

# Agenda – Equality, Local Government and Communities Committee

---

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 15 January 2020

Meeting time: 08.50

For further information contact:

Naomi Stocks

Committee Clerk

0300 200 6222

[SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

---

## Private pre-meeting

(08.50–09.00)

### 1 Introductions, apologies, substitutions and declarations of interest

### 2 Local Government and Elections (Wales) Bill: evidence session 9

(09.00–10.15)

(Pages 1 – 28)

Elan Closs Stephens CBE, Electoral Commissioner, Electoral Commission in Wales

Rhydian Thomas, Head of Electoral Commission, Electoral Commission in Wales

Rhys George, Chair, Association of Electoral Administrators Wales

Ian Westley, Wales Electoral Coordination Board

#### [Consultation responses](#)

### 3 Local Government and Elections (Wales) Bill: evidence session 10

(10.15–11.30)

(Pages 29 – 61)

Lyn Cadwallader, Chief Executive, One Voice Wales

Robert Robinson, Secretary to the North and Mid Wales Association of Local Councils

Rob Smith, Chief Executive, The Society of Local Council Clerks

Mark Galbraith, Wales Policy Officer, The Society of Local Council Clerks



- 4 Local Government and Elections (Wales) Bill: evidence session 11**  
(11.30–12.00) (Pages 62 – 67)  
Catherine Fookes, Director, Women’s Equality Network Wales
- 5 Papers to note**  
(12.00–12.05) (Page 68)
- 5.1 Correspondence from Tracey Burke, Welsh Government to the Chair of the Public Accounts Committee regarding town and community councils in Wales – 11 December 2020**  
(Page 69)
- 5.2 Correspondence from Martin Peters, Wales Audit Office regarding the Local Government & Elections (Wales) Bill – 6 January 2020**  
(Pages 70 – 72)
- 5.3 Correspondence from the Temporary Chair of the Public Accounts Committee regarding the Local Government and Elections (Wales Bill) – 8 January 2020**  
(Pages 73 – 75)
- 6 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of today's meeting and item 1 of the meeting on 23 January**  
(12.05)
- 7 Local Government and Elections (Wales) Bill: consideration of evidence**  
(12.05–12.20)
- 8 Consideration of correspondence relating to Assembly electoral reform**  
(12.20–12.30) (Pages 76 – 77)

Document is Restricted

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

# Evidence to the Equality, Local Government and Communities Committee: Local Government and Elections (Wales) Bill

December 2019

1. This response sets out the Electoral Commission's views on the Local Government and Elections (Wales) Bill. We have responded to the provisions in this Bill that are directly relevant to our work, and have also highlighted aspects of electoral law reform that we have previously recommended which do not appear in the Bill.
2. We have previously set out our views on many of the issues that have now been included in the Bill in our [response](#) to the Welsh Government consultation on Local Government Electoral Reform in October 2017.
3. We continue to recommend that all legislation should be clear at least six months before it is required to be implemented or complied with. This includes both this Bill and any secondary legislation that is subsequently required to specify the detail of how any provisions will work in practice. The timetable for this legislation will therefore need careful consideration given those provisions which are expected to be in place ahead of the local government elections in Wales in May 2022.
4. The introduction of this Bill takes place in the context of a wider electoral reform agenda in Wales with changes about to be enacted for the National Assembly for Wales/Senedd elections. We expect that Welsh Government will continue to work closely with the Assembly Commission to ensure that any reforms to electoral arrangements for local government elections in Wales are not made in isolation but take into account this wider context.
5. The provisions in this Bill address a number of concerns that we have highlighted in recent years about the delivery of elections. This is welcome. Nevertheless, electoral law remains fragmented and outdated. We strongly support the recommendations made by the UK's Law Commissions which aim to consolidate, simplify and modernise the many existing sources of electoral law. Further to this Bill, we urge Welsh Government to take their recommendations forward and to consolidate and wherever possible simplify the rules for National Assembly and local government elections.

## Key points

- All primary and secondary legislation needed to change the franchise for the local government elections scheduled for May 2022 should be clear six months before Electoral Registration Officers are due to begin annual canvass activities in summer 2021 to enable all those who are newly eligible to vote to be able to register and participate in the elections.
- Welsh Government should commit to providing adequate resources to Returning Officers, Electoral Registration Officers and local authorities to ensure that any changes to the electoral process as a result of the provisions in the Bill can be implemented in the best interests of voters.
- Any divergence in the franchise for different sets of elections, using the Parliamentary register and the Local Government register will introduce the possibility of confusion for voters, candidates and campaigners, as well as administrative challenges.
- Similarly, a potential divergence in the electoral system across Wales for local government elections could cause significant confusion among voters and any public awareness work to address this will be challenging.
- The Wales Electoral Coordination Board should be consulted on any proposals relating to electoral matters included in the Bill and should play a full part in the effective implementation of any new changes.

## Extension of right to vote in local government elections

6. We provided a detailed response on the proposed extension to the franchise in our responses to consultations in [April 2017](#) and in [October 2017](#). In these we made clear that the Commission does not take a view on the principle of extending the franchise. This is because the Commission believes it is for the Welsh Government and, ultimately, the National Assembly for Wales to decide on the franchise for local government elections in Wales.
7. However, as we explained, there are a number of practical implications which would need to be considered if a change to the franchise was introduced to include votes for 16 and 17 year olds and qualifying foreign citizens:
  - Welsh Government should ensure that all primary and secondary legislation is clear six months before EROs are due to begin annual canvass activities in July 2021 (i.e. by January 2021). This would enable all those who are newly eligible to vote to register and participate in the 2022 local government elections in Wales.
  - We will then need to update our advice and guidance for EROs in advance of the annual canvass in 2021 and for Returning Officers (ROs) ahead of the election in 2022, to reflect any changes to the franchise.

- We would also need to allow time for user testing of forms so that they are finalised and available for EROs to use six months before the election.
  - Welsh Government should make sure that any changes are adequately resourced to ensure that they can be implemented effectively and efficiently in the best interests of voters in Wales.
8. The proposed franchise changes would mean that the electoral register for Welsh elections would be very different to the register for Parliamentary elections. This could present challenges for voters who may not understand why they can vote in some elections and not others and to electoral administrators in administering two separate registers.
  9. The Commission stands ready to work with the Welsh Government and the wider electoral community to ensure a smooth transition if the franchise is changed. We have experience in supporting franchise changes from Scotland and would be happy to discuss further the approach we took to encourage registration among 14 to 17 year olds and how we could apply this learning to Wales.

### **Duty to promote awareness and provide assistance**

10. We welcome the duty in the Bill for principal councils to promote awareness among young people about the new arrangements for registering to vote in local government elections in Wales. However, consideration should be given to apply this duty to EROs instead of, or as well as, the principal council.
11. This is because, the ERO is appointed by the county or county borough council and has an independent statutory role under Section 9A of the Representation of the People Act 1983 (RPA) to take all necessary steps to comply with their duty to maintain the electoral register, and to ensure, as far as is reasonably practicable, that all those eligible are registered in it.
12. We run public awareness campaigns ahead of each set of elections to encourage voter registration. If the franchise is extended we would undertake targeted public awareness activities aimed specifically at these new electors informing them that they are eligible to vote and how they can register.
13. We intend to run two campaigns – one around the annual canvass in 2021 and another in advance of the election in 2022.
14. We are currently working with Welsh Government and other organisations such as the Assembly Commission and Electoral Reform Society, to create potential new educational resources for delivery by schools aimed at young people which would be used as part of our awareness work.

## Voting systems for elections to principal councils

### **The introduction of two different voting systems**

15. As set out in our previous [response](#), decisions about which voting system(s) should be used for local government elections in Wales is a significant constitutional issue and is a matter for Welsh Government.

16. However, allowing local authorities to decide which electoral system to use in their own area could increase the risk of voter confusion, particularly in relation to voter understanding of how to cast their vote, as well as raising administrative risks and challenges - for example, in terms of introducing new procedures for managing the count and providing adequate training for staff.
17. This type of divergence would also raise significant challenges for candidates, agents, parties and other campaigners.
18. If this type of change were to be implemented, the Commission itself would be required to:
  - publish two sets of guidance for electoral administrators in Wales so that ROs know how to run a local government election under both first past the post (FPTP) and the Single Transferable Vote (STV) system
  - publish two sets of advice and guidance for political parties, candidates and agents and non-party campaigners, one for each voting system
  - potentially run separate public awareness campaigns ahead of scheduled local government elections, one focussing on a FPTP system and another on STV
19. Managing an effective public awareness campaign in Wales ahead of one set of local government elections which implements two different electoral systems is likely to be a major challenge. Ensuring voters only saw or heard or were able to identify the information that is relevant to their voting system would be problematic, even with targeted digital advertising. The risk of voter confusion would therefore be high.
20. If different voting systems were used for local government elections across Wales, this would make national planning and consistency very challenging.
21. There is strong support in Wales for consistency and co-operation in the interest of delivering efficient and trusted electoral processes. The Wales Electoral Coordination Board was established to encourage consistency in the management of elections and electoral registration across Wales. Welsh Government officials are formal advisors to the Board and Ministers have also attended meetings.
22. We recommended in 2017 that the Welsh Government should consider how the role of the Board could be developed in the medium to long term to support Welsh Government's overarching electoral modernisation programme. This might include, for example, considering if the Board should become a statutory group, as is the case in Scotland.

#### Resolutions to exercise the power to change the voting **system**

23. We welcome Section 9 of the Bill which would ensure sufficient time – at least 17 months – for the Electoral Commission, ROs and campaigners to prepare, and to inform voters, about any change in voting system ahead of future elections.

#### **Initial review by the Local Democracy and Boundary Commission**

24. Paragraph 4(1) of Schedule 1 to the Bill would give Welsh Ministers the power to direct when the Local Democracy and Boundary Commission should submit their



final review report. When considering a date for this report, Welsh Ministers should ensure that it allows sufficient time for any Order setting out any new ward arrangements to be made so that electoral administrators can complete the annual canvass and publish the revised register of electors reflecting the new boundaries in the year before the first elections at which those boundaries would apply.

### **Rules about the conduct of local elections in Wales**

25. Welsh Ministers should be required to consult the Electoral Commission on regulations containing rules made under the new Section 36A of the Representation of the People Act 1983 (RPA) in the same way that they would be required to for rules under the current Section 36 of the RPA. This will enable us to provide the Assembly/Senedd with independent, expert advice on the workability of the legislation.

## **Electoral cycles**

### **Extension of power to change ordinary day of local elections in Wales**

26. Section 17 of the Bill would introduce a new power for Welsh Ministers to change the ordinary day of local government elections in Wales by amending Section 37ZA of the RPA.
27. Section 37ZA currently constrains the power for Welsh Ministers to change the day of local elections in Wales by requiring that the Order to change the date is made no later than 1 February in the year before the year it is due to take effect. There is no similar time constraint in the new power that would be added by Section 17 of this Bill. This could mean that the date of a local election is changed at short notice, which could have a negative impact on voters, campaigners and electoral administrators.
28. The Bill should include a similar time constraint to that in section 37ZA to allow sufficient time for candidates, parties and electoral administrators to plan for the election.
29. Section 37ZA, as amended by the Bill, sets out that Welsh Ministers are required to consult 'such other persons' as they consider appropriate before making an Order to change the day of the local government election. This should be extended to specifically include the Electoral Commission, to ensure that Ministers and the Assembly/Senedd have access to independent expert advice about the potential implications of any change.

## **Registration of local government electors**

### **Registration of local government electors without an application**

30. We welcome the inclusion in the Bill of provisions that would allow EROs to register a local government elector without an application, if they are satisfied that they are entitled to be registered. Reforms of this nature could help improve levels of completeness among some of the pre-registered groups (for example,

young people) identified in our recently published [study of the accuracy and completeness of the electoral registers](#) .

31. Earlier this year we published the findings from a series of feasibility studies we conducted exploring how electoral registration reforms could be delivered, to help inform the debate about registration reform. These studies looked at the potential for giving EROs access to data from other public service providers; integration of electoral registration into other public service transactions; and automatic or more automated forms of registration. Importantly, the work we conducted found that most of the reforms were feasible from a technical perspective and could be implemented without radically altering the structure of the electoral registration system in the UK.
32. We expect the practical details of how a system of automatic registration would work in Wales to be set out in secondary legislation and look forward to working with Welsh Government and EROs to ensure that the proposals are workable and will help to improve accuracy and completeness. Important factors to consider in developing any scheme will include:
  - the challenges and issues involved in making these changes for the local government register without equivalent changes to the parliamentary register;
  - knowing when someone is already on the register;
  - whether the chosen dataset would provide sufficient information to register a person automatically, or if a combination of datasets might be necessary; and
  - the technical infrastructure required to support the reforms.
33. We stand ready to further explore these and other relevant issues with Welsh Ministers and Welsh Government officials, building on the work we have already completed on automatic registration.

