

Agenda – Communities, Equality and Local Government Committee

Meeting Venue:	For further information contact:
Committee Room 2 – Senedd	Sarah Beasley
Meeting date: Thursday, 4 February 2016	Committee Clerk
Meeting time: 09.00	0300 200 6565
	SeneddCELG@Assembly.Wales

1 Introductions, apologies and substitutions

2 Draft Local Government (Wales) Bill: evidence session 1 – SOLACE

(09.00 – 10.00)

(Pages 1 – 39)

Alison Ward, Vice Chair of Solace Wales

Break (10.00 – 10.15)

3 Draft Local Government (Wales) Bill: evidence session 2 – Wales Audit Office

(10.15 – 11.15)

(Pages 40 – 50)

Anthony Barrett, Wales Audit Office

Alan Morris, Wales Audit Office

Martin Peters, Wales Audit Office

Break (11.15 – 11.20)

4 Draft Local Government (Wales) Bill: evidence session 3 – Trade Union representatives

(11.20 – 12.20)

(Pages 51 – 68)

Dominic MacAskill, Regional Manager



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

5 Papers to note

(Pages 69 – 73)

6 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

7 Draft Local Government (Wales) Bill: discussion of evidence

(12.20 – 12.30)

[Evidence submitted in response to this Consultation](#)

8 Welsh Government draft budget 2016/17 – consideration of correspondence from the Welsh Language Commissioner

(12.30 – 12.40)

(Pages 74 – 84)

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**National Assembly for Wales Communities, Equality and Local Government
Committee's scrutiny of the draft Local Government (Wales) Bill.**

Evidence of SOLACE Wales

1. SOLACE Wales welcomes the opportunity to give evidence to the Communities, Equality and Local Government Committee on the Local Government (Wales) Bill.
2. SOLACE Wales understands Welsh Government's wish to undertake a reform of local government in Wales from the current model of 22 authorities, particularly given the pressures on capacity in the smaller authorities as a result of austerity. However, we are not in favour of change for change's sake; and we only welcome such changes as will deliver better services, reduced cost and greater efficiency.
3. We do not believe that reorganisation into a fewer number of large authorities is in itself a silver bullet to tackle the current financial restrictions on public service, and we feel that it is imperative that the newly created councils are well led and citizen centric, with a strong organisational culture focusing on performance, innovation and staff engagement.
4. We are concerned that the already longstanding uncertainty on how these proposals will be taken forward has made it difficult to maintain morale in the current local authorities and to plan ahead effectively. Even if the timetable currently proposed in the Bill goes ahead exactly as planned, we are looking at another four years before the new local authorities come into being, and those issues will continue to be of concern particularly as staff take decisions to leave or retire.
5. In terms of the transitional arrangements outlined in the Bill, the period between the local elections in 2017 and the abolition of the old authorities in 2020 will need to be carefully managed to ensure that strong political and officer leadership and focus is maintained. Once the shadow authorities are established in 2019, it is inevitable that the focus will shift to them; but high quality, day to day services will still need to be delivered by the outgoing organisations until the last day. There will inevitably be a number of members who are elected in 2017 who will not be serving in the new authorities, there are also likely to be a number of officers who will see the transition as a point to retire or move on. Maintaining the morale and energy of the outgoing organisations will therefore be a key task.
6. We represent Chief Executives of Councils from across the Welsh local authorities, and it is therefore difficult for us to comment on the proposed map, and number of councils, as there are many different shades of opinion. We do, however, have concerns about the size of some of the new organisations in terms of their connectedness to citizens and communities, particularly with respect to democratic representation. The advantage of current collaborative arrangements is that, whilst

they take advantage of scale in service planning and delivery, they are rooted in being overseen by elected members who have a depth of understanding of local circumstances.

7. As we feel there is a danger of very large new councils being out of touch with communities, we are not against the establishment of community area committees.

However, we do have concerns about the potential plethora of bureaucracy and the cost of maintaining and supporting this. One small community could be overseen by a Community Council, a Community Area Committee, a Local Authority, a Public Service Board, a constituency Assembly Member, regional Assembly Members, a Member of Parliament and a Member of the European Parliament. A major reform of local government is an opportunity to start from a blank canvas and design governance that is streamlined, cost effective and fit for purpose. An alternative to creating area committees is to redesign the relationship between Community Councils and the new local authorities, with powers of delegation aligned with clear lines of accountability for delivery and cost effectiveness.

If there are to be community area committees, we would be in favour of delegation powers that relate to services delivered specifically to that geographical location; for example, greening and cleaning, parks, community safety. We think that there is potential in this way for not only elected representatives, but also staff delivering the services to be much more closely in touch with local communities and to have a stronger sense of direct accountability to them. We do not think it would be appropriate to delegate functions that relate to individuals, such as social services and education, nor services that have a regulatory aspect.

The strength of very locally based democracy is that it is very immediately and directly in touch with key local issues of concern; the danger is that it can become dominated by individuals with strong personalities focused on single issue agendas. For this reason we believe that community area committees should be made up only of elected representatives and those who have been nominated by established public bodies and voluntary sector organisations and who have some accountability back to those organisations.

8. We welcome a five year cycle for local elections; we believe that this gives elected members a proper period of time to immerse themselves in the working of the organisation and therefore enables them to lead and scrutinise effectively. It also allows time for key decision making to be undertaken on major issues without the constant presence of an election looming. Medium to long term forward planning on financial, service delivery and workforce issues has strengthened in Wales as a response to austerity; and it is important that councillors are able to continue thinking in these longer timelines as we move into the future, whether or not austerity continues to bite.
9. We welcome the provision in section 23 to give general power of competence to local authorities. The broad powers in section 23(2) are particularly appropriate as

councils will increasingly need to look at innovative models of service delivery and ways of raising revenue, including through the use of arms length commercial enterprises.

10. We feel that the provisions of the Bill relating to powers of competence for Community Councils are, in the main, best commented on by Community Councils themselves. However, we would make a general comment that, if the powers of Community Councils are to be expanded, it is important that there are appropriate safeguards and checks and balances to ensure that the calibre of the Community Council, and the support that it receives, is equal to exercising those powers.
11. We support the proposals to require Councils to consult on the annual budget. However, we feel that there should be a wide discretion in terms of how such consultation is carried out. The rapidly increasing use of new forms of social media is likely to mean that by the time the new authorities come into existence there will be ways of communicating with the public which have not yet been thought of.

Traditional means of engaging the public by holding public meetings in geographical locations are increasingly ineffective, often resulting in small numbers of people attending who are not representative of the majority of the population.

12. In terms of improvement requests, we can see the merit in providing a mechanism for an open debate between a council and a community on an issue of specific local importance. We do feel however that there need to be parameters around this dialogue, as there is a danger of it absorbing a very large amount of officer time in the Council. "Reasonable grounds" for not entering into a dialogue should include the fact that a similar request has been made previously or that the issue has become vexatious. We welcome the fact that the Bill does not heavily prescribe the duty upon local authorities.

If there are to be community area committees, there will probably be merit in most "improvement requests" being dealt with at that level within the resource envelope delegated to that committee.

In times of continuing austerity, there will be issues around fair distribution of limited resources; and the danger that those who put in improvement requests are treated more favourably in terms of resource allocation than those who don't must be guarded against. The reality is that local authorities will increasingly have to take away or reduce services that communities want and value; a published debate will only have value if it highlights not only the rights of communities and individuals to receive services but also their responsibilities as citizens to contribute.

13. We are in favour of transparent electronic broadcasting of all formal meetings of democratically elected bodies. Having said this, we believe that there must also be space for members and officers to discuss and test out ideas in an informal discussion before formal meetings take place in the public eye.

14. We note at S77 (2) the power for Ministers to make regulations allowing persons to make their own electronic recordings of council meetings and to publish them on social media. We would urge that Ministers give this very careful consideration before making such regulations. If an electronic broadcast is freely available to all, we question why this would be necessary; and the ability of individuals to cut and paste to distort and misrepresent the facts is a serious consideration.
15. With regard to the question of keeping written minutes, we question the necessity of this going forward if all meetings have a full electronic record.
16. We support all proposals to engage children and young people actively in democratic decision making.
17. We welcome the provisions in the draft Bill requiring members to attend meetings regularly, hold surgeries at least quarterly, respond promptly to correspondence, attend all compulsory training and make annual reports. We also welcome the requirement for Leaders to set and monitor objectives for the Cabinet. These are all standards that the public have a right to expect from those whom they elect.
18. In section 100 (1)(a) of the Bill it is stated that a candidate for Leader must in advance of a leadership election prepare and circulate to other members a written manifesto. Whilst we understand why the Bill may cite this as good practice, we would point out that in local government election years the time between the election itself and the Annual General Meeting is short and that, particularly if there is a complicated period of negotiation between parties forming a coalition, this may be difficult to achieve in practice.
19. We support the provision in section 101 (2) for Councils to be able to appoint Assistant Executive Members; this is welcomed as a good way for younger councillors to gain experience and to allow for succession planning.
20. In Chapter 6 section 103, we support the provision to change the senior statutory role in the council from Head of Paid Service to Chief Executive as this more clearly describes the nature of the role and recognises the status of the Chief Executive within the organisation.
21. In section 103(6) it is stated that “a county council must provide its Chief Executive with such staff, accommodation and other resources as are, in the Chief Executive’s opinion, sufficient to allow the Chief Executive’s duties under this section to be carried out”. Whilst it is of course desirable that councillors should listen to and respect the advice of their Chief Executive, and that Chief Executives should only make requests of the Council that are proportionate and reasonable, we believe that this wording needs more thought. It surely cannot be the intention of the Bill to make it a statutory requirement that elected members must provide whatever resources are required *in the opinion of the Chief Executive* to discharge its various functions. Members may disagree with the Chief Executive as to where resources

should be deployed according to political priorities, and the wording as it is drafted at present would override that.

