Health Boards and NHS Trusts in Wales as our members.
4. The Welsh NHS Confederation and its members are committed to working with the Welsh Government and its partners to ensure there is a strong NHS which delivers high quality services to the people of Wales.

Summary

5. In our response to the Local Government (Wales) Bill consultation we are not providing specific answers to all the questions posed. Rather we are providing comment on how the Bill is potentially a missed opportunity to support better integration between all public bodies in Wales. The Bill focuses too much on structures and boundaries and not on the outcomes it is trying to achieve; improving the way all public services are governed and delivered in Wales. The Welsh NHS Confederation believes that while the debate around the findings of the Williams Commission, and the Welsh Government's response, has focused on structures and boundaries, this should only be seen as part of the solution; of the 62 recommendations in the Williams Commission, only four of them related to structural change in Local Government.
6. The Welsh NHS Confederation is willing to provide oral evidence to the Communities, Equality and Local Government Committee. We believe it is important for the Committee to have the opportunity to hear directly from the health sector.

The general principles of the Local Government (Wales) Bill and the need for legislation to:

- enable preparations to be made for a programme of local government mergers and reform

7. The Welsh NHS Confederation, as the membership body for Local Health Boards and NHS Trusts in Wales, welcomed the publication of the Williams Commission report and we responded to its recommendations and findings in June last year. In our response to Williams we recognised that the report is a comprehensive study into the state of public service governance and delivery in Wales, and that it makes a number of broad recommendations relating to health and to the wider delivery of public services. In commenting on the recommendations in our response to Williams, we recognised that they have the potential to support better integration and reduce overall demands on health, and drive improvements across the board.
8. The Williams Commission recommended that *“Urgent action is required to ensure that seamless, integrated and high-quality health and social services are provided across Wales”*. In the light of this we have been concerned that Welsh Government’s response to the Commission through the White Paperⁱ and the Bill represents a missed opportunity. There is rarely a reference made within the Bill to Local Health Boards and no reference to integration. Although the Welsh Government intent around the future of Local Government is clear within the Bill, we are disappointed that the Bill only relates to the Local Government aspects of the Williams report, specifically mergers and Local Government reform.
9. While the Minister in the Forward to the ‘Devolution, Democracy and Delivery White Paper – Reforming Local Government’ highlighted that the Bill *“proposes a new relationship between Local Government and communities. We need communities and Authorities to work together to tackle issues and create joint solutions”*, we recommend that it is an opportunity to consider the public sector more widely within this Bill. To enable all public sector bodies to tackle the pertinent issues affecting Wales, all sectors need to work in a more collaborative and integrated way and the NHS in Wales is already well on the road to integrating health and social care services.
10. For example, the Welsh NHS Confederation, in partnership with ADSS Cymru, is working to help build a much greater common understanding between NHS Wales and Local Government about the process of, and planned impact from, much closer collaboration and integration. In addition, Welsh Government’s Intermediate Care Fund is supporting projects which reflect this partnership. We feel that these initiatives demonstrate that services are already moving towards working in a more integrated way, and that this could be better reflected, indeed promoted, within the Bill.
11. The Welsh NHS Confederation welcomed the understanding within the Williams Commission report that urgent action is required in integrating health and social services to ensure high quality sustainable services are provided both now and in the future.
12. The First Minister, in response to the Williams Commission, stated that the Welsh Government’s plans *“are not just about Local Government. The commission was about improving all public services for our citizens. Therefore, we have set out a wide-ranging, ambitious programme of reform that encompasses the whole public sector... It describes wholesale integrated change so that we work and act as one public service...”*.ⁱⁱ While we support the rhetoric in this statement, the reality is that integration, and improving all public services, has not been discussed in this Bill.

13. The NHS in Wales supports integrating health and social services and we fully recognise that the way services are delivered now is not sustainable, and more importantly do not always meet the needs of the people of Wales. Our members are keenly aware of the need for whole system change in public services. As a service we want to see a consistent increase in quality while making sure services can meet the demand that are the consequences of demographic changes and forecasted increases in the older population. As our discussion paper *'From Rhetoric to Reality – NHS Wales in 10 years' time'*ⁱⁱⁱ highlighted there is a need for wholesale change to ensure that there are positive outcomes for patients, a reduction in health inequalities and to help people avoid hospital admission through improved community and social services. To achieve these outcomes it is vital that health is not seen as a stand-alone issue and that integration is prioritised.
14. Engagement is necessary with all our public service colleagues, from social care to housing, education and transport, to take us all from an 'ill-health' service that puts unnecessary pressure on hospital services, to one that promotes healthy lives. All public bodies in Wales must build on how we might improve our ability to work together and support our partners and colleagues in other sectors. The recommendations put forward by the Williams Commission have the potential to support better integration and reduce overall demand on health, and drive improvements across the board.