## Database of electoral registration information

### Regulations to provide for a database of electoral registration information

34. Section 18 of the Bill would give Welsh Ministers a power to establish an all-Wales database of electoral registration information. We understand that the purpose of this would be to enable the piloting and development of further reforms to the electoral process, and to improve the efficiency of information sharing between EROs and ROs.
35. As part of our feasibility studies on electoral registration modernisation we considered whether a centralised register, or system of joined-up electoral registers, would offer any additional benefits for electoral registration or electoral reform more broadly.
36. We concluded that a greater degree of centralisation could offer real benefits, particularly in terms of simplifying the infrastructure needed to support reform. In addition, the combination of unique identifiers and some form of joined-up registers allowing EROs to compare information about entries across a number of registers could reduce the risk of some electors voting more than once at a relevant election.

37. Reforms along these lines could also enable us to know how many people are actually registered twice (legally) and additionally provide the potential basis for any move towards different ways of voting in the future.
38. However, we also noted that these potential benefits need to be balanced against the implications of further centralisation on the structure of electoral registration in the UK, including the potential loss of local knowledge about under-registered groups; and the security risks around the management of personal data.
39. We welcome further modernisation of electoral registration, and these benefits and potential risks will need to be considered and appropriately addressed as Welsh Government develops detailed proposals. We stand ready to work with Welsh Government should it decide to take this forward and would expect to be consulted before any regulations are made.

## Qualification for membership of a local authority

40. We note that the Bill amends the eligibility criteria for candidates at local government elections to allow a citizen of any country to stand for election, subject to other existing criteria, such as age and residence.
41. We welcome the proposed provision in the Bill that provides that council officers and employees, other than those holding politically restricted posts, will be entitled to stand for election to their own council.
42. This reflects the approach that we recommended in our 2015 report [“Standing for Election”](#), that the law in England, Wales and Northern Ireland be changed to make a clear distinction between offices or employment which would prevent someone from standing for election, and those which would prevent someone from holding office if elected.
43. It is important that potential candidates wanting to stand for election can find out easily if they might be disqualified.
44. We continue to recommend that all legislation should be clear at least six months before it is required to be implemented or complied with by campaigners, ROs and EROs.
45. We will amend our guidance for candidates and agents (and the equivalent guidance for EROs and ROs), and make available the nomination forms which are prescribed in legislation, including the consent to nomination declaration.

## Election pilot schemes

### **Welsh Ministers’ discretion to introduce election pilot scheme**

46. We welcome the initiative being taken by the Welsh Government to provide for election pilot schemes that would test options for changing local government electoral processes in Wales.
47. The Bill should include a duty for the Electoral Commission to evaluate any pilot scheme run at a local government election in Wales, in line with the equivalent duty

for pilot schemes at local elections in England or Scotland. This will enable an independent and evidence based assessment of the success or otherwise of the scheme in facilitating and encouraging voting.

48. The Welsh Government should ensure that any pilot schemes are rigorously designed to ensure they are capable of providing robust evidence to support any future changes to the current electoral system in Wales. Welsh Ministers should be required to consult the Commission about the design of any pilot scheme and the framework for evaluation.

### **Guidance about election pilot schemes**

49. Section 27 of the Bill would give Welsh Ministers powers to issue guidance to local authorities or EROs in relation to pilot schemes. It is not clear what kind of guidance Ministers might consider issuing, and how it would relate to the Commission's existing statutory role to provide guidance to EROs and ROs. There are no equivalent powers for UK Government Ministers in relation to pilot schemes at local government elections in England.
50. We would like to discuss this further with Welsh Government to ensure that this proposed government guidance provision would meet a need that it is appropriate for government to lead on. As matters stand, we have substantive concern if guidance on the running of a poll were to be issued to EROs or ROs by Ministers, rather than by an independent body such as the Commission.

## **Expenditure of Returning Officers**

### **Meeting expenditure of Returning Officers (Section 28)**

51. Section 28 of the Bill seeks to clarify that ROs cannot claim personal fees in respect of their services during the conduct of a local government elections.
52. We recognise the central role that ROs play in the democratic process. They are critical to delivering well-run elections and referendums which produce results in which voters and campaigners can have confidence.
53. We continue to support the important principle that ROs should be independent from both local and national governments when delivering their statutory electoral administration duties. This is necessary to avoid any perception of bias and to promote public confidence and trust in the process. A payment to ROs of some description denotes the different role,
54. It is therefore important to be clear that ROs are not employed by councils when they deliver official election or referendum duties. They are independent statutory office-holders and they are accountable to the courts for the delivery of their official duties.
55. Any changes to the current management framework for the delivery of local government elections in Wales, including to the current arrangements for funding elections and payments to ROs for their services, must not weaken the independence and accountability of those responsible for delivering polls.

56. Removing personal fees for ROs may in practice risk reducing their independence, and there is also potential for impartiality to be damaged if their only payment for carrying out election duties is through their contract of employment by the local authority which appointed them to their substantive role.
57. It is also important that an appropriate person with the right skill set should carry out the role of Returning Officer and should be remunerated accordingly. Removing any personal fee may discourage experienced and capable senior officers from agreeing to undertake this important but sensitive role.
58. The Explanatory Notes to the Bill indicate that the personal fee is also proposed to be removed for National Assembly for Wales elections when a Returning Officers' Charges Order is next made. We will ask the Assembly Commission to take into consideration our view set out above.

## Additional considerations

59. There are aspects of electoral law reform that we have previously recommended which do not appear in the Bill. We believe that the Bill should be amended to incorporate the changes, or that they should be addressed in subsequent secondary legislation. We outline these recommendations below.

### Digital imprints

60. Online campaign material produced by candidates, political parties and non-party campaigners should – like its printed equivalent – be required to include an imprint stating who has published it. This would enable voters to identify who is spending money on trying to influence them at elections. It would also assist the police and prosecutors to more effectively ensure compliance with the spending rules by identifying the source of campaign material.
61. We encourage Welsh Government to amend this Bill to make it a legal requirement for candidates and campaigners at local elections to put imprints on their online campaign material to ensure this gap in transparency is closed. This would also be consistent with emerging new electoral legislation in another part of the UK i.e. Scotland.

### Exemption for disability expenses

62. Disabled candidates standing in local elections in England, Scotland and Northern Ireland benefit from an exemption which means that expenses relating to their disability do not count towards their spending limits for those elections. Wales is now the only part of the UK where disabled candidates do not benefit from a disability-related exemption.
63. Creating an exclusion for expenses related to the needs of disabled candidates will create a more level playing field between candidates, and will make standing for election more accessible for disabled candidates. We therefore recommend that the Bill be amended to create such an exemption for local elections (and we believe this should also be the case for National Assembly for Wales elections), and would welcome the opportunity to work with Welsh Government on this.

### **Exemption for translation costs**

64. We support the view that the costs of translating campaign material between Welsh and English should be exempt from the spending limits for candidates at local government elections (and National Assembly for Wales elections). This exemption would ensure that campaigning at local elections is inclusive of all official languages of Wales. We therefore recommend that the Bill be amended to include a translation exemption.

### **Publication of candidate spending returns online**

65. The public can view copies of candidate spending returns by visiting the office of the Returning Officer. There would be greater transparency of election spending if candidate spending returns were published online.
66. The UK's Law Commissions have previously recommended that secondary legislation should prescribe in detail the process for Returning Officers to publicise and make available for inspection of spending returns (including non-receipt of a return), paving the way for publication online.
67. We agree with this recommendation and believe it should be taken forward for Welsh local government elections (and indeed for National Assembly for Wales elections). We encourage the Welsh Government to amend the Bill to make publication online a legal requirement.

### **Prisoner voting**

68. We understand that Welsh Government is considering introducing an amendment at Stage 2 in relation to prisoner voting. In January 2019 we provided a [response](#) to an inquiry by the Equality, Local Government and Communities Committee into voting rights for prisoners.
69. We take no view on whether prisoners should be entitled to vote or not, but have addressed the practical implications should prisoners in Wales be given the right to vote.

## **Consultation on the Local Government and Elections (Wales) Bill**

One Voice Wales is recognised by the Welsh Government as the national representative body for community and town councils in Wales. It represents the sector on the Local Government Partnership Council and over 85% of the 735 community and town councils are in membership, with numbers growing year on year. As well as our representative role, we also provide support and advice to councils on an individual basis and have previously launched, with Welsh Government support, a modular training programme for councillors. We believe strongly that community councils are well-placed to develop the economic, social and environmental well-being of the areas they serve and, as such, are active and proactive in debating key issues such as energy policies, environmental issues and strategic planning. Our sector is therefore well placed to contribute to a successful future nation, building community and public services from the bottom up.

One Voice Wales is delighted to respond to the Local Government and Elections (Wales) Bill (the Bill) and welcomes the opportunity of submitting this written submission in support of the planned 'Stage 1 - consideration of general principles' evidence session to the Equality, Local Government and Communities Committee on 15th January 2020 at the Senedd. The response has been co-ordinated and written by Mr Lyn Cadwallader, Chief Executive of One Voice Wales. The Local Government and Elections (Wales) Bill was discussed at the National Executive Committee of One Voice Wales in December 2019 and the views expressed have been incorporated into the response below.

One Voice Wales members recognise that the Bill is a significant and substantial piece of legislation at 176 pages and 683 pages of accompanying documents, including an Explanatory Memorandum and Regulatory Impact Assessment. It includes provisions for:

- Reforming electoral arrangements for local government, including:
- extending the voting franchise to 16- and 17-year olds and foreign citizens legally resident in Wales,
- changes to voter registration, and
- enabling a principal council to choose between the 'first past the post' or the 'single transferable vote' voting systems;
- A general power of competence for principal councils and eligible community councils;
- Reforming public participation in local democracy;
- The leadership of principal councils, including to encourage greater diversity amongst executive members and establishing a statutory position of chief executive;

- The development of a framework and powers to facilitate more consistent and coherent regional working mechanisms;
- A new system for performance and governance based on self-assessment and peer review, including the consolidation of the Welsh Ministers' support and intervention powers;
- Powers to facilitate voluntary mergers of principal councils and restructuring a principal area;
- Local government finance including non-domestic rating and council tax;
- Miscellaneous provisions relating to:
  - information sharing between regulators,
  - abolition of community polls,
  - fire and rescue authorities,
  - the Local Democracy and Boundary Commission for Wales, and
  - Public Service Boards.

The Bill is the culmination of several years of policy consultation, including:

- Draft Local Government (Wales) Bill – November 2015
- Consultation on Electoral Reform – October 2017
- Reforming Local Government: Resilient and Renewed White Paper - January 2017
- Consultation on Powers and Flexibilities – January 2018
- Strengthening Local Government: Delivering for People Welsh Government Green Paper - June 2018
- The Independent Review of the sector in 2018-19 with an outcome report making 46 recommendations to improve the work of the community and town council sector.

One Voice Wales has aimed in its response to make commentary on all the provisions above where relevant and sets out further considerations in its concluding comments. Overall One Voice Wales is pleased with the direction of travel and many of the provisions will assist the community and town council sector to further develop and improve its efficiency and effectiveness and provide opportunities for innovation and greater sustainability. Moreover, the Bill provides for better financial and management governance by community and town councils and this is welcomed and reflects the progressive discussions with Welsh Government over several years.

## **PART 1 ELECTIONS**

### **Extension of right to vote in local government elections**

One Voice Wales supports the intention to extend the local government franchise to foreign citizens on the basis that they are lawful residents of Wales, irrespective of their nationality.

One Voice Wales also supports the proposal to allow 16- and 17-year olds to be able to register to vote in Welsh local government elections.



## **Voting systems of elections to principal councils**

### *Two voting systems*

One Voice Wales recognises the Bill intention to allow principal councils to choose their own voting system, either the current first past the post system or Single Transferable Vote. Whilst One Voice Wales would welcome the Bill requirement for principal councils to consult with community councils in its area before contemplating changing the voting system from one system to another, One Voice Wales is generally supportive of the Electoral Commission's position that there should be a common electoral system across all local authorities to avoid complexity and voter confusion and that local authority's should not be able to choose their own voting systems. One Voice Wales members hold various views of the benefits or otherwise of the Single Transferable Vote for local elections, with the general view concerned that the approach would be administrative complex and confusing if held on the same day as 'first past the post' community and town council elections and that larger electoral wards would need to be created which may undermine the local links between a councillor and his/her community.

### **Electoral cycles**

One Voice Wales supports the proposal to change the electoral cycle for local elections from four to five years. This would bring local government elections into line with the five-year terms for the UK Parliament (as set in the Fixed Term Parliaments Act 2011) and for the Assembly in GoWA 2006. One Voice Wales has previously supported the extension of 4-year terms to 5 years.

### **Database for electoral registration information**

One Voice Wales supports the intention to establish and maintain a national database of electoral registration information.

### **Registration of local government electors without application**

One Voice Wales welcomes the intention for electoral registration officers being able to add electors to the register of local government electors automatically where they are satisfied, they should be entered.