22. Section 104, concerning the setting of objectives for Chief Executives, states at subparagraph (8) that Welsh Ministers may issue guidance, to which the Council must have regard. Is it the intention that Welsh Ministers should have the power to intervene in local arrangements between a Leader and a Chief Executive with regard to the way that the Chief Executive carries out their duties? If so, this seems to be a considerable incursion into the running of a local authority without the Bill putting any parameters around the Minister's reason for issuing such guidance – for example if the Council is failing to deliver on key performance or governance issues.
23. We welcome the decision referred to in the consultation document that issues concerning the appointment of Chief Executives and Chief Officers should be subject to further consideration and advice by the Public Services Staff Commission. Local Government reform will inevitably see the loss of a number of experienced and capable Chief Executives and senior managers, and Wales is not well placed to attract new talent from England or elsewhere. Therefore, whilst the wish for transparency and fairness in senior remuneration is understood, account must be taken as to the levels of remuneration that will recognise and reward the demands of the role and enable Wales to recruit and retain the best.
24. We feel that much has been done in recent years to undermine the value and respect that senior local government officers in Wales are held in. We accept that as senior public servants our pay should be open to scrutiny in terms of public value and transparency. However, the salaries of even the best remunerated of us do not compare favourably with our equivalents in the private sector (or of local authority Chief Executives in England or Chief Executives of Health Boards and other public bodies in Wales) and for that we run extremely complex organisations within a challenging political environment in the face of constant public scrutiny and criticism at a time that requires transformational leadership. When looking at the multiplier between the lowest and highest paid person in an organisation, it is considerably higher in most private sector organisations than in local government; and in Welsh local government in particular we are well below the maximum of 20:1 discussed in the Hutton Review of Fair Pay. The combination of increased levels of pension contributions and a lack of percentage increases on salary mean that many of us take home significantly less pay than we have done in previous years for carrying out an increasingly difficult role with fewer people to support us. It is already difficult to find a reasonable pool of high quality candidates for senior roles in Welsh local government or to recruit from outside Wales; this is likely to become an increasing problem as existing senior people leave or retire as a result of local government reform.
25. The Bill is not entirely clear on the question of which Returning Officer roles would be regarded as included as being integral to the role of Chief Executive. The reasoning behind this with regard to Local Government Elections is understood, although such elections do add considerably to the Chief Executive's workload; with

regard to other elections (Parliamentary, Welsh Assembly, European, Police Commissioner, referenda etc.) these are not financed by the local authority and do entail additional duties over and above the Chief Executive role.

26. We recognise and agree with the need for shadow authorities to appoint interim Returning Officers given the timescales.
27. With regard to the statutory protections afforded to certain senior officers of the Council, these are given to statutory officers for a specific reason, which is that they are required to “speak truth to power” for the safety, proper conduct and reputation of the organisation and those leading it, particularly in cases of potential corruption or illegality. We would strongly oppose, and advise extreme caution on, taking any action to remove these protections in Wales.

Votes in full council concerning the employment of individual officers would inevitably lead to protracted litigation in employment tribunals and courts for unfair dismissal, and could easily lead to reputationally damaging and costly claims of bullying, harassment and discrimination. It is hard to see the justification for carrying out such procedures in public, and easy to see how it could turn into a “witch hunt” playing to the public gallery.

28. We welcome the proposed greater flexibility to allow Councils to determine what matters can and cannot be delegated through simplification of the existing legislation. As stated above in the answer relating to community area committees, there is a danger in creating new councils with very large populations and geographical spread that the connection with local decision making will be lost. Decisions that relate specifically to a particular community and its activities are most properly taken at the most local level possible.

Key strategic policy decisions should remain the responsibility of the full Council, and it is suggested that the bullet point list in the consultation document should include the setting of the Council’s key priorities and objectives in its Corporate Plan.

29. There is much in Part 5 of the Bill that we strongly support. Many councils have found a combination of rigorous self assessment supplemented by peer review to be instrumental in focusing on and driving up performance.

The huge reduction in resources available to local authorities makes it vital to have clear and focused priorities based on clear political choices, and for the Corporate Plan to be closely aligned with the Medium Term Financial Plan and Workforce Plan.

30. Section 113 of the Bill requires a County Council to publish its first corporate plan no later than three months after the date of the first ordinary election of councillors. Experience suggests that this timescale is unrealistic. The corporate plan will set out the key strategic direction for the council for years to come. It requires careful thought and wide consultation both within political parties and cross party; in addition the Bill requires consultation with both the Local Health Board and the

Public Service Board. In our view a plan that attracts wide consensus and support is much more effective to the good governance of the organisation than one that has to be rushed into existence.

31. We very much support provisions that require regulators to work and plan together and to carry out combined assessments, the burden of regulation on local authorities is very heavy and in many cases disproportionate to the benefits that it confers.
32. We feel that the creation of local public accounts committees would add unnecessary bureaucracy, complexity and expense to an already crowded landscape without delivering significant benefits that would drive public service improvement.
33. Public Service Boards do appear to be an appropriate place for the examination of key strategic policy choices. The only caveat to this is that PSBs will be made up of the senior executives of the local public service organisations, and there is therefore a danger that their deliberations will result in a reinforcing of existing attitudes and views, rather than an element of challenge and enquiry. It would certainly be beneficial for PSBs to be able to commission external expertise and for them to be able to introduce independent critical friends to challenge their thinking. It does not seem necessary for them to have powers to summon officers to give evidence, given that they can do so through their seniority within the constituent organisations.
34. Experience suggests that there not as many legislative barriers to the scaling of shared services across not only local authorities but public services generally as may be supposed. There are state aid considerations in terms of commercial trading but these can be accommodated with the appropriate legal advice. The general powers of competence proposed in the Bill should help to iron out any existing wrinkles around legal powers.

Creating an arms length wholly local authority owned company allows for strategic partnerships with private sector providers that do not fall foul of procurement legislation and therefore provides greater flexibility within appropriate legal parameters. This can be done under existing legislation.

35. We have considerable concerns about the proposals in the Bill to issue guidance, to which public bodies must have regard, with respect to workforce matters. The definition of workforce matters in section 173 combined with the ability to issue guidance to particular public body effectively means that a Minister and his or her officials can take on the responsibilities of a Chief Executive in relation to the staff with an organisation. It is of particular concern that there no parameters built into this power, so that there is no need for a local authority to be failing in some respect for these powers to be exercised.

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Date: 25 January 2016
Our ref: HVT2479/fgb
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Dea Christine,

THE DRAFT LOCAL GOVERNMENT (WALES) BILL

Thank you for the opportunity to comment on the draft Local Government (Wales) Bill.

I attach an annex setting out detailed comments, but it may be helpful if I provide a summary here of key points.

Overall, there are no findings from my work in relation to local government that suggests that any of the proposed provisions relating to the creation of the new counties are unreasonable or unworkable. Similarly, however, I cannot give a view as to whether any of the proposed configurations of local government have particularly strong merits or drawbacks.

The local government finance provisions (section 16 and Schedule 3 of the draft Bill) seem to be reasonable in terms of enabling the new structures to function. The provisions, do not, however, represent substantive change from current mechanisms. I understand from the Welsh Government consultation document that the Welsh Government intends to consult on proposals for substantive change, and I look forward to that consultation. I also look forward to consultation on changes in accounts and auditing, which I understand the Welsh Government intends to include in the Bill for introduction.

I welcome the replacement of the duty to make improvement arrangements (required by the Local Government (Wales) Measure 2009) with the proposed duty under Part 5 of the draft Bill to make good governance arrangements. However, I am concerned at some of the remaining content of Part 5. I have particular concerns at section 143, which provides for Welsh Ministers to make regulations for co-ordinating my work with that of Estyn and CSSIW. Using these powers, the Welsh Ministers will be able to set timetables for when audit work is done and require the sharing of information. This is clearly at odds with audit independence (currently protected by section 8 of the Public Audit (Wales) Act 2013).

Audit independence is a fundamental principle, as recognised by professional bodies, including the Auditing Practices Board and the Public Audit Forum. It is critical to maintaining the rigour and credibility of audit reporting, which in turn is important to maintaining the credibility of audited bodies. Indeed, I note that the Welsh Government said in its Explanatory Memorandum on the then Public Audit (Wales) Bill that it was "acutely aware of the need to preserve and protect the independence and objectivity of the AGW."

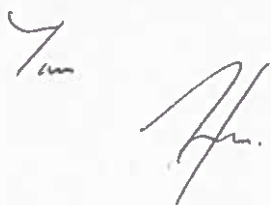
I have similar concerns with section 132, which places the Auditor General under an obligation to provide Welsh Government appointed reviewers with "whatever facilities and assistance" the reviewers require. I also think that Part 5 leads to a multiplicity of reviews, including an inefficient requirement for combined assessments.

With regard to the Regulatory Impact Assessment, with Part 1 (the geographical structure of local government), by and large, and taken as a whole, the cost and savings estimates do not seem unreasonable. It is not, however, possible to be certain about this, as the basis for many figures is not clear. Some individual estimates seem rather optimistic, such as the lower total for pay harmonisation of £3.5 million (table 15 of page 69). However, this optimism does not seem so great as to undermine the overall picture that the costs should "pay back" in about 4 years, assuming the upper estimates of costs and the lower estimates of savings.

Overall public sector cash-flow is important, and it seems that 2019-20 is to be a critical year for local government in terms of funding requirements. In that year authorities will need to find some £60 million to £100 million to fund redundancies, early retirement packages and other costs.

Part 2 of the Regulatory Impact Assessment (constitutional reforms, governance, community councils and workforce matters) seems to be incomplete, as, for example, no cost is identified for self-assessments. Such omission is, however, unlikely to significantly affect the overall pattern of costs and savings arising from the provisions of the Bill, but would have local resourcing implications.

I should be happy to provide further explanation.



HUW VAUGHAN THOMAS
AUDITOR GENERAL FOR WALES

Annex

Comments on individual parts of the draft Local Government (Wales) Bill

Part 1, Local Government Areas and County Councils

1. Overall, there are no findings from my work in relation to local government that suggests that any of the proposed provisions are unreasonable or unworkable. Similarly, however, I cannot give a view as to whether any of the proposed configurations of local government have particularly strong merits or drawbacks.
2. The provisions relating to local government finance (section 16 and Schedule 3 of the draft Bill) seem to be reasonable provisions to enable the new structures to function. They do not represent substantive change to the overall current general approach to local government finance, and I note that the Welsh Government intends to consult on proposals, including for further legislation, to address the mechanisms for distributing, raising, managing and accounting for the funding of local government. I welcome the Welsh Government's intention and look forward to the consultation.
3. I also note that, while not in the draft Bill, the Welsh Government's consultation document (page 14) says that the Bill for introduction will contain updated and modernised provisions for how local government bodies should account for their spending and how their accounts will be audited. Again, I look forward to the consultation on those proposals.
4. I also note from page 14 of the consultation document that the Welsh Government says that it will make regulations governing the funding of shadow authorities and, if deemed necessary, the audit of accounts. I think it is appropriate that there are regulations to govern shadow authority funding and accounting, and I also think it would be useful if the Welsh Government consulted on such regulations before they are laid, so as to enable unforeseen problems to be headed off. The expenditure of shadow authorities should be subject to appropriate audit.
5. I note from page 16 of the consultation document that the Welsh Government proposes that the Bill on introduction will include provision for the Welsh Government to make regulations regarding Non Domestic Rates avoidance. The Welsh Government asks in its consultation document for suggestions as to how legislation could reduce avoidance. While it may not be of direct relevance to the draft Bill itself, the Committee may wish to be aware that I am minded to mention that it seems sensible to make provision requiring NDR payers to notify authorities of changes in circumstances. It might also be worth considering provision for

authorities to have right of entry to premises so as to enable checks for evidence of activity, such as by reading utility meters.