Allow Principal Local Authorities to merge voluntarily by April 2018;

15. We support the principle that allows Local Authorities to merge voluntarily by April 2018. We are pleased that the Bill recognises the need for Local Health Boards to be consulted before mergers occur. We support section 4 of the Bill which highlighted that *'Before an application is made by principal local authorities...the principal local authorities must consult.... the local health board for any area falling wholly or partly within any affected area'*.
16. The haste with which the Bill, and the Williams Commission recommended this process takes place, reinforces the wider point about the need for radical and swift change to make public services in Wales more effective. As stated previously, structures and boundaries are not everything, but they remain an important barrier to collaboration, integration and the effective provision of public services in many instances.
17. So far Local Government re-organisation has dominated the debate surrounding the Williams Commission's findings. Although the debate is a key part of refocusing public services in Wales we are concerned that this remains the focus. Working with fewer Local Authorities will streamline the integration process for Health Boards, and there will be fewer structural barriers to collaborative working across the board. On this point we would stress that although it is important that wholesale change should be done across the board, this should not restrict progress in taking forward any discrete areas of work more quickly where this is possible.

Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,

18. It is vital that any new Local Authorities boundaries consider the structures that are already in place to minimise duplication. There are a number of structures already in place which underpin joint working, including regional collaboratives, Local Service Boards and the new structures proposed in the current Bill.

19. It is very disappointing that the Bill does not make reference to the recommendation put forward within the Williams report in relation to the greater integration, and potential merger, of Powys County Council and Powys teaching Health Board. Recommendation 18 in the Williams report states that *‘Because of the unique characteristics of the county of Powys and the distinctive patterns of service delivery that this creates, Powys County Council and Powys teaching Health Board should merge’*. In our response to Williams we highlighted that overall we support the greater integration, moving potentially toward a merger of the Council and the Health Board, but that there is an urgent need for the Welsh Government to respond to the recommendation due to the uncertainty that currently surrounds the future structures and timeframes.
20. When the White Paper was introduced by the Minister for Local Government and Government on the 8th July she stated that in relation to the proposal to merge Powys teaching Health Board and Powys County Council *“the Minister for Health and Social Services and I are looking at that, and, obviously, we need to look at that as quickly as we can and come forward with some proposals”*. We would agree that there is a need for some urgency in the Welsh Government’s response on this recommendation because the potential for greater integration and potential merger has now been discussed for over a year and it inevitably starts to create uncertainty for key staff who would be personally affected. The hiatus creates an uncertainty for both organisations in how to move forward. A firm position would be helpful in providing the clarity about future direction and timescales for the organisations to plan for the future.
21. Overall we support the greater integration, moving toward a potential merger, of Powys County Council and Powys teaching Health Board. However if a merger is to happen it must be seen as a joint and equal partnership between both organisations and would therefore by implication require a new type of body to be formed. Furthermore, neither the Williams Commission nor the Bill answers a core question in relation to the form any new body might take and how local and national political accountabilities can be discharged for both Local Government and NHS functions. It is our view that further work needs to be undertaken to develop a model for an integrated organisation that outlines how governance can work, and how local democracy and national directed services can work side by side before any major steps are taken.

Conclusion

22. The debate around the findings of the Williams Commission and the Bill itself has focused largely on structures and boundaries. Undoubtedly, the complexity of these and how they impact on people’s experiences of a range of public services does cause problems, but addressing these is only part of the solution, and must not be seen as an end in itself.

ⁱ ‘Devolution, Democracy and Delivery White Paper – Reforming Local Government’

ⁱⁱ The First Minister, 8 July 2014, The Welsh Government Response to the Williams Commission Report, National Assembly for Wales Plenary

ⁱⁱⁱ The Welsh NHS Confederation, January 2014, From Rhetoric to Reality – NHS Wales in 10 years’ time