### **Qualification for membership of a local authority**

The Bill (sections 24-26) amends the eligibility criteria for candidates at local government elections to allow a citizen of any country to stand for election and One Voice Wales supports this proposal.

Furthermore, the Bill provides that council officers and employees, other than those holding politically restricted posts, will be entitled to stand for election to their own council. They will only be required to resign their paid employment with the council if they are elected. The Welsh Government's intention is that this will widen the pool of potential candidates while ensuring there is no conflict of interest once the candidate is elected. One Voice Wales supports approaches to make it easier for people to

stand for election and encourage a broader cross-section of the community to consider standing however recommends that before such a provision is introduced that further work is undertaken to explore the risks and challenges associated with employees standing for election can have on governance and relationships for example depending on the outcome of the election unsuccessful candidates may find what they campaigned presents issues in terms of impartiality of administering council matters.

### **Disqualification of members of local authorities**

The Bill amends the disqualification provisions in Wales to disqualify individuals, from standing for election, or holding office as a member of a principal council or community council in Wales, if they are subject to a the notification requirements of, or an order under, the Sexual Offences Act 2003. One Voice Wales supports this amendment.

### **Piloting of voting arrangements**

The provisions in the Bill will enable the Welsh Ministers to direct a Returning Officer, ERO or local authority (where appropriate) to conduct a specific electoral pilot at a local government election. The Welsh Ministers may direct the electoral pilot to take place in a particular area or across the whole authority. Previously the onus was on the Returning Officer, ERO or local authority alone to apply to conduct an electoral pilot. One Voice Wales members did not have an express view on the merit or otherwise of this provision.

### **Expenditure of returning officers**

#### *Meeting expenditure of returning officers*

The Bill (Section 28) clarifies that Returning Officers can only claim expenses properly incurred in the running of a local government elections. Personal fees in respect of services rendered during the conduct of a local government elections could not in future be claimed as they would not be deemed as “expenses”. It is proposed that the personal fee will also be removed for National Assembly for Wales elections when an order is next made under article 23 of the National Assembly for Wales (Representation of the People). One voice Wales welcomes this.

During the consultation period One Voice Wales and the Society of Local Council Clerks (SLCC) attended a technical advisory briefing on the Bill with Welsh Government colleagues. The SLCC raised a specific point regarding the clarity of the provisions of section 28 – “there needs to be a sub section inserted or something similar which is unambiguous in language and meaning about personal fees and which states ‘no personal payment is due to the returning officer for services in respect of local government elections. This removes any doubt about how Section 28 will be interpreted.” One Voice Wales concurs with this view.

## **PART 2 GENERAL POWER of COMPETENCE**

### **The general power (Chapter 1)**

One Voice Wales welcomes the provisions for the General Power of Competence (GPoC) included in the Bill. One Voice Wales has long called for a general power of competence and welcomed its inclusion in the White Paper. Local government functions are determined by legislation and so any action performed in the absence of statutory powers is deemed unlawful and consequently One Voice Wales concurs that the existing suite of legislative measures available to Welsh local government is too restrictive. The Local Government (Wales) Measure 2011 extended the Wellbeing power to the community and town council sector however its ability to drive innovation within the sector was curtailed by the fact that it was restricted by the same financial limit as section 137 of the Local Government Act 1972. It had not been anticipated that the limit would be retained on the statute book and hence why the power has had limited use within the sector to date.

Consequently, One Voice Wales welcomes the generality of the power is not limited by the existence of any other power of a 'qualifying local authority' and vice versa any other power of a local authority is not limited by the existence of GPoC. This will remove any doubt about the extent of how the power can be used to encourage the potential devolution of services to community and town councils from principal councils and it is hoped that the power will carry broad appeal amongst community and town councils more generally. Importantly it will provide clarity and reduce the likelihood of community and town councils acting unlawfully.

### **Eligible community councils (Chapter 2)**

One Voice Wales supports the eligibility criteria a local council must meet and the procedure it must follow in order to become an 'eligible community council'.

One Voice Wales fully supports the CiLCA qualification as the sector standard but considers it necessary for Welsh Government to provide funding support to encourage the take up of the qualification for a period of no less than five years. During the Technical Advisory meeting held in December with Welsh Government colleagues the issue of 'other qualifications' arose – One Voice Wales considers that any regulations developed regarding 'other qualifications' would benefit from input by the National Training and Advisory Group (NTAG) including representatives from Welsh Government, One Voice Wales, SLCC, WLGA and others as necessary.

### **Guidance on exercise of functions under this Chapter**

One Voice Wales supports the issuing of guidance to the local council sector about how it should use GPoC.

During discussions at the recent Technical Advisory briefing with SLCC colleagues and Welsh Government the idea of Welsh Government making a grant available to councils who achieve eligible status was discussed. One Voice Wales has made many representations over the last eight or nine years that the sector should be supported via a grant program to facilitate development and improvement and the potential of doing this as an incentive to achieving eligible status would be welcomed by One Voice Wales.

## **PART 3 PROMOTING ACCESS TO LOCAL GOVERNMENT**

The Bill outlines several proposals to encourage a more diverse range of members of the public to engage with local democracy, encourage public participation in council decision-making and support openness and transparency. One Voice Wales promotes and supports democratic engagement, public participation and openness and transparency and has endorsed several previous proposals to support improvements.

### **Public participation in local government (Chapter 2) principal councils' duty to encourage participation in decision-making in local government**

One Voice Wales is supportive of the spirit of the Welsh Government's ambitions and local councils are committed to promoting access to very local government. However, One Voice Wales does not support the duty set out under Section 46 placed on principal councils to encourage local people to participate in decision making by authorities connected with the principal council such as and including local councils. One Voice Wales would be very concerned with such a development as a local authority cannot be responsible for the participation in other levels of government as the responsibility (and risk of non-compliance) should rest with community and town councils as separately accountable bodies. Placing a duty on a local authority to promote participation in community and town councils also undermines their own status, accountability and sovereignty as separate bodies.

### **Duty to make petition scheme (Section 49)**

The Bill repeals community polls and introduces a duty to make a petition scheme which One Voice Wales welcomes this and which we understand the WLGA also agree with – the proposal will reduce burden and costs for the local authority, as well as encouraging a more accessible and immediate mechanism for communities to express their views. Although community polls have generally not been widely used, there is a risk that they can be misinterpreted by the community as binding local referendums which can cause tension between communities, their elected representatives and the council.

### **Duty to publish official addresses**

Section 50 of the Bill refers to principal councils having a duty to publish official addresses for each member and that the address may be an official address such as the council's address rather than a home address. To ensure consistency across both tiers of local government in Wales One Voice Wales would recommend that this duty should also apply to community and town councils.

### **Annual reports by community councils (Chapter 5)**

An Independent Review on the future of community councils in Wales reported its findings in October 2018. The recommendations included that all community councils should be required to report annually on their work.

The Bill requires community councils, as soon as reasonably practicable after the end of each financial year, to prepare and publish an annual report about the council's priorities, activities and achievements during that year.

One Voice Wales in principle supports this development as it will encourage engagement with the local electorate and improve transparency and accountability within the sector. However, One Voice Wales would welcome some transition funding for Councils as set out in the costings in the accompanying documents to the Bill. Annual reporting – or performance management reporting as it could be described – will represent a new resource implication for Councils and to enable their implementation in the short term the provision of a grant would be welcomed. Alongside this clear guidance on how to produce an annual report should be delivered by Welsh Government including advice on the avoidance of delivering separate reports for other legislative requirements eg Environment Act and Wellbeing Act.

### **Participation at meetings of community councils**

One Voice Wales welcomes this proposal – it is already undertaken across many community and town councils in Wales and will ensure consistency of approach, greater opportunity for electoral input and better understanding of the roles and purpose of community and town councils.

### **Notices etc. of local authority meetings**

Section 56 provision and the inclusion of Schedule 4 of the Bill which extends previous amendments made by Section 57 of the Local Government (Democracy) (Wales) Act 2013 to electronically publish the time and place of committee and sub-committees of principal councils and community councils. This is welcomed by One Voice Wales as well as provision for the electronic service of summonses, removal of the prohibition of holding community council meetings in licenced premises and the ability to permit the calling of urgent meetings provided 24 hours' notice is given.

## **PART 4 LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES**

### **Conduct of members**

Section 67 of the Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. Whilst technically community and town councils are apolitical bodies, we find that in larger community and town councils political group meetings are held. Consequently, it would appear to be a prudent move if the same provision was included in the Bill for community and town councils to ensure consistency across both tiers of local government.

## **Training of members and staff of community councils**

The Bill (Section 72) requires community councils to consider and address the training needs of members and staff. This can be undertaken in a proportionate way recognising the current variation in the scope of what individual councils are responsible for. The purpose of the provisions is to make community councils and their staff more effective and capable, to improve their administration and governance so that they are better able to perform their responsibilities. One Voice Wales welcomes this development as it will assist in driving improvement and development in the sector and in particular address particular capacity and capability issues prevalent at the present time which has all too well been set out by the Wales Auditor General in his annual reports over the last few years. Both One Voice Wales and the Society of Local Council Clerks have comprehensive training courses available to support this development and in addition to this One Voice Wales has a number of agreements with other specialist providers of training, for example, planning training is provided via Planning Aid Wales.

The Bill provides for further guidance and in particular the mandatory training topics – again One Voice Wales welcomes this development and indeed One Voice Wales has developed seven e-learning modules which would form the basis of discussions moving forward as they address the key foundations of knowledge to carry out the role of a Councillor – training courses such as Law, Equalities, Finance, Being an Employer and Health and Safety as well as Code of Conduct. One Voice Wales would welcome grant funding to be made available to Community and Town Councils specifically relating to core mandatory training requirements to encourage better governance and encourage electors to consider taking up the role of councillor in the knowledge they will have adequate support and development mechanisms available to them.

## **PART 5 COLLABORATIVE WORKING BY PRINCIPAL COUNCILS**

### **Establishing corporate joint committees**

This section of the Bill introduces the powers for local authorities and Ministers to establish Corporate Joint Committees (CJCs). One Voice Wales understands the reason for the creation of CJCs in terms of efficiency and effectiveness of working across principal council boundaries.

One Voice Wales notes that the Bill provides for powers local authorities to request the establishment of CJCs covering any functions. The Bill also provides Ministerial powers to establish CJCs in the functions of school improvement, economic development, strategic planning and transport.

The Bill provides the outline of the CJC proposals, however, the detail including specific functions, boundaries and governance arrangements will be covered in Regulations introduced by the Minister.

One Voice Wales would welcome clarification how the views of local councils will be incorporated into the governance arrangements of CJC's to ensure transparency and accountability to local electorates is maintained.

## **PART 6 PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS**

The Bill proposes a new streamlined performance framework for local government, repealing the Wales Programme for Improvement and performance provisions of the Local Government (Wales) Measure 2009.

In summary, the Bill will introduce a new duty for a council to keep its performance under review to the extent to which it is

- it is exercising its functions effectively,
- it is using its resources economically, efficiently and effectively, and
- its governance is effective for securing the matters set out in paragraphs (a) and (b).

In addition, a council must conduct an annual self assessment of the above duty, publishing a report of this assessment and also commission an independent Panel Assessment of its performance once per municipal term. One Voice Wales would welcome further discussions with Welsh Government colleagues in the role that community and town councillors could play regarding membership of any Panel Assessment process – One Voice Wales has advocated on many occasions the potential for Community and Town Councils to support the scrutiny endeavours of principal councils.

Alongside the proposed reforms to strengthen self-assessment and self-improvement, One Voice Wales is aware the Minister has committed to reinvesting in sector-led improvement support for principal councils through the WLGA. This commitment and recognition of the value of sector-led improvement is particularly welcomed by One Voice Wales and it is hoped that the same commitment could be offered to One Voice Wales as the National representative body for local councils to encourage reforms to strengthen self-assessment and self-improvement – and support the sector to create an improvement and development strategy, providing a framework for good governance, community engagement and council improvement. Considering options for provision of expert advice and support for the sector, within the context of the wider work supporting improvement in local government was highlighted in the Independent Review Panel report and since its publication the need for this level of support has become more acute.

## **PART 7 MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS**

One Voice Wales has previously made comments on the implications of mergers and restructuring of principal areas – concerns about the potential for fewer Unitary Authorities within Wales there is potential for decisions taken during this process to reduce or stop services being provided at the second tier of local government to have significant impacts on the future roles of community and town councils...these are unknowns at the present time but given recent financial impacts on non-statutory services e.g. recently Gwynedd Council stopped funding of 40 youth facilities in their area because of budgetary pressures there is a likelihood that the community and town council sector will have to consider taking on more of this activity in future.

Austerity and retrenchment has already impacted heavily on those we serve. As other public service access points are closing down or having their services reduced dramatically One Voice Wales members we are experiencing an increase in the extent to which local people turn to the Community and Town Councils as a more convenient and effective conduit to secure action / responses from other organisations. Naturally this is impacting on the resources of community and town councils as they are having to face up to challenges previously beyond their remit and this is often compounded by the lack of advanced notification of closure or reduction of service by other public bodies.