Part 2, General Power of Competence

6. The provision for local authority general power of competence in Chapter 1 of Part 2 of the draft Bill, is, I think, appropriate. I note that there has been some confusion in at least one Welsh authority as to whether the competence provided by the Localism Act 2010 applied, and Welsh provision should help prevent such confusion in the future.
7. In relation to the draft Bill's provision for the use of audit opinions in determining community council competence (section 31), I should note that while such opinions are of relevance to the abilities of bodies in terms of financial management and governance, audit work is not actually designed so as to provide assurance as to whether a council meets competency requirements. Current audit provisions in section 17 of the Public Audit (Wales) Act 2004 do not require audits to address general competence. If audit arrangements are to be fully appropriate to determining whether a council has competence, it will be necessary to amend the scope of audit work. In many, if not most, cases, this will increase community council audit fees (or will need to be funded by other means). Rather than making this a blanket requirement for all audits, it may be more cost-effective if provision were made requiring community councils to obtain specific reports on fitness for competence. Such reports could be provided on an agreement basis under section 19 of the Public Audit (Wales) Act 2013.
8. I note that section 35 of the draft Bill requires community councils to have regard to guidance issued by Welsh Ministers on the exercise of functions in relation to the general power of competence. I think this is appropriate and would add that I think that such guidance will be very important, as community councils are likely to be unfamiliar with recognising the limits of competence, as imposed, by, for example, European State Aid rules.

Part 3, Promoting Access to Local Government

9. I generally welcome the proposals in Part 3 to encourage public participation. Many of the requirements are consistent with good governance principles, and they may assist in contributing to a framework for assessing compliance with the good governance duty (Part 5 of the draft Bill).
10. I particularly welcome the duty to publish a constitution guide to aid transparency and good governance (section 79).

11. I do, however, see the provisions for improvement requests (Chapter 4 of Part 3) as leading to potentially administratively burdensome procedures. In that respect, it may helpful if the Welsh Government were to consider means of minimising such burdens, for example, by setting out in guidance a realistic range of examples of reasonable grounds for refusing requests.

Part 4, Functions of County Councils and their Members

12. Overall, the provisions of Part 4 appear reasonable.

Part 5, County Councils: Improvement of Governance

13. I welcome the replacement of the duty to make improvement arrangements, under the Local Government (Wales) Measure 2009, with the proposed duty under section 111 of the draft Bill to make good governance arrangements. My view is that the improvement duty was seen by many councils as an additional burden rather than being an integral part of their business. The new proposed good governance duty should go to the heart of what makes organisations successful in the delivery of their priorities, and should encourage councils to critically examine their full range of arrangements while also improving transparency and democracy.
14. I also welcome the focus on economy, efficiency and effectiveness in section 111 and the alignment that this provides to my duties under the Public Audit (Wales) Act 2004 to satisfy myself that proper arrangements are in place to secure economy, efficiency and effectiveness.
15. I find, however, that much of the other content of Part 5 of the Bill raises issues of concern, as follows:
- a) Well-being objectives not being at one with priorities in corporate plans;
 - b) The multiplicity of assessments and reviews;
 - c) The use of peers for repeated diagnosis rather than help with improvement;
 - d) Resource limitations in relation to peer review;
 - e) Differences between the work required by the assessment provisions of the draft Bill and the illustrations of expectations in the consultation document;
 - f) Confusing nomenclature;
 - g) The inefficiency of the requirement for combined assessments;
 - h) Conflicts with audit independence.

Well-being objectives not being at one with priorities in corporate plans

16. Section 112 concerns the preparation of authorities' corporate plans. The section recognises that well-being objectives should be included in the corporate plan. However, as currently set out, it appears that the well-being objectives (required by the Well-being of Future Generations (Wales) Act) are a separate add-on to the "statement of priorities". If it is the intention that well-being objectives are central to the priorities of the council then this section needs amending to make this clear.

The multiplicity of assessments and review

17. Altogether Part 5 leads to multiple assessment and review requirements:

- a) section 116 self-assessments;
- b) section 118 peer assessments;
- c) section 124 combined assessments, and
- d) section 128 Welsh Government appointed governance reviews.

While there is scope for section 124 combined assessments and section 128 Welsh Government appointed reviews to draw on the following, the above are in addition to:

- e) the Auditor General's existing consideration of governance arrangements as part of consideration of arrangements for securing economy, efficiency and effectiveness under the Public Audit (Wales) Act 2004, and
- f) the duty under section 15 of the Well-being of Future Generations (Wales) Act 2015 for examinations for assessing the extent to which bodies have acted in accordance with the sustainable development principle (which is also a fundamental matter of governance).

18. Altogether the requirements for assessments and reviews of governance matters are stacking up. In my view, any new proposed assessments, to be worthwhile, should add value to, rather than duplicate other work. I also think that there is a need for arrangements that have coherence and help lead to improvement. An over-emphasis on diagnosis rather than cure will not be productive.

The use of peers for repeated diagnosis rather than help with improvement

19. The peer assessment is the prime example of a resource being used for repeated diagnosis rather than help with improvement. The use of peers to support improvement where issues have been identified by other assessments is likely to be more productive than further peer assessment. I would therefore suggest that the

provision for peer review is amended so as to address improvement support in place of further assessment of governance arrangements.

Resource limitations in relation to peer review

20. Another concern with regard to peer assessment (particularly the approach set out in the consultation document) is that the available pool of potential peers that meet the requirements set out is currently very small. Considerable effort will need to be made in developing such a pool and building capacity in the sector as well as quality assuring potential reviewers.
21. The example given in the consultation document refers to a peer assessment taking several months and ongoing engagement, but then refers to it as a "short, sharp process" (page 50). This appears contradictory. I am also concerned that the process described is unrealistic in the speed at which it is proposed to be carried out. In order to ensure that evidence is robust and that findings are adequately quality assured a more measured approach is likely to be necessary.

Differences between the work required by the combined assessment provisions of the draft Bill and the expectations set out in the Explanatory Memorandum

22. There is lack of alignment between the combined assessment provisions of section 124 of the draft Bill and the process described in the explanatory memorandum. The description in the Explanatory Memorandum goes further than assessing compliance with the good governance duty of section 111. While it is the case that by sharing information about our respective work, the Auditor General, Estyn and CSSIW can identify, so far as the areas of examination and findings permit, risks to good governance, this is not the same as setting out an assessment of compliance with statutory duties. The process described in the explanatory memorandum lends itself better to a duty to share information in the exercise of the respective functions of review bodies than it does to duties to assess and report jointly.

Confusing nomenclature

23. Section 123 defines the Auditor General as a "relevant regulator" and the Auditor General's local government functions as "relevant functions". (The other "relevant regulators" defined by the section are Her Majesty's Chief Inspector of Education & Training in Wales (Estyn) and the Welsh Ministers exercising social services inspection functions (CSSIW).) It is misleading to label the Auditor General as a "regulator", as audit is not regulation. This leads to confusion as to the Auditor General's functions and independence. I think this could be easily addressed by a small change in nomenclature, such as by using the term "relevant review body".

The inefficiency of the requirement for combined assessments

24. Section 124 provides for “combined assessments” of the governance of county councils. Such combined assessments are to assess compliance with governance arrangement duties under section 111. However, jointly conducting and reporting such an assessment is likely to prove unnecessarily complicated given the necessarily distinct roles and independence of the bodies involved. The joint clearance and sign off of reports by multiple parties, both within councils and relevant review bodies, will, of necessity, take additional time. Given that examination of governance is already an integral and necessary part of the Auditor General's audit functions, it would be more efficient to require the Auditor General to assess the discharge of the duty to make good governance arrangements, while requiring other relevant review bodies to contribute relevant information, and requiring the Auditor General to have due regard to such information.

Conflict with audit independence

25. Several aspects of Part 5 are not compatible with audit independence, which is a fundamental audit principle and essential for overall credibility of reporting on the stewardship of public resources, both at the local government level and the Welsh Government level. The greatest problem is in section 143, which empowers the Welsh Ministers to make regulations for co-ordinating work of the Auditor General with work of Her Majesty's Chief Inspector of Education and Training in Wales (Estyn) and work of the Welsh Ministers in terms of their social services inspection functions (CSSIW). Using these powers, the Welsh Ministers will be able to set timetables for when audit work is done and require the sharing of information.
26. I understand that the provision for Welsh Ministers' regulations may have been intended to help achieve the first part of the section, which is that Estyn, CSSIW and the Auditor General should have regard to the need for co-ordinating their work. That first part of the section is reasonable, but the provision for regulations is not appropriate. Apart from being harmful to audit independence and, by extension, Ministers' financial credibility, the provision for regulations is unnecessary, as co-ordination is already being pursued through the Inspection Wales voluntary co-ordination group.
27. A similar problem arises in section 132, which places the Auditor General, along with Estyn and others, under an obligation to provide Welsh Government appointed “reviewers” (appointed under section 128) with “whatever facilities and assistance” the reviewers require. There is a danger that the obligations under section 132 will divert resources from independent audit work.

28. I can see that if the Welsh Government is to create its own local government governance review arrangements that it will want to ensure that those arrangements are co-ordinated with the work of other review bodies, such as the Auditor General, and do not lead to unnecessary duplication. It would, however, seem more appropriate to seek such co-ordination through the existing Inspection Wales arrangements (at no significant additional cost), rather than by providing for the requisition of independent resources, which have been voted by the National Assembly for other purposes.
29. The capturing of the Auditor General by a duty in section 144 to have regard to Welsh Ministers' guidance in relation to functions under Part 5 is also at odds with overall audit independence.

Part 6, Community Councils

30. Overall, the provisions of Part 6 do not seem unreasonable, but some issues may arise on practical implementation.
31. As referred to in the consultation document, I (or in some cases, appointed auditors) have made reports in recent years highlighting the need to improve financial management and governance across the sector. In order to enhance the capability of the sector, it seems likely that generally larger community councils need to be created, as it is in the smaller councils that we have found more significant issues during audit. Larger councils are generally better-placed to offer higher remuneration to attract full-time and qualified staff. This consideration and the fact that there are many community areas without community councils makes a review of all communities appropriate.
32. I support provision for the training of community councillors. Community councillors often demonstrate a lack of understanding of their responsibilities (see, for example, the appointed auditor's report in the public interest on Mawr Community Council, January 2015), particularly in relation to the fairly complex legal framework, finance and governance. Training therefore seems to be a good idea.
33. I am in favour of the Welsh Government's proposal mentioned in its consultation document (but not in the draft Bill) that community councils should be required to consider and plan for the training needs of their own members and employees. I think it is important for community councils to take ownership of their training needs both because this should enhance and maintain their independent abilities, and it should make it more likely that members undertake training. However, at present I doubt that many councils would be well-positioned to identify training needs and gaps, so I do see county councils as having a role, as provided for in section 167, in considering the training needs of community councillors. Furthermore,

Welsh Government guidance, as provided for by section 167(2), should help ensure consistency in standards across Wales.

34. There will no doubt be practical issues arising from ensuring that mandated training is undertaken. I am not sure that the notification procedure in section 170 will be effective, and, as the consultation document notes, there is scope for strained relationships given that the clerk is an employee of the council. However, a requirement for clerks to compile records of training requirements and attendance is sensible, and it would, for example, facilitate audit review of training across community councils if resources and priorities make that appropriate.