The local council sector in Wales is well placed to work up new ways of working and share improvement and developments to ensure sustainable local services for the future. Councils in Wales are not starting from scratch; they can build on a lot of good work that has been going on over the last five years. But the pressures they face are real and growing. Local community councils could provide the most solid bottom-up framework for community governance because they can be independently grounded through democratic legitimacy and statute.

Community and town councils in Wales have a number of basic responsibilities in making the lives of local communities more comfortable. Essentially these powers fall within three main categories:

- representing the whole electorate within the community or town;
- delivering services to meet local needs;
- and striving to improve quality of life in the community or town

One Voice Wales agrees with the Young Foundation who argue that for the sake of innovation, confidence and clarity, make it clear that community and town councils have a principal purpose, for example, “to improve local liveability” (i.e. community safety, environment, activities and infrastructure et as set out in Table 2 above).

Here’s some thought on the potential future roles and responsibilities for community councils which has resonance with the feedback form our member councils and provides a direction of travel for the potential future purpose of the sector:

- **Being asset based leaders** - Identifying, utilising and optimising assets. Local councils can lead the development of asset strategies for their communities to ensure local resources are used to best effect.
- **Achieving fairness for everyone** – addressing the challenges of poverty. With increasing fuel prices local councils could co-ordinate schemes for such as oil purchasing consortiums.
- **Empowering local governance** – development of youth councils. By engaging young people and supporting their involvement in democracy local councils can enable new ideas and initiatives to meet the future needs of their communities.
- **Increasing resources for community benefit** – supporting the development of community renewables. One Voice Wales and Aberystwyth University research on this agenda identifies a ‘facilitator’ role for local councils in communities taking forward community renewable initiatives. This may include funding feasibility studies on energy options creating new local income streams for re-investment.



- **Enjoying locally relevant services** – services designed based on local needs using robust community engagement methods. Increasingly local councils are going to need to demonstrate effective use of precept to their communities – community plans or ‘place plans’ such as those developed by Borth Community Council will enhance local accountability and engagement.
- **Enriching social capital and well-being** – working with social entrepreneurs and social enterprises to jointly deliver services for communities, for example, youth drop-in centres.
- **Valuing local distinctiveness** – initiatives supporting local heritage and tourism. Kidwelly Town Council has designed a range of leaflets attracting visitors to local historic monuments.
- **Developing reliable infrastructure** – creating ‘One Stop Shop’ hubs such as the one being developed by the Penllyn Partnership by Bala Town Council and neighbouring community councils.
- **Enhancing environmental capacity** – embracing bio-diversity initiatives – Llandough Community Council has its own strategy - such as creating new allotments for community growing or community orchards that act not only as a food source but educational resource to local primary schools.
- **Supporting a dynamic local economy** – working with local businesses to support employment initiatives’ including apprenticeships and mentoring schemes

These thematic areas align with the work of the Carnegie Trust, who, over the last six years who have identified key areas of activity to improve local resilience within communities and details of which are set out in their recent publication ‘Supporting Local Places and Local People: Opportunities and Challenges for Welsh Towns’ (Rebekah Menzies 2017).

In light of all the above One Voice Wales would re-iterate the need for Welsh Government to take the opportunity presented by the Bill and help to fully democratise Welsh society by supporting the development of all community areas in Wales having a community or town council and make provision within the Bill to make available grant funding for the development of new community and town councils in those areas where they do not currently exist. This view was clearly expressed in the Independent Review Panel report and the Bill should bring forward enabling provisions to support their development.

## **PART 8 LOCAL GOVERNMENT FINANCE**

One Voice Wales notes the content of this part of the Bill and is disappointed that the overwhelming evidence from the Independent Review Panel report and its recommendations relating to funding of Community and Town Councils has been overlooked.

In their report the Independent Review Panel make the following five observations:

1. To support and encourage Community and Town Councils to work together we believe the Welsh Government should look at mechanisms and incentives to encourage collaboration such as match funding to deliver a joint

collaborative project or legal assistance with formal collaborative arrangements. We know that the Welsh Government already encourages Community and Town Councils to work together for a purpose through their clustering grant. IRP report

2. We believe there are many different avenues which should be explored in relation to additional funding for Community and Town Councils including:
  - Better use of existing funding sources (e.g. raising the precept, using reserves, ability to borrow, power to charge for a discretionary service)
  - New access to funding sources (e.g. eligibility for grants, power to trade)
  - Redistribution of funding provided to Local Government (e.g. proportions of non-domestic rates and council tax; Community Infrastructure Levy)
  - Additional funding (e.g. new local taxation, direct funding from Welsh Government).
3. We believe that Community and Town Councils should be made aware of, and have increased access to, these alternative sources of funding. In addition, we recommend the Welsh Government should explore how the transfer of funding and income related to place-based services taken on by Community and Town Councils can be achieved.
4. Even when increased, there are also cases where precept would not be sufficient to sustainably fund services. The majority of responses to our surveys outlined the need for greater access to funding for Community and Town Councils. Many respondents identified various different funding streams which it is believed Community and Town Councils should have access to. For example, many Community and Town Councils contribute to the viability of their community, which local businesses benefit from. A vast number of responses highlighted the need for Community and Town Councils to receive a proportion of Business Rates. We also understand there are various restrictions on access to some grants for Community and Town Councils.
5. When services are transferred from Local Authorities to Community and Town Councils, there is an expectation that an agreement is found in relation to funding. We know this does not happen and often Community and Town Councils are, effectively, asked to take on liabilities without support. While we recognise the financial constraints on Local Authorities, the presumption should be that where Community and Town Councils take on place-based services the funding / income associated with them comes with them. In addition, any place-based income generated should be received by the community.

One Voice Wales would welcome Welsh Government reconsidering the above recommendations and observations in relation to funding and consider making provisions for appropriate grant funding of the sector to encourage capability and capacity issues as well as driving and innovation and improvement agenda.

## **PART 9 MISCELLANEOUS**

### **Public Services Boards**

Section 161 of the Bill deals with merging and demerging public services boards under the Well-Being of Future Generations (Wales) Act 2015. One Voice Wales that the Bill in its present draft remains silent on representation on Public Service Boards. Following the receipt of the Independent Review Panel report on 3 October 2018 and subsequent Cabinet Secretary statement there was a commitment from Welsh Government over key actions to be taken forward in advance of the next round of local government elections: one of which was to “Add a representative from community and town councils in the area to the list of required ‘invited participants’ on Public Services Boards. Consequently, One Voice Wales would welcome an additional provision within the Bill enabling community and town council representation on future Public Service Board panels.

Additionally, another key action was to “Facilitate work to strengthen key relationships between community councils and principal councils” and One Voice Wales would welcome putting the establishment of Charter’s between the two tiers of Local Government to be placed on a statutory footing to ensure there is regular and consistent engagement between the two tiers of local government to address issues of County and local council concern in particular sustaining locally valued cultural, environmental and leisure services.

### **Funding to support repair of Church buildings**

One Voice Wales made representation to the former Local Government Minister regarding the repealing of the 1894 Act prohibiting Community and Town Councils following a motion at its Annual General meeting. Amending the legislation to enable Community and Town Councils the ability to financially support the repair of church buildings.

One Voice Wales included in its submission to the Independent Review Panel evidence to support the above however it was not considered in the final report. One Voice Wales would welcome Welsh Government considering the repeal of the 1894 Act and subsequently making provision within the Bill for this to be enabled.

### **Chapter 21 Post implementation review**

The Bill sets out that with regards to community councils, officials will take stock of the number of councils declaring themselves eligible to use the general power of competence through a survey after the next local government election. This will be a couple of years after issuing guidance to the sector and commencing provisions. Ahead of the survey, they will monitor the uptake of training through the Welsh Government’s national bursary scheme for council clerks and evaluate the numbers completing the qualification. In addition, the Society of Local Council Clerks will report progress on the number of qualified clerks to the National Training Advisory Group, which meets quarterly.

In order to evaluate the effectiveness of the provision to require community councils to publish their training plans, the Welsh Government will monitor these plans

through an annual sample of 10% of community council websites, selected at random.

One Voice Wales supports and welcomes each of the above actions.

## Concluding Comments

Community and Town Councils are the most local part of our democracy and play an integral role in the functioning of communities in Wales. They provide our neighbourhoods, villages and towns with a democratic voice and a structure for taking action – real people power at grassroots level.

We need more local democracy with more empowered people and places. The Local Government and Elections Bill provides an opportunity for politicians of all parties to support our most local, an increasingly important, level of governance. A chance to demonstrate their commitment to citizen-led action, which protects local assets and services and delivers responsive services based on local priorities – all of which improves lives and enhances communities.

One Voice Wales wants to work with Government to turn this vision into a reality. We agree with SOLACE's<sup>1</sup> (Society of Local Authority Chief Executives) principles for public services reform:

- **LOCAL SOLUTIONS** have been proven to work most effectively in improving outcomes for communities, achieving greater efficiency and reducing costs.
- **INTEGRATION** has the potential to improve outcomes, transform services and deliver significant financial savings. It is the long-term priority of local councils across all service areas and should be for the wider public services.
- **ACCOUNTABILITY** must be re-invented in the light of pan-public sector whole-place approaches, and it needs to be comprehensible to the public.
- **A NEW CONTRACT WITH COMMUNITIES** is needed to restore trust and build a more sustainable, adaptive relationship between local state and citizen.

There is undoubtedly a wider role for the community and town council sector in the future:

- Community and Town Councillors are committed to their communities and are an under-valued Wales-wide resource. Through their representative body, One Voice Wales, closer connections need to be made with Welsh Government departments.
- In the future there will be an increased expectation on Community and Town Councils' resources by Unitary Authorities, and current arrangements for partnership working between both tiers of local government need to be further enhanced and reflected in joint Charter arrangements that establish a firm foundation for effective working

<sup>1</sup> **OPPORTUNITY KNOCKS:** An alternative manifesto (Graeme McDonald© The Solace Group 2014)

- There is a need to support and build the capacity and skills of community groups to work in partnership with Community and Town Councils as well as raising the general awareness of the powers and responsibilities of this tier of local government.
- Any place-based approach by Welsh Government and its delivery partners should explicitly take account of the role of Community and Town councils and connect them to the local infrastructure and development plans so that they can enhance the effectiveness of locally based approaches and help sustain the continuing benefit of local interventions.

One Voice Wales considers that the Local Government and Elections Bill is taking many steps in the right direction for the future effectiveness of the local council sector however to realise the full potential of the community and town council sector necessary step changes are needed that will enable the Welsh Government to democratise Welsh society – the pace and scale of support not apparent in the Bill in its current form and the key areas for further development include:

- Provisions within the Bill to enable 100% coverage of Wales by community and town councils
- Provisions within the Bill as outlined above that enable the appropriate funding of the sector to realise its ambitions for the communities of Wales.

3 January 2020

**NORTH AND MID WALES ASSOCIATION OF LOCAL COUNCILS**

**CYMDEITHAS CYNGHORAU TREFI A CHYMDEITHASAU MWYAF GOGLEDD CYMRU**



Pack Page 44

NO	Consultati on section	HEADING	DETAILS	SUGGESTED RESPONSE
1	3.18 - 3.19	Electoral voting	Reforms to improve electoral arrangements for local government, including extending the franchise to 16 and 17 year-olds.	i) The Association accepts the arguments for including 16-17 year olds within the electoral system allowing them to vote. ii) The Association would support extending this proposal to all elections in Wales (Welsh Government iii) The interest in local politics by young people can be demonstrated by the number of Youth Councils that have been set up by both Principal and Community Councils.
2	3.20 – 3.27	Voting for those from other countries	Reforms to improve electoral arrangements for local government, including extending the franchise to foreign citizens legally resident in Wales.	i) The Association supports allowing foreign citizens legally resident in Wales the vote. Equality is important and the skills they bring to help the economy is recognised. ii) It is understood that the requirements for becoming a candidate in elections will remain the same, see appendix 1.
2	3.4 – 3.56	Voter registration	Improving voter registration.	i) The Association has had concern over voting for some time. There is currently little to stop someone looking up the electoral roll and attending a polling station and voting under a false name. Anything which makes voting more secure is welcome. ii) The Association supports the registration of voters individually and not via the head of the household. iii) The Association agrees that the electoral roll should be expanded to include those on other lists (such as the Council Tax register). Informing people that they have been added to the list has an administration cost and maybe unnecessary. iv) The Association supports the idea of an all Wales electoral database for all elections.



3	3.28 – 3.35	Voting system	Enabling a principal council to choose between the 'first past the post' or the 'single transferable vote' voting systems. See appendix 2.	<ul style="list-style-type: none"> <li>i) In the last 10 years we have seen a coalition government at Westminster and now a minority government. In the case of parties working together it appears to us that there needs to be more give and take if parties are to work together without getting entrenched.</li> <li>ii) In the case of Powys County Council, which has been under no overall control for decades, it is clear that this situation makes it very difficult for a Council and often paralyses its work.</li> <li>iii) The Association would not support the removal of the ward councillor but notes that it is retained in the transferable vote system. However it is noted that under STV systems there is a team for each area.</li> <li>iv) The Association suggests that there should be one common system for all and not different areas operating different systems. The public are confused already over which services are delivered by which authority without adding to the confusion</li> <li>v) The Association would support the first past the post system so that ward Councillors are retained and the system is easily understood by the electorate.</li> </ul>
4	3.36 – 3.39	Term of Councils	All County and Community Councils would be for a fixed 5 year term. At present there is no prescribed set term.	The Association supports this proposal. This allows a good amount of time for new councils to set out their plans and deliver them in the set period.
5	3.57 – 3.62	Standing for election	The requirements for being a candidate in local council elections to be altered to include people from other countries as long as the remaining conditions are met as follows: a.be at least 18 years old b.be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union And i.meet at least one of the following four qualifications: ii. to be, and continue to be, registered as a local government elector for the principal council area in which they wish to stand from the day of nomination onwards iii.o have occupied as owner or tenant any land or	The Association supports this proposal.

# NORTH AND MID WALES ASSOCIATION OF LOCAL COUNCILS

CYMDEITHAS CYNGHORAU TREFI A CHYMDEITHASAU MWYAF GOGLEDD CYMRU



			<p>other premises in the principal council area during the whole of the 12 months before the day of nomination and the day of election</p> <p>iv. have their main or only place of work during the 12 months prior to the day of nomination and the day of election in the principal council area</p> <p>v. to have lived in the principal council area during the whole of the 12 months before the day of nomination and the day of election.</p>	
6	3.59 - 3.63	Council Staff standing for election	A change is proposed to allow council staff to stand for election to their council as long as the employed position is not one of a politically sensitive nature.	The Association strongly objects to this proposal. The Association has no issue with employees standing for election to other councils but not the one in which they are employed. The feeling is that working with employees could be difficult and confidentiality in danger. This is not good for staff relations.
7	3.64 – 3.67	Disqualification for election	A change is proposed whereby those with sexual offences will be disqualified from standing for election.	The Association supports this proposal.
8	3.74 – 3.78	Returning Officers payments	The change proposed is to restrict the amount of remuneration returning officers may claim.	The Association supports this proposal
9	3.79 – 3.81	Names of electoral communities	The name 'electoral divisions' to be changed to 'electoral wards' in each piece of legislation so that there is a common terminology.	The Association supports this proposal.
10	3.82 – 3.92	Power of competence	A general power of competence for principal councils and eligible community councils.	The Association supports this proposal.
11	3.98 – 3.100	Reforms to participation and transparency	Reforms to increase public participation in local democracy, and improve transparency.	The Association supports this proposal.
12	3.105	Constitutional	The act currently requires principal councils to adopt a constitution which sets out their standing orders and rules relating to procedures, conduct, note specifications relating to the governance, administration, finances, commercial and collaborative activities of councils. Their purpose is to enable elected members, officers, the public and	The Association supports County Councils being required to have a constitution as set out by the Act.



# NORTH AND MID WALES ASSOCIATION OF LOCAL COUNCILS

CYMDEITHAS CYNGHORAU TREFI A CHYMDEITHASAU MWYAF GOGLEDD CYMRU



			stakeholders to understand how the council makes decisions and sets out who is responsible for those decisions.	
13	3.117 – 3.118	Community Council Annual Reports	Community and Town Councils are required to publish an annual report.	The Association supports this procedure.
14	3.119 – 3.129	Principle Councils leadership	Provision relating to the leadership of principal councils, including encouraging greater diversity amongst executive members and establishing a statutory position of chief executive	The Association supports the regulations proposed regarding Chief Executives, Head of Service and Executives.
15	3.133 – 3.139	Code of Conduct matters	Review of the code of conduct and Ombudsman arrangements.	The Association supports the proposals related to the conduct of members.
16	3.145 – 3.148	Training for community council staff.	The change would be to require community and town councils to assess the training requirements of their staff.	The Association supports this proposal but would object to such training needs being assessed by the principal authorities.
17	3.149 – 3.163	Working relationships	The development of a framework and powers to facilitate more consistent and coherent regional working mechanisms	The Association supports joint working between principal authorities but this needs to be done taking into account mergers so that work is not done only to be abandoned later.
18	3.164 – 3.170	Assessment	A new system for improving performance and governance based on self-assessment and peer review, including the consolidation of the Welsh Ministers' support and intervention powers	The Association supports this proposal.
19	3.178 – 3.180	Mergers of Councils	Powers to facilitate voluntary mergers of principal councils and restructuring a principal area	<ul style="list-style-type: none"> <li>i) Whilst the Association understands, and supports, this proposal it has become clear that legislation is needed to implement the reduction in Principal Authorities.</li> <li>ii) In the view of the Association too much time has been wasted and lost in discussing a reduction in authorities, it is now urgent that this is reviewed and taken forward .</li> <li>iii) The Association also supports the enlargement of Town and Community Councils to allow them to deliver more local services. This will allow more local democracy and allow for more cost effective delivery of local services.</li> </ul>
20	3.200 – 3.206	Business Rates and	Provisions relating to local government finance including non-domestic rating and council tax	<ul style="list-style-type: none"> <li>i) The Association notes the proposals regarding enforcement but feels that a revision of the business rates system is far more important and long overdue.</li> </ul>
21	3.207 – 3.209	Council Tax		<ul style="list-style-type: none"> <li>a) The Association notes the proposals regarding enforcement of Council Tax payments, however the Association feels it is more important to scrap Council Tax</li> </ul>

# NORTH AND MID WALES ASSOCIATION OF LOCAL COUNCILS

CYMDEITHAS CYNGHORAU TREFI A CHYMDEITHASAU MWYAF GOGLEDD CYMRU



				and provide a fairly tax payable according to ability to pay. b) The reason for the view on Council Tax held is that the number of people unable to pay the said tax is rising.
21		Miscellaneous	Miscellaneous provisions relating to information sharing between regulators, community polls, fire and rescue authorities, the Local Democracy and Boundary Commission for Wales and Public Service Boards.	The effect of the new GDPL system has caused difficulties in transfer of information between relevant authorities. The Association would support any initiative to share such information.
22	3.231 – 3.232	Miscellaneous	Public Service Boards	There has been a variance in how and when Community Councils are appointed to Public Service Boards. Principal Authorities should be required to make such appointments within set periods.

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

**Robert Smith**  
Chief Executive Officer

8 The Crescent  
Taunton  
Somerset  
TA1 4EA

Phone: 01823 253646

23 December 2019

Sent by email to [SeneddCommunities@assembly.wales](mailto:SeneddCommunities@assembly.wales)

Dear Minister,

### **Consultation on the Local Government and Elections (Wales) Bill**

The Society of Local Council Clerks (the Society) is the professional body for local (parish, community and town) councils across England and Wales and represents the clerks to over 5,000 councils with over 300 members in Wales.

The Society is delighted to respond to the Local Government and Elections (Wales) Bill (the Bill) and welcomes the opportunity of submitting this written submission in support of the planned evidence session to be held in Cardiff in the New Year. The response has been co-ordinated by Mark Galbraith, the Society's Wales Policy Liaison Officer who is also one of our leading practitioners in Wales, being the Clerk to Llanelli Rural Council.

The Society is of the view that the Bill – notwithstanding the positive reforms proposed to improve electoral arrangements for local government and the other measures outlined under the various provisions, sets out a clear approach as to how Welsh Government intends to empower local government to collaborate more closely through a common framework of measures encapsulating voluntary mergers and the potential restructuring of principal councils. This also includes the establishment of corporate joint committees and of course providing a General Power of Competence to qualifying local authorities in Wales including eligible community councils. This will encourage local government to act innovatively by providing services in different ways at both a local and regional level going forward.

Moreover, the Bill positively sets the foundation for transforming the future role and status of the local council sector enabling it to participate more freely in the future delivery of Welsh public services as an important community partner and as a recognised tier of local government. The Society sees this as a positive step in the new relationship being forged with Welsh Government and local government. In this regard the Society's main focus will be to respond to the measures affecting the local council sector set out in the Bill. However, where appropriate it will also put forward a view on the other parts of the Bill where the Society believes it is appropriate to do so.

Much like the series of previous White Papers and the former draft Local Government (Wales) Bill, this particular Bill has positive implications for the local council sector while enhancing its role but it also comes with new duties and responsibilities. It is reassuring to discover that many of the issues the Society has been discussing and lobbying the Welsh Government for in the raft of consultations preceding the Bill over the last five years are now starting to emerge through the Bill. However, there is much to build upon and look forward to along the journey of increasing the capacity and capability of the local council sector which the Bill of course does attempt to address in full. The Society views the Bill as the first step in a process which will hopefully lead to further measures being enacted to support the development of the local council sector. Furthermore, the Bill addresses some but not all of the measures and recommendations identified by the Independent Review Panel (IRP). The Panel's work culminated in a final report which made a number of recommendations to positively improve and enhance the local council sector.

## **PART 1 ELECTIONS**

### **Extension of right to vote in local government elections**

The Society supports the intention to extend the local government franchise to foreign citizens on the basis that they are lawful residents of Wales, irrespective of their nationality.

The Society also supports the proposal to allow 16- and 17-year olds to be able to register to vote in Welsh local government elections.

### **Voting systems of elections to principal councils**

The Society notes the intention to introduce two voting systems for principal councils namely the existing system – ‘the simple majority system’ and the ‘single transferable vote system’ on the basis that each principal council may decide for itself on the voting system to use. The Society supports the requirement for principal councils to consult with community councils in its area before contemplating changing the voting system from one system to another.

Where it is intended to introduce the single transferable vote system in place of the simple majority system and there then follows a combined set of local government elections for principal councils and community councils; the Society supports the drafting of appropriate guidance either directly or indirectly by the Electoral Commission and local returning officers to help distinguish the two voting systems and to advise electors about the important differences in how they mark their ballot papers for each type of election taking place.

### **Electoral cycles**

The Society supports the proposal to change the electoral cycle for local elections from four to five years. This will harmonise election cycles for local and national government so they are the same. The Society also supports Welsh Ministers having the power to change the ordinary day of local elections in Wales.

### **Database for electoral registration information**

The Society notes the intention to establish and maintain a national database of electoral registration information.

## **Registration of local government electors without application**

The Society supports electoral registration officers being able to add electors to the register of local government electors automatically where they are satisfied they should be entered.

## **Qualification for membership of a local authority**

The Society accepts the proposal to extend the qualification for election and holding office in the case of a local authority in Wales to include a qualifying foreign citizen.

## **Disqualification of members of local authorities**

The Society supports amending the current disqualification provisions to disqualify individuals from standing for election or holding office as a member of a principal or community council if the individual is subject to the notification requirements of an order under the Sexual Offences Act 2003.

## **Expenditure of returning officers**

The Bill purports that Section 28 clarifies that returning officers can only claim expenses properly incurred in the running of an election. However, it does not say that personal fees of a returning officer in respect of services rendered during the local government election cannot be claimed on the basis they are not expenses.

The Society is of the opinion that the wording in Section 28 of the Bill is not clear and needs to be revised. There needs to be a sub section inserted or something similar which is unambiguous in language and meaning about personal fees and which states 'no personal payment is due to the returning officer for services in respect of local government elections.' This removes any doubt about how Section 28 will be interpreted.

Removing the entitlement to personal fees for returning officers for organising elections is welcomed because election costs can prove to be very expensive for local councils with costs spiralling to over £20,000 in certain council areas that are made up of multiple wards. Removing personal fees will reduce the cost burden with local councils only having to meet direct election costs. Clerks to smaller local councils have also expressed the view that expensive election costs can act as a significant disincentive for people to stand for election. High costs have encouraged prospective candidates to not stand during an election, preferring instead to wait for the opportunity to join the council via a co-option opportunity. The measure will go a long way to help eradicate this practice.

## **PART 2 GENERAL POWER of COMPETENCE**

### **The general power (Chapter 1)**

The Society is pleased to see the General Power of Competence (GPoC) included in the Bill. Local government functions are determined by legislation and so any action performed in the absence of statutory powers is deemed unlawful. The Society agrees that the existing suite of legislative measures available to Welsh local government is too restrictive. This is despite the introduction of the Well-Being Power under the Local Government Act 2000. This power was extended to the local council sector by the Local Government (Wales) Measure 2011 but was restricted by the same financial limit as section 137 of the Local Government Act 1972.