Part 7, Workforce Matters

35. Overall, the provisions of Part 7 appear reasonable.

Part 8, General

36. If the Bill to be introduced includes provisions for Welsh Ministers to make regulations for combined assessments and for setting the timetable for the exercise of review body functions and sharing of review information (sections 127 and 143 in the current draft, which, as noted above, are not appropriate), then there should be reference to them in section 182(3). This would at least make such regulations subject to a resolution of the National Assembly.

The Regulatory Impact Assessment, Part 1 (the geographical structure of local government)

37. By and large, and taken as a whole, the cost and savings estimates do not seem unreasonable, though it is not possible to be certain about this, as the basis for many figures is not clear (see, for example, estimates of savings from consolidation of office space on page 63 of the Regulatory Impact Assessment, Part 1). While the overall costs and savings seem to me to be somewhat optimistic, this optimism does not seem so great as to undermine the overall picture that the costs should "pay back" in about 4 years, assuming the upper estimates of costs and the lower estimates of savings.
38. Some individual estimates seem rather optimistic, such as the lower total for pay harmonisation of £3.5 million (table 15 of page 69 of the Regulatory Impact Assessment, Part 1). This estimate appears to be based on staff in new authorities moving to the weighted averages of salaries in the existing authorities.
39. With some justification, the costs of transition committees are not included in the assessment for the draft Bill, as these were given coverage in the assessment for

the Local Government (Wales) Act 2015 (some £2 million 2016-20). However, to get a complete picture of the re-organisation costs, this cost needs to be kept in view, even though it is not likely to make a material difference to the overall pattern of cost and savings.

40. The presentation of the Regulatory Impact Assessment does not seem to me to be user-friendly. There is no immediately apparent and explicitly labelled summary of the gross cost of the Bill. It is necessary to turn to page 71 to identify the "preferred option" and then refer back to pages 68 and 69 for summaries of estimated savings and costs. The presentation does not seem tailored to meeting the requirements of Assembly Standing Orders.
41. One point that is apparent on consideration of the summary cost table on page 69 is that 2019-20 is to be a critical year for local government in terms of funding requirements. In that year authorities (and their pension funds) will need to find some £60 million to £100 million to fund redundancies, early retirement packages and other costs. The Welsh Government's consideration of this requirement is not clear from the consultation materials.

The Regulatory Impact Assessment, Part 2 (constitutional reforms, governance, community councils and workforce matters)

42. I am not in a position to offer definitive views as to costs shown in Part 2 of the Regulatory Impact Assessment, as it is not apparent quite what lies behind the figures given. There do, however, seem to be indications that the costs are incomplete. For example, pages 83 to 85 of the Regulatory Impact Assessment, Part 2, concerns self-assessments and peer assessments, but costs are only identified for peer assessments (£45,000 to £50,000 a year, which seems low, even on the basis of one assessment in each electoral cycle). It therefore seems that the cost of self-assessments has been omitted.

Reforming Local Government: Power to Local People

UNISON Cymru Wales Submission

(To be considered alongside our completed White Paper Consultation Survey)

Introduction

UNISON Wales welcomes the publication of the Welsh Government's Consultation on Devolution, Democracy and Delivery: Reforming Local Government: Power to Local People White paper.

UNISON is Wales' largest public service union organising over 90,000 public service workers; 50,000 of these working in Local Government. The members we organise are triple stakeholders in Local Government: as employees of our councils; as providers of the services that our councils deliver; and as citizens who use and rely on these services.

UNISON is therefore uniquely placed to advise Welsh Government on how Local Government can be reformed to ensure that it can provide strong, democratic and sustainable quality services into the future.

UNISON Wales has contributed submissions (written and oral) to consultations on the Williams Commission; the July 2014 White Paper and the Public Services Staff Commission White Paper in January 2015. This submission should be considered in the context of these earlier positive engagements.

Principles

UNISON is committed to maintaining the 'Welsh Way' that is embodied in a positive approach to public services: finding public sector solutions to public sector problems.

UNISON is committed to maintaining and developing strong partnership working between Welsh Government, Public sector employers, communities and the trade unions.

UNISON is committed to maintaining and enhancing the reputation of Welsh Public Services in the face of a UK Government driven austerity agenda which threatens to undermine public perception of their worth and threatens to push service delivery to be based on reducing cost rather than providing quality services.

UNISON is clear that Local Government services are best delivered by democratically accountable councils who directly employ the people providing the services. The March 2012 report from the Association of Public Service Excellence (APSE) entitled 'Shared services and collaborative working in a

Welsh context: Applying theory to practice' looked extensively at different governance models for local government and found that there is little support for models of local government specifically that 'hollow out' local councils.

UNISON reaffirms its position of being against all forms of outsourcing and strongly believes that Local Government Services should be delivered by a directly employed council workforce.

1. Power to Local People

Local Government has a crucial role to play in reducing inequality to help create a fairer Wales. Inclusion and cooperation are the foundations on which the Welsh Government can renew and invigorate the Welsh public service delivery system.

That is why Welsh Government, alongside putting a very positive reform agenda for Local Government, needs to articulate a clear economic and political alternative to the failed policies of austerity which are draconically cutting funding to valued services threatening, in some cases, their very existence. In addition, UNISON believes that the Welsh Government should continue to press strongly for the Westminster Government to revise the Barnett Funding Formula to ensure fair funding for Wales going forward.

Reform cannot be implemented and the improvement of public services cannot be conducted whilst the Welsh Government is cutting funding to Local Government.

UNISON hopes that the Welsh Government led reform agenda can assist by articulating a positive vision for the future of public services generally, but Local Government Services specifically, as an essential requirement for maintaining and promoting the health and wellbeing of the people of Wales.

2. Balancing the Responsibilities of the Welsh Government and Local Government

Working together

UNISON would support the principle laid down at the beginning of this section: that service providers, and relevant others like voluntary organisations and community groups, should work together if services are to meet people's needs.

However, when it comes to service delivery, the devil is often in the detail, and specifically, the form of this working together can make crucial differences to service delivery. For example, if a local voluntary organisation knows a particular community well, or has expertise in a particular type of service; their knowledge and expertise should be harnessed by the Council. There should be genuine partnership working. If, however, 'working together' means that there should be

more outsourcing to such organisations, UNISON would not support this move. The experience of UNISON's members is that outsourcing is always carried on the basis of which potential provider can do things most cheaply – not which one can do them best. Too often, 'working together' means paying staff less, and this is not the way to ensure high quality joined-up public services.

The proposals talk about shared services for 'behind the scenes' services. When it comes to purely transactional services, this may be a sensible way to proceed, but in UNISON's view public services are best provided in-house, by employees who are paid appropriately and trained well. UNISON recognises that support service functions may well be usefully pooled in a regional public sector collaborative body, and this service (HR advice, payroll advice, grant funding access, etc,) could be accessed by third sector organisations so benefiting both parties.

The evidence from the last 35 years of privatisation, outsourcing and marketisation makes grim reading, with numerous instances of service deterioration, profiteering and a race to the bottom on pay and terms and conditions of the workforce. As such, any new approach must put services and their users above the bottom line, take out the profit motive, save on transaction costs and ensure stability of provision:

Keeping services in-house should be the default position for all public services.

New regulations must make better use of the new EU Public Procurement Directive, with authorities able to choose in-house models of provision, with trade union recognition, national and local collective bargaining and social criteria applied to contracts. These are known as 'fair wage' clauses and are common in Europe and American cities and cover much more than just the living wage.

Before services go out to contract there needs to be a mandatory 'public interest case' made which sets out the reasons and business case as to why the contracting authority wishes to outsource the service. This should be a public consultation with an onus on the contracting authority to make the case that outsourcing is in the public interest. If the case is not answered then there should be no outsourcing and if the case is answered then 'in-house' bids should be automatically included in the tender process.

Procurement failure

Recent trends in public sector procurement in local government place reliance on bidders to work out the detail of service design and delivery and calculate the costs – variously referred to as 'outcomes-based commissioning', 'enabling', 'thin client', 'intelligent client' and 'light client'. Andy Mudd from the Association of Public Service Excellence (APSE) has highlighted how the risks and complexity of working out the

necessary 'inputs' are increasingly being left to the bidders.¹ In theory this is supposed to ensure that failure risks are transferred to the bidders and client side costs are reduced to a minimum. It is supposed to free providers from detailed input specifications so that they can identify for themselves the most cost- effective way of delivering the required end result. On the other hand contracting authorities are supposed to no longer need to employ their own experts and can therefore reduce the cost of both letting and managing contracts.

However, the assumption that the more decisions about how to deliver a contract are left up to the contractor, the more likely they are to be able to optimise cost and deliver savings, is flawed. Recent examples West Coast Main Line (Department for Transport), G4S (LOCOG) and allegations of fraud by the Ministry of Justice against SERCO and G4S cast serious doubt on the likelihood that this form of commissioning can deliver best value or transfer risk. Risk transfer is frequently illusory. And it relies on the assumption that bidders will always make commercially sensible judgements that will not over-expose them to demand and other risks.

Multiple failures amongst local government contractors, such as Connaught, Southern Cross, Transform Sandwell, Impact (Rochdale and Mouchel) and Southwest One, demonstrate how the commercial failings of contractors rebounds very quickly and expensively, on public bodies.

The Institute for Government has concluded that private contractors are prone to 'gaming', that is responding in undesirable ways to the reward structures commissioners have created. It also found: *"reluctance to force underperforming public, private and voluntary sector providers out of these markets in service provision – partly as a result of a lack of confidence that government can manage transitions between different service providers without causing excessive disruptions to service users."*²

The costs of procurement

The costs associated with complex procurement are very significant. UNISON is concerned that they often involve substantial expenditure on 'consultants' rather than using the expertise of councils' own staff, unions and service users. For example three district councils in Lincolnshire spent almost a quarter of a million pounds on consultants advising on the privatisation of 'back office' services. A report commissioned by UNISON for approximately 1% of the cost exposed

¹ <http://watford.moderngov.co.uk/documents/s3979/Appendix%206.1.pdf>

² <http://www.instituteforgovernment.org.uk/publications/making-public-service-markets-work>

the weaknesses in the consultants' report and enabled the local authorities to pursue a better course of action.

Value for money through in-sourcing

Contract failings have led a growing number of local authorities to take the decision to bring privatised services back in-house.

A study³ for UNISON carried out by APSE found that out of 140 survey respondents, 57% had either brought a service back in-house, were in the process of in-sourcing or were considering doing so. A need to improve efficiency and reduce service costs was the most frequent key reason for in-sourcing with almost 60% of respondents citing it. After cost, 44% of respondents said a need to improve service quality was critical to the decision to in-source. The research found that councils of all sizes, locations and political complexions were represented among those deciding to in-source. In-sourcing was regarded as a means of delivering efficiency savings in the face of mounting budgetary pressure.