The Society supports the extent of GPoC as set out under the Bill and believes it will bring about more effective, capable and local innovative ways of working. In

particular, the Society is pleased to note that the generality of the power is not limited by the existence of any other power of a 'qualifying local authority' and vice versa any other power of a local authority is not limited by the existence of GPoC. This removes any doubt about the extent of how the power can be used to encourage the potential devolution of services to the local council sector from principal councils and it is hoped that the power will carry broad appeal amongst community councils. The Society is also pleased to see the inclusion of a provision to grant power to make a supplementary provision to the use of GPoC where Welsh Ministers consider that an enactment prevents qualifying local authorities from exercising the general power, or obstructs them in exercising the general power. The introduction of GPoC will generally provide the necessary flexibility to be able to perform specific activities without first having to reference a specific power unless of course there is a statutory power preventing it. The possibility of acting unlawfully ought to be significantly reduced with the advent of the power.

## **Eligible community councils (Chapter 2)**

The Society accepts the eligibility criteria (referred to as eligibility conditions in the Bill) a local council must meet and the procedure it must follow in order to become an 'eligible community council'.

In regard to the second eligibility condition that the clerk holds one of the qualifications specified by Welsh Ministers in subsequent regulations, the Society would like to reaffirm the case it has made previously over the importance of clerks possessing sector specific qualifications. In the explanatory notes accompanying the Bill paragraph 178 on page 315 refers to an example of such a qualification likely to be specified is CiLCA (Wales) (Certificate in Local Council Administration). CiLCA incorporates all the essential and varied topics required by a clerk to successfully administer a local council in Wales. It consists of five units covering core roles in local council administration; law and procedure for local councils; finance for local councils; management for local councils; and community engagement. It is an evidence based portfolio qualification that is required to meet outcomes based assessment criteria.

It was refreshed in 2015 to ensure it remains completely up to date and relevant, is positioned at Level 3 of the National Qualifications Framework (NQF), and is externally accredited by AptEd who are the awarding body. The qualification, whilst administered and managed by the Society, is a National Training Strategy (NTS) qualification approved and agreed by the key national stakeholders in Wales who form part of the National Training Advisory Group (NTAG). NTAG consists of representatives from the Welsh Government, Society of Local Council Clerks, One Voice Wales and the Welsh Local Government Association.

This sector specific, tailored, evidence based qualification tests knowledge in all the key areas and provides the most relevant reassurance that a clerk is 'qualified'. In regard to Welsh Ministers making further regulations about relevant qualifications, the Society advocates the drafting of any such regulations is influenced by the strategy and work programme of NTAG. In addition to CiLCA the Society offers a suite of other professional clerk's qualifications including opportunities to study for the Certificate of Higher Education; Diploma or Full Honours Degree in Community Governance (formerly known as Local Policy). The Society will be advocating during the drafting of the regulations that this suite of qualifications is also included to satisfy eligibility condition 2.

On a related note the Society hopes no reference will be made to other generic professional qualifications such as accountancy and law when the regulations are drafted. These qualifications are not specific or tailored to the local council sector. With respect to a clerk's professional qualifying status, the inclusion of an accountancy or law qualification has no sector relevance to be of any practical

use in performing the specialised day to day role of the clerk, or for satisfying the eligibility condition for the use of GPoC.

The Society will continue to actively market and promote the CiLCA (Wales) and the wider community governance qualifications. The Society anticipates CiLCA (Wales) will be actively pursued by clerks once the Bill gathers pace as it passes through the National Assembly.

In reference to the likely take-up of CiLCA as illustrated in the accompanying explanatory notes set out under chapter 10 – costs and benefits of Part 2: General Power of Competence; where page 152 puts forward a seven year model for take-up of relevant professional qualifications. The Society agrees that the majority of that take-up will occur over the first three years likely covering the passage of the Bill through the National Assembly and the two subsequent years once the Bill is enacted.

The Society will further evaluate the numbers of clerks applying for CiLCA through the auspices of its work programme via NTAG while ensuring close collaboration with Welsh Government colleagues to ensure sufficient resources are allocated to meet the perceived demand both in terms of the future level of bursary payments from Welsh Government and the Society's capacity to deliver the qualifications on the scale envisaged in the cost benefit analysis.

The Society is aware that Welsh Government is keen to see all clerks undertake some form of basic training to support their role especially clerks to smaller size local councils. The Society has a foundation qualification available to cover basic skills – Introduction to Local Council Administration (ILCA) and we see this as the ideal building block leading onto clerks registering for CiLCA (Wales).

ILCA is a level 2 online sector specific learning tool which is designed to support all new council officers in England and Wales in their roles in the first few months of employment, as well as those aspiring to go on to complete their level 3 CiLCA qualification. The aim of the course is to provide an introduction to the work of a local council, the clerk and its councillors. The course is split over five sections based on the Occupational Standards established by the National Training Strategy in England. The qualification covers core roles; law and procedure; finance; management and working for and with your community.

With the exception of Section 43, guidance referred to below, the Society supports the other remaining provisions of this part of the Bill as outlined in Sections 38 to 42 respectively on the basis they provide for sensible checks and balances to cater for the various scenarios that might occur following a local council resolving to become an 'eligible community council.'

### **Guidance on exercise of functions under this Chapter**

The Society also supports the issuing of guidance to the local council sector about how it should use GPoC but hopes Welsh Ministers will not be tempted to introduce restrictions which might discourage councils from using the power as a power of first resort. Lessons need to be learned from the restriction imposed on the use of the Power of Well-Being where spending limits were restricted to Section 137 spending limits. This discouraged use of that particular power.

To support the issuing of GPoC guidance, the Society wishes to see an on-going training commitment being made to encourage local councils to use GPoC as part of their day to day responsibilities. This training should be aimed at clerks and councillors because this will facilitate the seamless use of the power in instances where changes to the composition and make-up of the council are unavoidable and where those changes impact upon general management arrangements.

## **Amendments relating to this Chapter and Part 2 of Schedule 3 – Amendments relating to Chapter 2 of Part 2: eligible community councils**

The Society notes that in support of Section 44, page 318 of the explanatory notes accompanying the Bill that Part 2 of Schedule 3 makes various amendments but in particular it will repeal the well-being power in Section 2 of the Local Government Act 2000, as it will be replaced by GPoC.

It also amends Section 93 (the power to trade) and Section 95 (the power to charge for discretionary services) in the Local Government Act to remove principal councils and eligible community councils, as they will have these powers under GPoC. The Society notes that Part 2 of Schedule 3 also restricts the power of local authorities to incur expenditure for certain purposes not otherwise authorised to community councils that are not eligible community councils.

### **Local councils and GPoC**

In terms of the percentage take-up of the use of GPoC amongst local councils across Wales the Society would like to raise a point about Welsh Government providing some form of financial incentive via direct grants to encourage local councils to engage the use of GPoC to deliver new place-based services as eligible community councils.

The IRP in its final report referred to place based services and it states ...

“Community and town councils should, by and large, be responsible for all ‘place-based’ services and Local Authorities should be responsible for ‘people-based’ or statutory, regulatory or strategic services (such as education, social care and environmental health).

“We have determined that ‘place-based should be any (mainly discretionary) services that helps the social, cultural, economic & environmental and physical wellbeing of the community which can be linked to a place and can vary from place to place, rather than people-based, statutory or regulatory services that are more likely to need equitable service across the country. It is difficult to determine a full list of place-based as these services can vary based on community need and lists can quickly become out of date. Examples of place-based services could include:

- Burial grounds
- Bus shelters and street furniture and features
- Community assets including: village halls/centres, toilets etc.
- Culture, tourism and heritage including: libraries, arts venues, museums
- Environment including: street cleaning/street bin collection, litter, grass cutting, drainage
- Highways including: local footpaths and pavements
- Leisure/recreational facilities including: leisure centres, sports halls
- Markets
- Playing fields/open spaces/parks/allotments
- Transport including: local community/village transport/bus shelters
- War Memorials

“ ..... In many cases, defining place-based will be down to local determination and need. We recognise there will be variations where the margins between the two are not always clear; nevertheless, we feel use of this distinction provides clearer



separation for public, staff and councils themselves between the role of community and town councils and Local Authorities”.

The Society believes the incentive of receiving direct grant support to deliver services will persuade many councils to become eligible community councils and will make them step out of their current comfort zones to take positive action to use GPoC to fulfil their true potential. By not providing any form of incentive the Society fears that many local councils will be happy to keep the status quo and will not elect to become eligible community councils which would be a missed opportunity. The other point the Society wishes Welsh Government to consider in regard to providing more of an incentive relates to the likely take-up of clerks registering for CiLCA. The number of registrations for CiLCA quoted in the cost benefit analysis on page 152 of the explanatory notes is far more likely to be realised if this proved to be the case.

## **PART 3 PROMOTING ACCESS TO LOCAL GOVERNMENT**

### **Public participation in local government (Chapter 2) principal councils’ duty to encourage participation in decision-making in local government**

The Society supports the duty set out under Section 46(2) and (3) placed on principal councils to encourage local people to participate in decision making by authorities connected with the principal council such as and including local councils. This is a positive measure in support of local democracy generally as well as enhancing levels of accountability and transparency.

#### **Duty to publish official addresses**

The Society wishes to make an observation that Section 50 of the Bill refers to principal councils having a duty to publish official addresses for each member and that the address may be an official address such as the council’s address rather than a home address. The Society wonders whether this provision could be extended to local councils too if the member wishes to protect their personal privacy.

#### **Annual reports by community councils (Chapter 5)**

The Society supports this measure but submits an observation that the local council sector will be subject to three separate reporting requirements when the Bill is enacted. The Society asks whether it will be permissible to produce one composite report in the fullness of time that encapsulates the Section 40 duty of The Well-Being of Future Generations (Wales) Act 2015 to produce a report, and more recently the Section 6 duty set out under the Environment (Wales) Act 2016 to report on how a public authority promotes and enhances biodiversity; albeit the Section 6 duty requires councils to report once every three years from the end of December 2019. Producing one composite report will help cut down on the amount of administration and would be viewed as a positive measure to efficiently support the working time of clerks most of whom work part time.

#### **Participation at meetings of community councils**

The Society supports this proposal and although this is not officially required currently, the practice is common amongst local councils and replicates similar measures which operate at parish council level in England. The Society feels this will facilitate greater public interest in the business of local councils which can only strengthen local democracy.

## **Notices etc. of local authority meetings**

The Society supports the Section 56 provision and the inclusion of Schedule 4 of the Bill which extends previous amendments made by Section 57 of the Local Government (Democracy) (Wales) Act 2013 to electronically publish the time and place of committee and sub-committees of principal councils and community councils.

Schedule 4 also provides for the electronic service of summonses on members to attend local authority meetings and the Society is pleased that this now also applies to local councils. This is something the Society has previously called for in former consultation exercises leading up to this Bill.

The Society positively notes that Schedule 4 also removes the prohibition of holding community council meetings in licensed premises especially as many more premises such as local community centres and other types of public buildings are licensed in modern society and cater for a greater deal of public activity. The removal of the prohibition will offer more flexibility over the choice of meeting venues going forward.

The Society is also pleased to support the Bill's intention to amend paragraph 26 of Schedule 12 of the Local Government Act 1972 to permit the calling of urgent meetings provided 24 hours' notice is given. This is a positive measure.

It was garnered during the technical briefing meeting held with Welsh Government colleagues on 16 December 2019, that local councils already have the ability to call urgent council meetings as implied by the general provisions set out under the Local Government (Democracy) (Wales) Act 2013. The Society fully supports the reason for now wanting to extend the application of this measure to also cover the calling of urgent committee and sub-committee meetings.

## **PART 4 LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES**

### **Chief Executives**

Section 59 of the Bill states a principal council must appoint a chief executive. While this has no direct relevance to the local council sector the Society would like to raise a similar claim in support of local councils having to appoint a 'clerk'. The issue is exactly the same.

Much like the title 'chief executive' the title 'clerk' is predominantly used throughout local government in England and Wales. It denotes the head of a local council's administration but like 'chief executive' the title is not found in local government legislation. The Society calls upon Welsh Government to address this in the Bill.

The Society believes that denoting in legislation the requirement to appoint a 'Clerk to the Council' will give the position a firm legal footing for the first time in local government law which in turn will help set the foundation for supporting the development of the clerk's profession in Wales. It will also remove any ambiguity about the differing roles and responsibilities of a Clerk and Chief Executive in the field of local government and would make things clearer for the general public to understand.

### **Conduct of members**

Section 67 of the Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group.

The Society contends that a similar provision needs to be added to the Bill to cover high standards of conduct by community councillors.

In support of this the Society refers to the IRP report wherein it states ...

“There is evidence that the conduct of some councillors is not desirable for an elected member nor appropriate towards staff.”

Indeed, the IRP refers to research commissioned by the Society on issues relating to council governance, the Code of conduct and standards arrangements under the Localism Act 2011. Whilst covering both England and Wales, the research noted that 15% of councils do have serious issues.

Most clerks are dissatisfied with the outcome of complaints and the way they have been handled. There is a significant feeling that the current legislative framework means certain members now believe they are ‘untouchable’ and are given free rein to cause disruption and that problems therefore go on longer without coming to a resolution. This must be addressed.

The IRP report goes on to state ...

“The Auditor General for Wales confirms that many councils are unable to provide evidence that they have adopted a Code of Conduct for members. This is a legal requirement and one we expect all councils to meet.

“In 2017-18, the Public Service Ombudsman received 167 Code of Conduct complaints involving community and town councils. This is an increase of 33% since 2016-17”.

Given the opportunity presents itself to do something about this through this important piece of legislation the Society calls upon Welsh Government to lead by example and to address the issue of maintaining higher standards of member conduct in the local council sector too.

### **Training of members and staff of community councils**

Section 72 of the Bill sets out proposals for local councils to make and publish a training plan in relation to members and staff. The Society supports this proposal.

The Society can address all the professional learning needs for local council staff and similarly One Voice Wales has a suite of training modules for councillors. In regard to training for councillors the IRP report recommends that ...

“a core package of training should be mandatory for all councillors as a requirement for acceptance of office and that this mandatory training is repeated regularly (every election term). This should include:

- Code of Conduct
- Induction (covering role/expectation and the legal framework)
- Being an employer
- Diversity and inclusion
- Health and safety
- Finance (core basic requirements)
- Planning (including the requirements of completing a planning response)

The Society notes that further guidance is to be issued by Welsh Ministers about the exercise of functions under Section 72 but calls upon Welsh Ministers to address and support the recommendations of the IRP with the mandatory training topics it suggests being included in that guidance. The inclusion of these topics will help focus and orientate minds on what needs to be put in place otherwise there is a danger that local councils will only cover the basics with them choosing not to cover key governance areas.

The sector currently enjoys receiving an element of grant support from Welsh Government as part of its long established bursary scheme facilitated through the auspices of NTAG (referred to earlier) in support of the National Training Strategy. Many small councils find the cost of training for both members and staff alarming and this leads to an increasing gap in skills and performance within the sector between small and larger councils. Grant support will help address the fact that it is not acceptable for clerks to be expected to take professional training in their own time and unpaid. This is a real disincentive for them. It is a real obstacle to increasing the professional knowledge of the sector.

Some clerks in membership of the Society in Wales are also training providers for One Voice Wales and deliver member training. Interestingly, some of the clerks have noticed that those members who attend training are often frustrated by those who refuse to attend any, including Code of Conduct training. This can lead to contentious relationships within a council. It also inhibits the development of members' and thereby council's skills and professionalism. Including mandatory training topics in the guidance will help allay this frustration.

## **PART 5 COLLABORATIVE WORKING BY PRINCIPAL COUNCILS**

### **Establishing corporate joint committees**

The Society notes the rationale for the creation of these bodies to give effect to more effective regional working. However, in developing any regional working arrangements it is important to retain strong democratic governance and oversight, including that of scrutiny of the work of these corporate joint committees at a local level. These bodies must be held to local account and their terms of reference must be completely transparent. This is fundamental if local communities are to retain a strong local voice over the delivery of key services.

The Society supports the argument that there is an expectation that corporate joint committees will be instigated on the basis that it is more economic, efficient and effective to exercise the proposed activities or functions collaboratively than being done by the principal councils alone.

## **PART 6 PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS**

The Society has no direct interest in the measures proposed under Part 6 of the Bill.

## **PART 7 MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS**

The Society notes this part of the Bill but would comment that mergers or restructuring will create much larger local government areas which are likely to be made up of much larger electoral wards with fewer councillors.

Whether an area is subject to a merger proposal or indeed is subject to restructuring it is fundamental that local accountability is not lost and that the communities making up these larger council areas can still count upon a strong local community voice.

The Society wishes to repeat an observation which has been identified in previous consultation responses concerning the configuration of community areas. The Society is mindful that there are 820 community areas in Wales and only 735 of these areas have a community or town council acting as a local voice. In the interests of promoting local democracy, the Society encourages Welsh Government to give serious consideration to creating community and town councils across all parts of Wales, especially in light of the provisions of the Bill.

Creating new local councils in all parts of Wales will offer electoral parity by providing a consistent and uniform community tier of local government. Blanket coverage will provide stronger democratic representation at grass roots level ensuring all communities have a local voice. Urban parishes in England are now being created in major, previously unparished urban conurbations to positive effect. We would ask that the Welsh Government considers introducing a similar programme of support in Wales for the creation of new urban community councils to address this point. The Society sees the Bill as the ideal vehicle for this.

The IRP in its comprehensive review of the local council sector has also recommended that “all areas should be supported by a community and town council. We believe that unless universal coverage is achieved there would be areas of unmet need, if the role we envisage for community and town councils is to be realised. Every effort should be made to ensure local communities are aware of the benefits of having a community and town council. We know there are challenges in existing community and town councils regarding attracting an appropriate number of individuals to stand for election, so more needs to be done beyond just establishing community and town councils in all areas across Wales.

“With over 730 community and town councils in Wales, it’s hard to imagine that there are community areas without a council. But, we know that there are approximately 110 communities or 30% of the country’s population without a council. Only 12 Local Authority areas in Wales have total coverage in respect of community and town councils.

“We have had difficulties in obtaining detailed evidence from those areas without full coverage. We know that in these areas, other community organisations play a similar role – for example in Merthyr Tydfil. We heard evidence from Neath Port Talbot County Borough Council, who confirmed that where community and town councils do not currently exist in the borough, they believe their ability to respond in a swift and agile fashion to the challenges posed by austerity has been demonstrably weaker.

“Local Authorities have also told us that it is often difficult to consider transferring services when they do not have coverage across the authority. The lack of coverage potentially causes issues of inconsistency and more confusion for the general public.

“We are of the view that universal coverage is important and preferable and the foundation of other recommendations. We would expect Welsh Government to make every effort to encourage, promote and support local communities which do not currently have community or town councils to establish them”.

The Society advocates that the Bill seeks to amend the Local Government Act 1972 to permit the creation of local councils in urban areas of Wales.

## **PART 8 LOCAL GOVERNMENT FINANCE**

The Society is happy to support the general provisions of this part of the Bill most of which are aimed at billing authorities. However, the Society feels the financing of local government will need to change to support the public services reform agenda. The Society believes a further separate Local Government Finance (Wales) Bill will be needed to support the reform agenda. The Society encourages Welsh Government to explore more wide-ranging reform of the local government finance system as a means of improving the sustainability of services and for greater fairness for Wales’ citizens and businesses. The Society would like to see through this separate legislation a process which is dedicated to overhauling the mechanisms for distributing, raising, managing and accounting for the funding of local government in Wales; this can be accomplished through a new finance Bill. Local councils along with principal local authorities would very much like to see business rates being retained and used locally. The Society is

keen to discuss with Welsh Government any plans to reform the funding mechanism for the local council sector including the potential allocation and use of a share of the business rates by local councils.

On a general note about finance, and notwithstanding earlier comments about the take-up of GPoC across the local council sector, the Society would welcome funding following the service and that this is included as part of the plans to reconfigure the delivery arrangements at the local council sector level. If the funding was handed down from Welsh Government direct to those local councils prepared to do more; this would avoid the double taxation argument which has been a bone of contention in many community areas when looking at the devolution of services and asset transfers from principal authorities. Perhaps this is something that Welsh Ministers will address when issuing guidance to 'eligible community councils' under Part 2 of the Bill?

## **PART 9 MISCELLANEOUS**

### **Polls consequence on community meetings**

The Society wishes to support the inclusion of Section 158 of the Bill which introduces Schedule 12 which provides for the abolition of community polls, with the exception of, community governance polls, which enable a community to hold a poll in respect of a proposal to establish or dissolve a community council or to group with other councils under a common community council.

The Society understands and accepts that Welsh Government is not looking to remove or reduce the democratic rights of communities or the opportunities available to those communities to make their views known to their local council. The Society argues the current process related to community polls to be outdated and at odds with the ever-increasing use of social media and digital resources such as electronic petitions.

### **Public Services Boards**

The Society notes that Section 161 of the Bill deals with merging and demerging public services boards under the Well-Being of Future Generations (Wales) Act 2015. The Society wonders whether there is an opportunity under the Bill to review the general composition of public services boards so as to include the appointment of community and town council representatives. There are a number of examples of this happening already, Carmarthenshire PSB being a case in point. However, formalising this through the Bill will harmonise arrangements across Wales and will be viewed as a very positive collaborative measure.

The Society has no further observations to make in regard to the remaining provisions of this part of the Bill.

### **Ministerial guidance**

The Society is aware that the Bill cites many references to the drafting of Ministerial guidance to support the various provisions relevant to the local council sector. The Society is also aware that the issuing of Ministerial guidance is now common place in Wales and has been for a number of years and particularly since the National Assembly for Wales received legislative competence to draft legislation pursuant to Part 4 of the Local Government of Wales Act 2006 as amended by the Wales Act 2017.

The Society feels that there is now a case to consolidate the guidance proposed in the Bill along with previous guidance covering other pieces of legislation to provide clerks with a composite reference source. Furthermore, the Society would be happy to discuss this further with Welsh Government as it could lead to

the production of a Welsh version of the Clerks' Manual specifically dealing with Welsh local government law.

This concludes the Society's response.

Yours sincerely,

A handwritten signature in black ink that reads "Rob Smith". The signature is written in a cursive style with a large, sweeping initial 'R'.

Rob Smith  
Chief Executive SLCC

## **CONSULTATION ON THE LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL**

### **1. About the Women's Equality Network Wales:**

- 1.1 WEN Wales is a representative women's network<sup>1</sup> and human rights organisation working for a Wales where women and men have equal authority & opportunity to shape society and their own lives. Our charitable objectives are to promote equality and human rights with specific reference to women and gender equality in Wales.
- 1.2 WEN Wales, in collaboration with Women Connect First, Welsh Women's Aid and Chwarae Teg published 'Equality for Women and Girls in Wales: Our Manifesto'<sup>2</sup>, which sets the agenda in Wales to achieve greater equality for women and girls.
- 1.3 In collaboration with Oxfam Cymru we also produced our 'Feminist Scorecard 2019: Tracking Welsh Government Action To Advance Women's Rights and Gender Equality'.<sup>3</sup> Collectively, we have a vision of a transformed Wales, free from gender discrimination where woman and men have equal authority and ability to shape society and their own lives. We want to ensure that Wales is the safest country in Europe to be a woman, where women and girls can flourish and actively participate in their communities. These two documents set us on the path to achieving this.

### **2. Introduction**

- 2.1 We are disappointed to see a number of positive provisions regarding diversity and equality missing from the Local Government and Elections (Wales) Bill.
- 2.2 WEN Wales believes that women's participation and the success of women as candidates in elections are vital indicators of the health of a representative democracy, and an integral part of achieving a more equal Wales.<sup>4</sup> In 2017 just 28% of those elected as councillors were women, while 33% of wards had no women candidates at all.<sup>5</sup> We therefore support reforms at local government level and though believe that the legislation does not currently go far enough to promote equality and diversity across the Welsh political system at a local level.
- 2.3 While the Local Government and Elections (Wales) Bill states its aims to promote diversity and tackle inequality, the Bill does not adequately lay out how this is going to be achieved, which is a missed opportunity. Unchanged, the Bill will not sufficiently enable progress towards a more gender equal and representative local political landscape with a diversity of representatives. More radical and direct intervention is needed.

---

<sup>1</sup> Over 1,400 individual members and organisational members, including women's rights and allied organisations from across the third sector, academia, international and national NGOs.

<sup>2</sup> [http://www.wenwales.org.uk/wp-content/uploads/LR\\_11509-WEN-Manifesto-20pp-A4-English.pdf](http://www.wenwales.org.uk/wp-content/uploads/LR_11509-WEN-Manifesto-20pp-A4-English.pdf);

[http://www.wenwales.org.uk/wp-content/uploads/LR\\_11509-WEN-Manifesto-20pp-A4-Welsh.pdf](http://www.wenwales.org.uk/wp-content/uploads/LR_11509-WEN-Manifesto-20pp-A4-Welsh.pdf)

<sup>3</sup> <http://www.wenwales.org.uk/wp-content/uploads/Feminist-Scorecard-Report-2019-English-Final.pdf>

<http://www.wenwales.org.uk/wp-content/uploads/Feminist-Scorecard-Report-2019-Cymraeg-Final.pdf>

<sup>4</sup> In line with the ambitions of the Wellbeing of Future Generations (Wales) Act 2015.