Austerity cuts have served to shine a spotlight on long term contracts which up tie large amounts of council spending – forcing cuts to be focused elsewhere. One of the issues identified with the Somerset Council South West One contract was that council funding cuts had fundamentally undermined the rationale for the contract. Cabinet Member for resources, David Huxtable, said: *"It was a very complex contract and lots of the savings were predicated on an ever-increasing amount of money being put into public services and we know in the last four years that has gone into reverse."*⁴

A more recent example of in-sourcing on a large scale looks set to take place following the termination of Sandwell Council's partnership with BT. The Sandwell case raises questions as to what extent other councils are able to learn from such experiences before entering into similar contracts with BT and other large players in the local government market.

Cut-price procurement and the effect on quality: the damage in social care

It is clear that in some areas of local authority expenditure the twin pressures of rising demand for services and funding cuts have created a drive by councils to secure cost-cutting at the expense of service quality. Nowhere is this more prominent than in social care. UNISON has been at the forefront of campaigning to highlight the alarming decline in the quality of care that users receive.

³ UNISON: In-sourcing update: The value of returning local authority services in-house in an era of budget constraints - <https://www.unison.org.uk/upload/sharepoint/On%20line%20Catalogue/20122.pdf>

⁴ *ibid*

UNISON research based on Freedom of Information (FOI) data from councils in England, Wales and Scotland found that 81% of councils commission from homecare providers where they do not guarantee providers specific hours from one week to the next. This enables councils to drive down the costs they incur as a result of fluctuations in care need. But it fuels the use of zero hour's contracts for homecare workers.

An increase in the outsourcing of homecare services at ever lower costs has meant that an estimated 150-200,000 care workers are routinely paid less than the National Minimum Wage largely because they are not paid for their travel time. Providers claim that this is because councils' commissioning models are based on contact time only and do not cover the full costs of care.

The consequences of this cut-price approach by councils in the homecare sector were encapsulated in the recent UK Government-commissioned Cavendish Review which stated that:

*"It will not be possible to build a sustainable, caring, integrated health and social care system on the backs of domiciliary care workers who have to travel long distances on zero hours contracts, to reach people who have to see multiple different faces each week... The advent of zero hour's contracts, fee cuts and no payment for travel time is making it financially prohibitive for some domiciliary care workers to struggle on. Attrition rates are already dangerously high: and they will only increase when carers feel that they can no longer even give good care."*⁵

These developments in homecare have led UNISON to establish our *Time to Care* campaign which asks councils to sign up to an 'ethical care charter' to commission homecare in line with a core set of baseline standards including non-use of 15-minute visits, ensuring payment of travel time, non-use of zero hours contracts and proper training and support for staff to raise concerns about care standards.⁶

A growing number of councils are recognising that the quality and reliability of privatised homecare has become unacceptable. In this and in other sectors of care such as learning disability and independent living, UNISON has identified a trend of councils attempting to establish social care companies as an alternative means of service delivery. In a number of instances these companies have struggled to maintain quality and deliver cost reductions, and have been either forced into liquidation or wound up.

The EU Public Procurement Regulations

⁵ <https://www.gov.uk/government/publications/review-of-healthcare-assistants-and-support-workers-in-nhs-and-social-care>

⁶ <https://www.unison.org.uk/at-work/local-government/key-issues/homecare/the-facts/>

Under the new European Union Public Procurement Regulations, it is possible to use procurement to promote social value, including environmental, labour and employment standards (including tackling blacklisting), ensure the payment of a living wage to outsourced workers, enshrine equal pay, and develop training and apprenticeships.

Unfortunately, the UK Government has rushed through new Public Contracts Regulations, which among other problems, fail to make it a mandatory requirement for public contracts to be awarded on the basis of 'best price/quality ratio'. The failure of the government to not make it a mandatory requirement for public and social services to be awarded on the basis of 'best price/quality ratio' leaves the door firmly open to the continuation of damaging price-only competition fuelling the race to the bottom. This represents a lost opportunity to send a clear signal of much needed shift in UK public procurement to encourage public bodies to implement the Living Wage; fair employment practices; improve financial transparency; apply FOI to private contractors; adopt CSR, prevent serious breaches of employment law including blacklisting, non payment of employment tribunals, health and safety breaches and breaches of environmental and tax obligations.

Regulation 77 of the new UK Regulations covers the issue of new forms of delivery, for example commissioning services to mutuals or co-operatives. But this Regulation allows the contracting authority to reserve a contract for a wide variety of hybrid and private sector organisations. This means that a commercial enterprise could enter the public procurement market by creating a 'special purpose vehicle'. The only bids that would not be able to tender for a public contract would be an existing in-house provider which has the effect of making the regulations appear to be anti-public sector. So the supposed promotion of mutuals and co-operatives is, fairly transparently, another way for the UK Government to privatise public services.

While these new Regulations do cover Wales, there is nothing to stop the Welsh Government doing more, doing things better, than the minimum that is mandated by the UK Government. In UNISON's view it is up to the Welsh Government to send a strong message that it wants to do more than the UK Government has mandated, ensure that quality is built into procurement processes (rather than just cost), and ensure that service delivery by mutuals and co-operatives is not used as a backdoor to privatisation, and UNISON is calling on the Welsh Government to do exactly this, issuing Councils with guidelines to this effect.

Procurement from mutuals, co-operatives and the community and voluntary sector

Moreover, UNISON would question the current trend to favour mutuals and co-ops. Our fear is that outsourcing to mutuals and co-ops will lead us down a similar path to that experienced in the community and voluntary sector.

UNISON represents more than 60,000 members working in the community and voluntary sector – a large proportion of who work in services commissioned by local government.

UNISON is seeing a rise in consortia bidding for contracts instead of just individual charities. However, these are large and expensive exercises to engage in, and often a large private contractor will be the principle bidder while work flowing to the charities will be sub-contracted. This has led to the phenomenon of the profitable work being creamed off by the contractor and charities left to deliver services at bargain basement prices, which are sometimes loss making. It also means charities having to squeeze down even further on the pay and terms and conditions of staff, and increasingly using zero-hour contracts.

Contracts with voluntary sector providers sometimes do not include 'full cost recovery' and there is insufficient allowance for the costs of back office support services – with an often tacit assumption that these can be borne by the organisation's fund-raising activities. In some cases, commissioners have cut the price of a contract mid-contract, causing huge disruption. The private sector would walk away, but charities tend to work in just one area and commissioners can take advantage of the reputational damage they would suffer if they did this.

Generally, funding is getting so tight that additional services that charities provided from any surplus are being cut back or abolished, which has a knock-on effect on local communities. If the Welsh Government is serious about working together with community and voluntary organisations to provide better public services, then grant funding for community and voluntary organisations needs to be revisited as a viable alternative to procurement.

Whatever the level of funding, UNISON's experience is that, often, the unique benefits of working with the Community & Voluntary sector are crowded out by the very system which hands the work over to the sector. For example, one organisation in the North East of England, which worked with young homeless people, has described to us how, upon reaching the end of a financial year, it had some surplus resources left over, and so decided to invest them in a piece of research on how their services could be improved. The research produced useful findings, and so the organisation presented them to the commissioning authority – the Council. The Council agreed that the findings were helpful, but said that to implement them would entail a brand new contract. They therefore terminated the organisation's contract, re-tendered the service based on the findings of the research, and awarded the work to a different organisation. Such behaviour by commissioners acts as a real disincentive for the voluntary sector to engage in any innovation – the innovation which is one of the reasons used by the public sector for outsourcing to the voluntary sector.

In UNISON's view, if a local voluntary organisation, mutual, co-op, or charity knows a particular community well, or has expertise in a particular type of service; their knowledge and expertise should be harnessed by the Council – not exploited.

Local Authority Areas

UNISON can only support a restructuring of Local Government in Wales if the Welsh Government provides additional resources to local authorities to enable the initial additional costs, associated with mergers, to be met. These additional resources could be recouped from the savings that the restructuring delivers on the basis of an 'Invest to Save' strategy which has been utilised in other areas of the public sector in Wales. Should the Welsh Government insist on restructuring costs being met from existing Local Government resources then there would be a direct dramatic negative impact on the amount and quality of services that the new councils would be able to provide and would be accompanied by mass redundancies which UNISON would vigorously oppose.

In addition, UNISON is supportive of the organisations boundaries being coterminous with the existing Health Board boundaries. Such an organisational alignment will assist in the necessary process of integrating health and social care services.

UNISON also believes that further empirical evidence needs to be produced, to support the merger process identifying the optimum scale for any new council to ensure that effectiveness and efficiency is maximised, before a merger of councils is agreed.

Staff

UNISON welcomes the commitment of the Welsh Government to establish a Public Services Staff Commission and the Minister's recognition that the Commission will utilise the Workforce Partnership Council as its primary reference point in developing and delivering its work programme.

UNISON agrees that there should be equality of terms and conditions of services, and would want the proposed Public Services Staff Commission to ensure that this applies to outsourced staff with the same force as it does to publicly employed staff. To this end the Commission needs to be committed to implementing, in partnership with the recognised trade unions, an all Wales Job Evaluation scheme which will ensure consistency of pay and terms and conditions for all workers across Local Government services. Such a scheme should apply to all Local Government employees, including Chief Officers and Chief Executives, which would ensure that pay at the top is kept more in proportion with the rest of the workforce.

The remit of the Commission also 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 retender stage after 4 to 7 years and does not happen continuously in such a model.

The Commission 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. This would be assisted if the Welsh Government strengthened the Code of Practice on Workforce Matters (the 'Two-Tier Code') and supported the creation of new, and the strengthening of existing, collective bargaining arrangements.

UNISON believes the Commission should not supplant existing bargaining and negotiating mechanisms. The Commission 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 Local Government reorganisation.

The Commission 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.

Equality should be at the heart of the Commission's consideration and part of this will be to ensure that restructured public services can deliver equality proofed single status pay structures.

Other important issues for the Commission 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.

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

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 e.g. the opportunity of career progression, pathways and development should be enhanced.

Review of the body of Local Government Legislation

The move to give Councils more freedom to do what's best for their local communities needs to be balanced by the need for universal

Wales-wide standards of public service provision. While it is right that some areas of public service delivery decision-making are best made locally, there must also be clear standards, to avoid the so-called postcode lottery. For example, UNISON supports the need for a strong statutory duty on all Councils to provide youth services. Councils should not be able to opt out of providing youth services, and we are concerned that section 2.11 could allow them to do just that.

3. Renewing Democracy

Performance Management for all employees

Section 3.13 of the White Paper looking at the 'Role and Responsibilities of the Chief Executive' highlights the legal requirements in relation to the 'head of paid service' and specifically five duties that the Welsh Government intend to place upon the Chief Executive including 'put(ing) in place a performance management system for all employees of the Local Authority'.

If this proposal, in any way, relates to the introduction of performance related pay then UNISON has serious concerns and would be opposed to it. However, if this relates to the need for all employees to receive regular supportive personal development and career advice and support then this would be welcomed, if progressed through the usual National Joint Council bargaining channels.

Council elections

On the basis that it provides for more democracy, elections should take place every four years, as at present, not every five years. UNISON believes that these should be full elections and doesn't support elections being split into thirds, as this will dilute the democratic process and add significantly to the cost of elections.

The role and responsibilities of the Leader

UNISON strongly supports the emphasis on ensuring that there is real diversity of backgrounds among those Councillors selected for Cabinets, and it is right that a duty is placed on Leaders to achieve this.

The roles and responsibilities of Cabinet Members

Similarly, we welcome any moves which open the door to Cabinet (or 'Deputy Cabinet') roles to a wider range of Councillors. It is vital that Cabinet positions are held by Councillors who reflect their local communities and this includes involving those with other jobs and who have caring responsibilities.

Diversity among Councillors

We also support the proposals around diversity among Councillors.

Remuneration of Councillors

The proposals around transparency of salaries for Councillors make sense. However, when pay levels are publicised, they should be

accompanied by clear descriptions of the size and importance of the roles involved. There is often a presumption in the press and media, and among right-wing politicians, that senior pay (for Councillors and staff) is too high, whereas actually in most cases pay for these roles has remained stagnant in recent years, at the same time that the responsibilities and complexities of the roles have increased.

Electoral qualification

We strongly agree that a Councillor should not be able to serve as an Assembly Members or Community Councillor at the same time.

Term limits for Chief Executives

We do not support term limits for Chief Executives; we prefer a system whereby a Chief Executive's performance is assessed against their objectives.

The cost of senior management

UNISON is in favour of a national framework for Chief Executives' pay across the public sector, and this should be based on the principles of collective bargaining, with employers and trade unions negotiating pay just as they do for other groups of staff. The use of an independent advisory body is a sensible idea. Aside from negotiation, the other key elements in determining senior pay should be transparency, and also objectivity. Pay should be based on the demands of the job, not used as a political response to anti-public sector pressure.

Senior appointments to the new Authorities

UNISON does not agree with the proposal to give an external body power over senior staff appointments. Councils must be able to appoint their own Chief Executives. Any other approach would fly in the face of the desire expressed elsewhere to localise decision-making where possible.

4. Connecting with Communities

Councillor-led community governance

Some of the principles behind the proposed Area Boards are good ones and such bodies could play a really positive role in bringing interested groups together in the best interests of communities. However, there are concerns about the democratic structures within such bodies. If they take on responsibilities for decision-making, commissioning, or service design, there would need to be much stronger safeguards and reassurances about the democracy underpinning them. In these circumstances, Area Boards would remove service delivery from local decision-making and accountability, and make outsourcing more likely. UNISON's views on outsourcing have been clear earlier in this submission.

If the Area Boards only have a scrutiny role, UNISON would be slightly less concerned. However, crucial to any system of scrutiny will be the

standards against which the Council is being scrutinised. If Area Boards are introduced, it is vital that service delivery is scrutinised by them against the twin benchmarks of universal standards determined by the democratically elected Welsh Government, and the objectives for communities set by the council that was elected by those communities. To this end, it is vital that the Welsh Government follows the recommendations made by UNISON in the section on the EU Public Procurement Regulations above, so that the system of scrutiny by Area Boards is not used to force Councils to outsource services.

Moreover, we would like to hear more about how Area Boards and Community Councils would work together – it seems that there is the potential for over-lapping interests and responsibilities.

Governance and standards

UNISON is concerned about the suggestion that Councils should acquire extra rights and responsibilities depending on their passing competency tests. Clearly, there must be safeguards to protect citizens from Councils which are failing. But in general, either a power should be devolved or it shouldn't – and that is a political decision. It does not seem right for Councils which pass a 'competency' test to have more devolution.

5. Power to Local Communities

Transferring Council property to the community

UNISON has concerns about this set of proposals as we oppose the privatisation of public assets. There is value in Council property being owned by the Council, as it is the body which represents every member of the community. We should not assume that a community group is more representative. Certainly, we need to know:

a) What happens if property is transferred to a community group about which concerns later emerge – e.g. about how representative it is? What if the organisation goes bust? Can the Council get the property back?

b) Is this the 'thin end of the wedge' – is this really privatisation of property and the services that are carried out within that property? The proposals talk about safeguards, but we would want to see the details. Are staff terms and conditions involved? If so will they be protected?

c) Will workforce be given the opportunity to put together a case for retention of the asset as a public asset? In effect will 'in-house' bids be accepted and encouraged?

6. Corporate Governance and Improvement

Managing improvement through Self-assessment and Peer Review

UNISON is very concerned about the quality of the auditing of local authorities' decisions, particularly those concerning procurement. External audit of council procurement decisions and expenditure is weak, and there is an absence of effective mechanisms to review external audit inadequacies. While there are many examples of 'procurement failures', there do not appear to be any examples where external audit has prevented a procurement failure. External audit only appears to identify a problem 'after the event' and even then a 'light touch' approach appears to be the modus operandi.

The presence of independent members on Audit Committees could work, but we would want to know how they would be appointed, and who they would be accountable to. Election and accountability are two of the cornerstones of any democratic system. In England, with the disbanding of the Audit Commission, external audit for councils now rests in the hands of 'self-regulating' accountancy firms – many of the same firms which have been criticised by the Public Accounts Committee for their activities in helping corporate clients dodge taxes. Furthermore, many of these companies have 'arms' which also bid for council contracts and it is not clear how impermeable the walls between them are. If the independent members of Audit Committees being proposed by the Welsh Government are taken from similar sources, then the same problems are likely to occur.

The proposal to instigate a 'peer review' system may be helpful, providing the entire process is based on the goals the elected Council has set itself – along with the duties laid down by the Welsh Government. These should be the standards against which peer reviewers measure progress and success.

Workforce Planning

UNISON, along with the Wales TUC, has long argued for workforce planning to be undertaken across the public services, as this is essential in order to mitigate some of the negative impacts of the UK Government's austerity programme.

UNISON welcomes the inclusion of 'workforce plans' as one of the nine things that the Corporate plan of new local authorities will have to produce.

However, UNISON believes that workforce planning should go beyond individual public sector organisations and should be undertaken on an all-Wales, cross-public sector basis. Workforce planning is currently much further developed in the NHS than it is in any other part of the public sector in Wales. We have worked with the public sector employers through the Workforce Partnership Council over a number of years in an attempt to bring together the piecemeal workforce planning, where it exists, across Wales.

The Welsh Government must ensure that local authorities harmonise the collection of workforce data and use it across local authority and public sector boundaries, not that this new requirement ends up with workforce planning on an individual authority basis, albeit on the basis of a smaller number of local authorities.

7. Performance in Local Government

Procurement Expenditure

A strategic and ethical approach to procurement across local government is an essential component of the wider task of ensuring the delivery of good services that support decent employment.

UNISON is in favour of expanding the use of community benefits across the Welsh public sector as well as establishing a more strategic Wales level approach to expenditure. The creation of the National Procurement Service is welcome progress in this regard. However, a more strategic and urgent approach needs to be adopted as part of the reforms to Local Government; one that ensures that procurement is treated as high level priority which delivers decent employment. This should be based on International Labour Organisation (ILO) standards as defined by the UN Sustainability Goal covering decent employment and agreed in partnership with trade unions.

The recognition of trade unions is essential to upholding decent employment which must no longer be treated as a secondary consideration. Recognition ought to be a condition of contract across local government.

A National Procurement Service could set out these general principles including a clear statement on companies involved in tax avoidance/evasion whereby public bodies should have regard to the tax status of companies bidding for contracts.

Digital Councils and Complaints

These proposals seem sensible, but in both cases, the dignity and well-being of the staff should be borne in mind at all times. Sensible, negotiated policies and procedures for digital working and complaints will need to be in place, and agreed by the recognised trade unions.

Reforming Local Government Finance

UNISON is committed to ensuring that Local Government finance is placed on a strong and sustainable footing and therefore would support any review that would assist in this aim.

UNISON believes that council tax needs to be reviewed to ensure it provides a sustainable and progressive way of funding Local Government. Council Tax provides local authorities with much needed revenue, which is why council tax freezes are so damaging for public services. However, local government needs a fairer system of local taxation which reflects local residents' ability to pay. Although property reflects ability to pay to some degree, there are other financial assets such as income that could be utilized as a means of paying for public services.

Such a system would have to work on an all-Wales basis and would require powers of limited variation and mechanisms for redistribution in favour of areas with a much lower tax base. The system would require regular revaluations, but local councils should also gain the power to set different council tax rates for second homes and empty properties.

UNISON believes that such a system would help bring devolution to the local community, so that local areas can be involved in policy formation and the decision making process. By making decisions locally, public service users and service providers will be better able to understand the needs of each other and there would be more democratically inclusive and responsive councils. These councils would be better placed to win public support for raising the funds necessary to implement policies that are the product of engagement, where a greater sense of 'ownership' of those policies is felt by local people.

In particular UNISON is calling for:

1. Tough measures to tackle tax evasion and uncollected taxes
2. Greater freedoms for councils to borrow
3. Introduction of empty property and brownfield land taxes
4. Powers for local authorities to introduce small local taxes such as tourism or environmental taxes
5. More flexibility for Councils to spend money on public services as they judge appropriate to local needs (within the broad parameters set by the Welsh Government through service standards)
6. Funding that ensure fair and equal pay for workers underpinned by continuing training and development.

In addition to creating a more sustainable income stream for Local Government, UNISON would also like to see councils being more able to do longer term financial planning with Welsh Government providing 3 year funding settlements. Longer term financial planning, with full impact assessments of any proposed reductions in services or funding,

so that the longer term social and economic impact of any funding changes can be accounted for, and mitigated against.

However, the key element of any funding system is the level of central funding, and this needs serious attention. While UNISON accepts that the cuts in local government services in Wales have largely emanated from the UK Government, this does not lessen the extent or impact of the problems caused for service users or staff. UNISON has collected huge amounts of evidence of the impact of cuts in local government funding on vital local services. To give a small number of examples from across the UK:

- a. Trading standards prosecutions have fallen by a third
- b. More than a half of Councils have stopped providing some environmental health services
- c. Food hygiene complaints have risen while inspections have fallen
- d. Nearly 300 children's centres have closed
- e. 41,000 youth services places for young people were lost between 2012 and 2014
- f. One-fifth of library budgets have disappeared
- g. Between 2010/11 and 2013/14, there was an increase of 829% in the number of street lights that were turned off or dimmed purely to save money
- h. Approaching half a million jobs have been cut from local government.

These are a fraction of the examples available, but they begin to illustrate the breadth of the problems caused for vulnerable people by the cuts. While the cuts have taken longer to 'kick in' in Wales as a result of the Welsh Government offering some protection during the early years of this UK Government, the same pattern is now occurring in Wales as well.

Investment in local government also needs to be carried out in a much more long-term manner. Throughout the whole process of the austerity programme, there does not appear to have been any critical thought given to the impact of such major structural changes will affect the country in the future. The scale of the cuts means that expertise, networks and services which have built up over many years will be eroded away and much of the damage is irreversible. At the same time, the more general economic recession has massively increased demand for the very local government services that have been cut.

UNISON is calling for an urgent re-investment in local government services, to reverse the closures and reductions in services.

Financing Local Government restructuring

As detailed earlier in this submission, the cost of Local Government reorganisation should be provided centrally and under no circumstances should it be taken out of existing decreasing council

budgets.

Merging Local Government Pension Scheme Funds in Wales

UNISON previously submitted a consultation response to the *Welsh Local Government Pension Funds - Working Together Commission* which outlined how the merging of the 8 Local Government Pension Scheme funds in Wales would not only save money, streamline efficiency but create simpler delivery arrangements.

In our consultation we outlined evidence from three separate reports; APG, an independent report by Stonefish Consulting and a UNISON commissioned report.

Research by the Dutch public sector fund manager, APG, suggested that a merged Welsh fund could have saved £25 million per annum if between 2001 and 2009 a merged funding system had existed.

Furthermore, there is abundant evidence to suggest that fund merges are more cost and administrative effective. Research commissioned by UNISON and Stonefish Consulting suggested that a new single model for both Administration and Fund allocation would save £30 million per annum, purely based on merged and more efficient administration charges. Evidence from the Netherlands has already shown that larger funds consistently achieve higher investments.

Therefore, it follows that a larger Welsh pension fund would produce higher investments and better returns.

Such a fund could stimulate development, employment and purchasing power within the economy by investment in major infrastructure projects, helping to protect and enhance jobs and wages.

April 2015

Agenda Item 5

4 February 2016 – Papers to note cover sheet

Paper No:	Issue	From	Action Point
Public papers to note			
4	Draft Local Government (Wales) Bill	The Minister for Public Services	Additional information following the meeting on 13 January 2016



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-P/LA/0296/16

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

27 January 2016

Dear Christine,

During my Committee appearance on 13th January I agreed to provide further information on a number of matters.

Funding for the Fire and Rescue Services

I have made the following changes to the budgets payable directly to Fire and Rescue Authorities (FRAs):

- Resilience revenue grants will fall by some £200,000. In recent years, this grant has not been fully spent and these reductions should therefore be achieved without affecting existing levels of front line capability.
- Community fire safety revenue grants will also fall by some £200,000. Preventing fires is clearly vital, but preventative work is increasingly, and rightly, part of FRAs' core role. As such it should be delivered and funded accordingly, using FRAs' core resources, not from special grants.

The balance of the £700,000 reduction in this budget line will be met from reducing funding to a number of other recipients such as the Wales Audit Office work.

Flood prevention and management

While the incidence of flooding is clearly related to significant adverse weather and tidal incidents, there a long-term decline in the number of floods to which FRAs respond, just as there has been for the number of fires.

FRAs fund all their responsive services, including firefighting and flood response, from their core resources. These core resources are financed by Local Authority contributions which are set annually by each FRA. It follows that the level of funding for responsive services is a matter for FRAs to determine according to local priorities and in consultation with Local Authorities. It is not a matter for Welsh Government as we do not control the funding decisions which FRAs choose to make.

FRAs have no legal duty to respond to flooding. In practice they have responded for many years and continue to maintain a comprehensive capability in this area. I am considering whether to formalise that position by creating a duty to respond to flooding, and will consult on that in due course.

Per Capita Funding

I agreed to provide a list of each Local Authority's per capita funding, which the following Aggregate External Finance (AEF) table illustrates.

WELSH LOCAL GOVERNMENT SETTLEMENT 2016-17

Provisional

Table 1c: Aggregate External Finance (AEF) per capita, by Unitary Authority, 2016-17

Unitary authority	Provisional AEF (£000s)	Provisional AEF per capita (£)*	Rank
Isle of Anglesey	91,925	1,310	12
Gwynedd	166,990	1,356	9
Conwy	149,429	1,287	13
Denbighshire	139,602	1,454	6
Flintshire	184,743	1,196	19
Wrexham	169,761	1,200	18
Powys	168,488	1,252	17
Ceredigion	96,570	1,269	14
Pembrokeshire	156,932	1,263	15
Carmarthenshire	251,685	1,333	10
Swansea	307,754	1,255	16
Neath Port Talbot	205,567	1,457	4
Bridgend	187,508	1,311	11
The Vale Of Glamorgan	150,443	1,167	20
Rhondda Cynon Taf	353,769	1,500	2
Merthyr Tydfil	89,188	1,485	3
Caerphilly	263,293	1,455	5
Blaenau Gwent	109,252	1,576	1
Torfaen	129,296	1,405	7
Monmouthshire	91,439	994	22
Newport	209,133	1,388	8
Cardiff	426,285	1,162	21
Total Unitary Authorities	4,099,052	1,309	

* Based upon 2011-based, 2016 population projections

Welsh language task and finish group Terms of Reference

Finally, I agreed to provide you with a copy of Rhodri Glyn Thomas's Terms of Reference for the Welsh Language task and finish group, which are in the public domain and can be found at the following link:

<http://gov.wales/docs/cabinetstatements/2015/151210toren.pdf>

Yours sincerely,

Leighton Andrews

Leighton Andrews AC / AM

Y Gweinidog Gwasanaethau Cyhoeddus
Minister for Public Services



Comisiynydd y
Gymraeg
Welsh Language
Commissioner

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-04-16 Papur 5 / Paper 5

01/05

The Right Honourable Carwyn Jones AM
First Minister
Welsh Government
Tŷ Hywel
Cardiff Bay
CF99 1NA

27/01/2016

Welsh Language Commissioner's Budget 2016-17

Thank you for your letter dated 21/01/2016 confirming the allocation of £3,051,000 to the organization in the Welsh Government's draft budget for 2016-17. The Estimate I submitted to Welsh Ministers in October 2015 outlined the need for an organizational budget of £3,744,000. The funding that will be available is £543,000 less than the expenditure of £3,744,000 outlined in the Estimate for 2016-2017. You have confirmed that we can expect a one-off payment of £150,000 by the end of January 2016 to mitigate the effect of the proposed cut to next year's budget.

In light of your letter, I have been attempting to identify savings for next year and contemplating the uncertain forecast for the years that follow. Alongside this I have also been reviewing the funding pattern that shows an accumulated reduction in funding to the organization of the Welsh Language Commissioner over the past three years. As a result I consider it my duty to write to you further, and formally voice my grave concern.

Firstly, I would like to raise my concern regarding the accumulated reduction to the Welsh Language Commissioner's budget since being established. 2016-17 marks five years since the establishment of the Welsh Language Commissioner on 1 April 2012. A budget of £4,100,000 was allocated for the first two years. A cut of £410,000 (10%) was implemented in 2014-15 with a further cut of £300,000 (8%) in 2015-16. It was explained that this cut was part of wider cutbacks in the department for education and skills' budget and it was necessary for the organization to receive this cut. This has been a cut of 23% in real terms since the establishment of the Commissioner, and inflation affects the

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Commissioner in the same way as other organizations. If the Welsh Language Commissioner were to accept a further cut of 10% to the budget for 2016-17, the funding level will have been reduced to around £3,050,000 compared to the £4,100,000 for 2013-14. This will be a cut of over 25% in financial terms. If one considers the effect of RPI on the costs of the organization, this effectively means a cut of 32% in real terms compared to the year that the Commissioner was established. This pattern of reduction is more severe than the cuts faced by organizations that carry out similar work to the Welsh Language Commissioner, and the cutback the Government itself has had to face to its own final budget over a similar period e.g.

	2013 - 2014	2014 - 2015	2015-2016	2016 - 2017
Welsh Government	14,885,270,000	15,321,778,000	15,343,967,000 (14,041,391,000) ¹	14,392,712,000
	-	2.9%	0.1%	2.5% ²
Welsh Language Commissioner	4,100,000	3,690,000	3,390,000	3,051,000
		-10.0%	-8.1%	-10%

In your evidence to the Communities, Equality and Local Government Committee on 13 January this year, when John Griffiths AM asked you about cuts to my budget, you justified the decision on the basis of consistency with cuts to other Commissioners:

“It’s consistent, of course, with the financial settlement that has been provided for other commissioners as well”

¹ The baseline in the Welsh Government’s draft budget for 2016 – 17

² Increase against the baseline in the Welsh Government’s draft budget for 2016 - 2017



The rationale for cuts based only on funding comparisons with other organizations is questionable as our functions are not comparable, and as *no* other Commissioner is a regulator charged with imposing and enforcing statutory duties. The Commissioner's statutory responsibilities under the Welsh Language Measure are significantly different.

	2013 - 2014	2014 - 2015	2015-2016	2016 - 2017
Older People's Commissioner	1,730,000	1,750,000	1,715,000	1,545,000
		+1%	-2%	-10%
Children's Commissioner for Wales	1,715,000	1,715,000	?	?
		0.1%	?	?
Welsh Language Commissioner	4,100,000	3,690,000	3,390,000	3,051,000
		-10.0%	-8.1%	-10%

The funding pattern for the Welsh Language Commissioner has not mirrored the evolving requirements of legislation. For instance, Estyn has been allocated a cut of around 3% in the draft budget. This is an organization that appears to receive funding based on the requirements of its proposed work.

Future funding levels and the challenging period we face over the next 2 years in particular is of grave concern. In a paper presented to you on 10 December 2015, I outlined that the period between April 2016 and the end of March 2018 will be the most challenging period faced by the Welsh Government and the Welsh Language Commissioner in the



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establishment of Welsh language standards. I noted in my paper that I will be expected to conduct standards investigations for further sectors named in Schedule 8 of the Measure and that it was detailed legal work that cannot be simplified in carrying out the requirements of the Welsh Language (Wales) Measure 2011. I would also like to remind you of the motion passed unanimously by the National Assembly on 20th October 2015:

“notes that the Welsh Government has committed in its language strategy, 'A living language: a language for living', to 'make standards, which will enable the Commissioner to impose duties on private sector companies which fall within the scope of the Welsh Language Measure, including telecommunications companies, bus and train operators, and utility companies.”

My major concern over the next period is that it is not possible to cut corners in implementing statutory processes in accordance with the Welsh Language (Wales) Measure 2011. If sufficient resources are not available to implement these processes properly within the regulatory requirements of the Measure, there is a high risk of maladministration. Appropriate resources are necessary to ensure appropriate exercise of the clear statutory requirements that fall to me as Welsh Language Commissioner. The funding requirements outlined in my Estimate, and in the paper I shared with you in December 2015, are realistic and reasonable based on implementing the requirements of the Measure.

You will also be aware that my functions under the Measure are wide-ranging and as Commissioner, there are a host of other requirements and duties placed upon me, beyond the imposition of standards, there will be increasing requirements upon me to enforce the standards. As well as the Standards, there are other statutory duties required of me: this year, for instance, I will be publishing my 5 Year Report on the Welsh language, and I will continue to undertake research, provide advice and make recommendations on various matters in accordance with my functions under section 4 of the Measure. Conducting this vital work is also increasingly difficult with regular cuts to my budget.

In order for me to carry out my work as Welsh Language Commissioner in a way that is legally sound, and to ensure the successful implementation of the Welsh Language (Wales) Measure 2011, I ask you as First Minister, with particular responsibility for the Welsh language and also general responsibility for the implementation of legislation, to



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reconsider the funding trajectory for the Welsh Language Commissioner. The mitigating payment of £150,000 is insufficient to bridge the deficit within my budget over an extended period and I ask you to seriously consider not making a further cut of 10% to the Welsh Language Commissioner's budget, thus avoiding any negative impact on the implementation of the Welsh Language (Wales) Measure 2011. If you were not able or prepared to hold back on the cut, the budget of £3,051,000 would leave the organization in a vulnerable position and we would ask that the mitigating payment should at least be closer to the £543,000, the figure outlined as necessary in my Estimate.

Yours, with concern

Meri Huws
Welsh Language Commissioner

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-04-16 Papur 6 / Paper 6

Rt.Hon Carwyn Jones AM
First Minister

22 January 2016

Dear First Minister

Welsh Government draft budget proposals, 2016–17

Thank you for attending the Committee on 13 January 2016 to answer questions on the Welsh Government's draft budget proposals for 2016–17 specifically in relation to the Welsh language.

The Committee would like to draw your attention to the matters set out below, and looks forward to receiving your response in due course.

1. Expenditure and prioritisation

Funding for the Welsh language has again been reduced in the Government's draft budget, from £27.2 million in 2015–16 to £25.6 million in 2016–17. This represents, as you will be aware, a reduction of 5.9% (or 7.5% in real terms).

This reduction is more stark when seen in the context of an overall increase in revenue funding for Welsh Government departments in 2016–17; an increase of £121 million when compared with the 2015–16 baseline¹.

The Welsh Government has a clear responsibility both to maintain vitality in, and encourage the growth of, the Welsh language. It is difficult to see how this can be achieved when the Government continues to withdraw vital financial support in this area. As we discussed during our recent meeting, the development of a naturally bilingual society will be greatly impaired if the Government continues to prioritise other policy areas over the Welsh language when making budgetary

¹ Or an increase of £94.3 million compared with the 2015-16 first supplementary budget



decisions. Expenditure on the language should reflect the ambitions in the Programme for Government for a language that is “thriving”. We do not believe that this has been achieved in this draft budget.

Overall, specific funding for Welsh language programmes represents less than 0.18% of the total funding² allocated to Welsh Government departments in 2016–17. We were, therefore, surprised at the depth of the cut, given that this is an area of relatively low expenditure. We are also concerned that this relatively deep cut is likely to have a disproportionately large impact on the future of the language.

We note your decision to allocate £1.2 million to “cushion the impact of reductions on Welsh language funding”.

- i. Could you clarify whether this will be included in the baseline for next year’s draft budget?

More generally, we have a query about some of the figures provided in your paper about the budget for the Welsh language and those provided by the Minister for Education and Skills in his [paper](#) to the Children, Young People and Education Committee. In your paper, you state that the Welsh Language BEL for the 2016–17 draft budget will be £3,913,000; the Minister states that the BEL will be £3,964,000. You also state that the Welsh Language Commissioner BEL will be £3,051,000; the Minister states it will be £3,000,000.

- ii. Could you clarify which is the correct allocation?

Welsh language centres

We note the Government’s decision to reduce the funding for programmes such as Welsh for Adults in order to focus on other measures to strengthen the language in the community, particularly the establishment of ten language centres.

During our meeting, you told us that arrangements are in place for the centres to share good practice, and that you expect each centre to report annually on its progress. You have agreed to share a copy of these reports with us, and we look forward to receiving them.

In advance of this, we are particularly interested in hearing from you about:

² Capital and Revenue Departmental Expenditure Limits



- iii. the specific outcomes that the Welsh Government expects from these centres in order to establish whether the decision to re-prioritise funding was beneficial for the language.

2. Impact Assessments

We remain concerned about the need to better assess the impact of budget decisions on the Welsh language across Ministerial portfolios. We raised this matter with you last year and, in your recent written evidence, you told us that “steps have been taken in the preparation of the [2016–17] draft budget (...) to ensure that the Welsh language is appropriately considered”. You also told us that in reducing the overall budget for the Welsh language, the Government had “sought (...) to ensure that where cuts have been made they do not have an impact on what is being done on the ground”. Further, we note that guidance has been issued to every department about the use of language impact assessments when preparing their draft budgets.

We were, therefore, disappointed that information still has not been provided about the work undertaken across departments to assess the impact of funding decisions on the language, the results of those assessments or how they have influenced the various funding decisions. Neither is this information included in the Strategic Integrated Impact Assessment, which refers only to the £1.2 million additional allocation for the language and the positive impact on the language resulting from the overall increase in schools funding.

In addition, we were very concerned by your statement that “whilst we have individual language assessments in terms of individual policies and programmes, it’s difficult to provide an overall assessment [of the impact of the budget cuts]”.

- i. We seek an undertaking from you that future SIAs will contain the information outlined above, as well as an assessment of the cumulative impact of funding decisions on the Welsh language.
- ii. We also seek an undertaking from you to publish all relevant documents so that they can be subjected to external scrutiny.

3. Bwrw Mlaen

Following our scrutiny of the draft budget last year, we wrote to you about the need to see more detailed information about the evidence used when



reprioritising funding from programmes such as Welsh for Adults. We also asked for more information on the specific outcomes that you expected from this reprioritisation and the Bwrw Mlaen strategy.

We note that Bangor University was commissioned by the Government to research the use of Welsh as a community language and that this was intended to contribute to your understanding of the success of Bwrw Mlaen's implementation. We were disappointed that you did not also task the University with evaluating the effectiveness of Welsh Government funded programmes to facilitate the use of Welsh or assessing the value for money of these programmes.

We note from your evidence that Bwrw Mlaen was a "specific scheme for a specific time" (...) "designed to make sure that there was funding available for [the 10 language centres] placed strategically around Wales." However, given that the Welsh language BEL (which funds Bwrw Mlaen) faces a 25.6% cash reduction in the draft budget:

- i. what steps do you have in place to evaluate the impact of this reduction, particularly as the Bangor University research did not consider the value for money or effectiveness of the Welsh Government's funded programmes in this area?
- ii. do you intend to commission separate research on this matter?

4. Welsh Language Commissioner's budget

As part of the Welsh Government's 2016–17 draft budget, the Welsh Language Commissioner faces a reduction of £339,000 in her budget, equating to 10% in cash terms. Whilst this is significant in itself, it is even more so when viewed in the context of the previous years' reductions; 8% in 2015–16 and 10% in 2014–15.

When she came before the Committee at the end of last year, the Commissioner told us that, having lost almost a quarter of her income over the past four years, "another cut, over the coming years, and in the next year, is going to be (...) disastrous, in terms of the implementation of the Welsh language Measure."

She told us that the next two years will be "incredibly important" as regards the implementation of the Measure and the standards to be introduced under it,



particularly as it will involve around 250 bodies being brought under the new system during that period.

We note the allocation of an additional £150,000 to the Commissioner's office as part of the 2015–16 financial year, and that this is intended to mitigate the 2016–17 budget reductions. Even allowing for this, the overall reductions in the Commissioner's office over the last few years make it difficult to see how the delivery of the important work of her office in relation to standards will not be hampered.

As part of your evidence, you told us that you anticipate the additional £150,000 will be used during the 2015–16 financial year, as it was intended to assist with the extra work to be undertaken on the standards. We discussed this briefly during the meeting, but could you confirm:

- i. whether there is any flexibility here, in light of the Commissioner's statement to us about the importance of the next *two* years in implementing the Measure?
- ii. do you have any plans to make a similar additional allocation to the Commissioner in 2016–17 for this purpose?

5. Education

Welsh medium education strategy

Following last year's budget scrutiny, we wrote to you to express concerns about the impact of funding reductions on the delivery of the Welsh Government's Welsh-medium education strategy.

We note that, in the 2016–17 draft budget, funding for the Welsh in education BEL increases slightly by £82,000, but that this has been achieved by the transfer of £825,000 from the Welsh language BEL. After this has been accounted for, the effect is a £743,000 reduction. In her evidence to the Finance Committee (7 January 2016), the Finance Minister states that the purpose of this transfer is to “develop a more strategic approach to language acquisition for 0–4 age group”. You told us that the transfer was “more or less an administrative difference” and that the Government wanted to ensure that money was allocated to areas where it could be spent more effectively.



Can you provide us with details of:

- i. the rationale for the transfer between BELs and any schemes or initiatives that will be negatively affected
- ii. the specific outcomes that you expect to arise as a result of the transfer into the Welsh in education BEL.
- iii. the impact of the £743,000 reduction in the Welsh in Education BEL, once the transfer in is accounted for.

Twf

You have described the Twf project as a key preventative spend programme, “part of the Welsh Government’s main intervention in the field of language transmission in the family, considered by experts as one of the two most important areas of language planning (...)”.

We were, therefore, surprised to see that a decision had been taken to reduce the budget allocation for the Twf project in 2016–17 by £0.2 million. We note your evidence that the project is being re-contracted at the end of March, and that this will provide an opportunity to make efficiency savings in “back office” operations without impacting negatively on service delivery.

- iv. What arrangements are in place to measure the impact of the budget reduction in this area, in light of your statement that such a reduction will not involve cutting back on the level of service?

Y Coleg Cymraeg Cenedlaethol

We welcome the work undertaken by the Coleg Cymraeg Cenedlaethol (CCC) to broaden the range of higher education subjects that can be studied through the medium of Welsh. We are concerned, however, about the impact of the £20 million reduction in the funding available to HEFCW to allocate to HE institutions, and the potential impact on the CCC and its ability to continue this work.

During our meeting, we heard from your official that the Welsh Government will provide a “strong steer” to HEFCW, via the remit letter, encouraging it to continue prioritising funding for the CCC, but that ultimately this decision will be a matter for HEFCW.



- v. We seek an assurance from you that, included in this steer, will be a strong statement that future funding decisions taken by HEFCW should not impact disproportionately on the Welsh language.

Flying Start

During our meeting, we briefly discussed the adequacy of Welsh-medium Flying Start provision to feed into Welsh-medium schools. It would seem to be more likely that children who access Welsh-medium Flying Start schemes will continue their education through the medium of Welsh, thus contributing to the Welsh Government's aim of a thriving language and a naturally bilingual society.

With this in mind, we would be grateful for details of the specific actions being taken by the Welsh Government to evaluate—

- vi. whether there are sufficient Welsh-medium Flying Start places to satisfy demand, and
- vii. whether the current Welsh-medium Flying Start provision is sufficient to enable the Government to meet its own objectives for Welsh-medium education in later age-groups.

6. Welsh Books Council

During the meeting, we discussed our concerns about the impact on the language of the proposed 10.6% budget reductions for the Welsh Books Council. We welcome the recent [announcement](#) by the Deputy Minister for Culture, Sport and Tourism that funding for the Council will not be reduced in this draft budget.

Yours sincerely



Christine Chapman AM
Chair

cc. **Jocelyn Davies AM**, Chair, Finance Committee; **Ann Jones AM**, Chair, Children, Young People and Education Committee