<sup>5</sup> <https://www.electoral-reform.org.uk/latest-news-and-research/publications/new-voices-how-welsh-politics-can-begin-to-reflect-wales/>



- 2.4 WEN Wales wants to see changes to the Bill that will result in increased diversity at local government level across Wales. The current draft does not include key instruments for achieving a gender balance amongst councillors and cabinets. There is also a lack of an 'Access to Elected Office' fund and gender quotas for candidates.
- 2.5 WEN Wales endorses the recommendations made in the Electoral Reform Society Cymru report ['New Voices: How Welsh politics can begin to reflect Wales'](#). We also endorse the Equality and Human Rights Commission report [Pathway to Politics](#) recommendations:
- **reforming the electoral system to a proportional representation model**
  - **revising parliamentary procedure to ensure family-friendly hours**
  - **making provisions for childcare facilities to be offered on site or nearby the parliamentary estates**
  - **revising parliamentary procedures to allow job-sharing for elected members**
  - **creating support from institutions particularly for candidates from under-represented groups who put themselves forward in way of mentoring/informal peer networks**
  - **entrenching a system of diversity monitoring**
  - **creating an 'access to public life fund' – similar to a Work Fund which covers the cost of reasonable adjustments of employing a disabled person**
  - **widening the remit of this access fund beyond disabled candidates to candidates from lower income households and other under-represented groups.**

### 3. Elections

- 3.1 The United Nation's Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) calls for the use of temporary special measures to increase political and public representation. Wales needs an electoral system that uses effective temporary measures such as legislative gender quotas to bring radical and appropriate change to the representation of a diversity of women across Wales' councils and cabinets.
- 3.2 A Single Transferable Vote (STV) electoral system offers the greatest potential in relation to integrated gender quotas – this has been reflected in the Expert Panel on Assembly Electoral Reform's report ['A Parliament that Works for Wales'](#). While the report focuses on National Assembly reform, it remains relevant at local level.
- 3.3 WEN Wales believes that strong and decisive leadership is necessary regarding a nation-wide roll out of the STV with integrated gender and diversity quotas (such as for candidates who are BME, LGBT+, with disabilities) rather than allowing councils to choose which voting system they use. STV could increase voter choice and vastly decreases uncontested seats. In 2017, there were 92 uncontested seats in Wales, which Professor Roger Scully, from Cardiff University's Wales Governance Centre, called a "mockery of democracy".<sup>6</sup> Of these 92 uncontested seats in 2017 most were held by men.<sup>7</sup>

### 4. Promoting Access to Local Government

<sup>6</sup> <https://www.bbc.co.uk/news/uk-wales-politics-39751858>

<sup>7</sup> Ibid.

“More funding should be made available for underrepresented groups to stand and quota should be introduced for all tiers of local government. Increasing diversity in local government will not happen by itself you must force it.”

WEN Wales member

- 4.1 The [Unpacking Diversity: Barriers and Incentives to Standing for Election to the National Assembly for Wales report](#), commissioned by the Senedd’s Remunerations Committee, specifically stated that “**lack of diversity in politics needs to be tackled on multiple fronts. Whilst more proportional representation systems do tend to enhance the chances of a more diverse range of individuals to get elected, this alone is not sufficient... gender quotas are the most effective way of ensuring a fast-track solution to the gender imbalance in legislatures**”<sup>8 9 10</sup>
- 4.2 By allowing each local authority to choose whether to move to a proportional representation model, the Bill creates a postcode lottery, confusion amongst voters, and allows LAs to ‘opt-out’ of an important shift that could bring about much needed change regarding diversity and equal representation of women and men across Welsh councils. Research shows that the ‘first past the post’ system itself is by its nature an unrepresentative system, and generally few women are elected that way.<sup>11</sup>
- 4.3 WEN Wales welcomes the changes that would allow for job-sharing, though this needs to be available across the council, from leaders and executive members, but must also include backbenchers. The Bill needs to be amended in this regard. Transparency and clear messaging to the electorate is integral to this. WEN Wales also supports the Future Generation’s Commissioners call for paid support to do casework from home during maternity leave for councillors, as stated in her evidence session to the Committee on 11<sup>th</sup> December 2019.<sup>12</sup>
- 4.4 Access to Public Office funds are critical to ensure that more people with disabilities become elected councillors. WEN Wales also supports the call from the Wales Governance Centre in ‘Unpacking Diversity’ for this to be extended to candidates from lower income households and other under-represented groups.<sup>13</sup>
- 4.5 Across Wales and England, 19% of women councillors said they have a disability or long-term health condition (22% of men).<sup>14</sup> Disabled women councillors are also far more likely to experience multiple discrimination as both women and due to their disability.<sup>15</sup> Much more needs to be done to encourage disabled candidates to stand for local government, and several WEN Wales members have emphasised the need to redress that there are “no formal structures for adjustments for disabled people” as candidates or elected councillors, with the

<sup>8</sup> <http://senedd.assembly.wales/documents/s77244/Unpacking%20Diversity.pdf>

<sup>9</sup> Mackay, F., & McAllister, L. (2012). Feminising British politics: Six lessons from devolution in Scotland and Wales. *The Political Quarterly*, 83(4), 730-734.;

<sup>10</sup> Dahlerup, D. (2012). *The impact of gender quotas*. Oxford University Press.

<sup>11</sup> Stirbu, Larner & McAllister, ‘Pitiful Progress: Women councillors in Wales after the 2017 local elections, 2017.

<sup>12</sup> <https://record.assembly.wales/Committee/5757>

<sup>13</sup> <http://senedd.assembly.wales/documents/s77244/Unpacking%20Diversity.pdf>

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

Fawcett Society calling on the government to reintroduce financial support to help disabled women with costs of candidature.<sup>16</sup>

## 5. Local Government Finance

*“It is important to have a broad understanding of the bigger picture and not just make decisions based on their experience and interests. It is too easy to have a narrow outlook on life and if all Councillors have a similar background then decisions will be made that don't reflect the needs of residents.”*

WEN Wales member

- 5.1 Further to John Bader’s evidence session, WEN Wales supports the Independent Remuneration Panel for Wales’ recommendation that councils in the future must report applications for the care allowance on a global collective basis rather than on an individualised basis, so that applicants are not readily identifiable.<sup>17</sup> Anecdotally, WEN Wales is aware that individual claims have led to discrimination against councillors claiming care allowances that they are entitled to and such information being used against them while campaigning for re-election in public smear campaigns.
- 5.2 Several WEN Wales members highlighted that it is frowned upon for councillors to claim their full entitlement of remunerations, and that as the data is published, it can be used against councillors wishing to progress in their political careers by both their parties, other councillors and the public. This creates an environment where those who can afford to not take their entitlement are favoured, while some working mothers are impacted by childcare costs, costs of additional caring responsibilities, the gender pay gap and salary decreases as full-time employment is reduced once they are elected. This system favours the rich, retired, men that we already know dominate these spaces.
- 5.3 This behaviour then pushes councillors to not claim an allowance, disproportionately affecting women, who make up the vast majority of care givers.<sup>18</sup> There is an inherent bias towards those who either have no caring responsibilities or those who can afford not to claim the allowance, which perpetuates the undesirable ‘pale, male and stale’<sup>19</sup> stereotype of who the system allows to be a councillor.

## 6. Miscellaneous

- 6.1 The Welsh Government must do far more to ensure that all-male cabinets are not permitted going forward. There can be no justification for these in 2020 when Wales’ population is 52% female. It makes for weak political leadership that is to the detriment of our communities.
- 6.2 Welsh Government should strengthen its position through the Bill and additional guidance to include more detailed and specific information around training for all councillors on abuse

---

<sup>16</sup> *Ibid.*

<sup>17</sup> <https://record.assembly.wales/Committee/5757>

<sup>18</sup> [http://www.wenwales.org.uk/wp-content/uploads/LR\\_11509-WEN-Manifesto-20pp-A4-English.pdf](http://www.wenwales.org.uk/wp-content/uploads/LR_11509-WEN-Manifesto-20pp-A4-English.pdf)  
[http://www.wenwales.org.uk/wp-content/uploads/LR\\_11509-WEN-Manifesto-20pp-A4-Welsh.pdf](http://www.wenwales.org.uk/wp-content/uploads/LR_11509-WEN-Manifesto-20pp-A4-Welsh.pdf)

<sup>19</sup> <https://www.electoral-reform.org.uk/latest-news-and-research/publications/new-voices-how-welsh-politics-can-begin-to-reflect-wales/>

and diversity. WEN Wales also agrees with the Electoral Reform Society Cymru's statement of caution at seeing a Standards Committee at council level as a step towards diversity and tackling abuse while it remains unclear exactly how the Standards Committees will be held to account by both the electorate and Welsh Government.<sup>20</sup>

- 6.3 WEN Wales supports holding political leaders to account over their councillors' breaches of standards; we hope such a system will account for the high proportion of independent councillors and that they too will be held to the same standards. There are a substantial number of independent councillors in Wales<sup>21</sup>, therefore procedures must reflect this so that all elected representatives can be held to account by Welsh Ministers and the public.
- 6.4 High quality, impartial political education is needed across Wales so that the nation can celebrate the enfranchisement of 16-17 year olds and the way in which this enriches Wales' democratic landscape. Plan International's 2016 report ['The State of Girls' Rights in the UK'](#) reflects on votes for 16-17 year olds in Scotland ahead of the Independence Referendum and highlights that the young people that took part in focus groups were calling out for a better political education.
- 6.5 Information must also be communicated effectively to foreign citizens so that those legally resident in Wales know their rights and are able to exercise them at the ballot box. The recent general election also highlights the need to ensure that the information is disseminated accurately to those staffing polling stations so no one is turned away from voting due to misinformation by officials on election day.

### **WEN Wales Recommendations:**

1. Wholesale adoption of Single Transferable Voting system with integrated candidate gender quotas (50:50 gender split) and diversity quotas across all local authorities.
2. Job sharing must be available for all, including backbenchers.
3. Paid support for casework should be part of the parental leave offer to councillors, alongside current maternity leave provisions.
4. Adequate elected office funds for candidates and councillors with disabilities, lower income households and other under-represented groups.
5. Future care allowance applications for councillors to be reported globally rather than individually
6. All-male cabinets and all-male candidate lists must not be permitted.
7. The Bill and guidance should detail compulsory training for councillors on abuse and diversity.
8. The accountability of the Standards Committees of councillors must be clarified.
9. In lieu of political party leaders, accountability for independent councillors who breach the code of conduct must be outlined.
10. Votes for an enlarged franchise must be well communicated across Wales, to the new voters – both young voters and foreign citizens who are residents, to the administrators of democratic systems and impartial politics education must be improved for 16-17 year old voters.

---

<sup>20</sup> <https://record.assembly.wales/Committee/5757>

<sup>21</sup> *Ibid.*

---

WEN Wales would like to thank the Equality, Local Government and Communities Committee of the National Assembly for Wales for the opportunity to contribute to the consultation.

If you have any further comments or queries, please get in touch.

**Hilary Watson**  
**Policy & Communications Officer**



**ADDRESS**

WEN Wales,  
c/o Chwarae Teg,  
Anchor Court, Keen Road,  
Cardiff CF24 5JW

**CONTACT**

admin@wenwales.org.uk  
wenwales.org.uk

**INFO**

Charity Number: 1145706  
Company Number: 0891531

# Agenda Item 5

## Equality, Local Government and Communities Committee

15 January 2020 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)-02-20 Paper 5	Local Government and Elections (Wales) Bill	Tracey Burke, Welsh Government	To note
ELGC(5)-02-20 Paper 6	Local Government and Elections (Wales) Bill	Martin Peters, Wales Audit Office	To note
ELGC(5)-02-20 Paper 7	Local Government and Elections (Wales) Bill	Darren Millar AM, Temporary Chair, the Public Accounts Committee	To note



Llywodraeth Cymru  
Welsh Government

## Tracey Burke

Cyfarwyddwr Cyffredinol / Director General  
Y Grŵp Addysg a Gwasanaethau Cyhoeddus  
Education and Public Services Group

Nick Ramsay AM  
Public Accounts Committee Chair  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

11 December 2019

Dear Mr Ramsay

### **Action Point – Public Accounts Committee - Town & Community Councils**

During my attendance at Public Accounts Committee on 25 November, I was asked to provide details of the number of uncontested seats from the town and community councils elections held in 2017.

Following the last town & community elections in 2017, of the 7,954 council seats available:

- 1,531 (19 per cent) were contested;
- 5,075 (64 per cent) were uncontested; and
- 1,348 (17 per cent) were not filled.

Yours sincerely

Tracey Burke



Parc Cathays • Cathays Park  
Caerdydd • Cardiff  
CF10 3NQ

Ffôn • Tel 0300 0258047  
[tracey.burke@gov.wales](mailto:tracey.burke@gov.wales)  
Gwefan • website: [www.wales.gov.uk](http://www.wales.gov.uk)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding

# Agenda Item 5.2



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

Wales Audit Office / Swyddfa Archwilio Cymru

John Griffiths AM  
Chair of Equality, Local Government &  
Communities Committee  
National Assembly for Wales  
Cardiff Bay  
Cardiff CF99 1NA

24 Cathedral Road / 24 Heol y Gadeirlan  
Cardiff / Caerdydd  
CF11 9LJ  
Tel / Ffôn: 029 2032 0500  
Fax / Ffacs: 029 2032 0600  
Textphone / Ffôn testun: 029 2032 0660  
[info@audit.wales](mailto:info@audit.wales) / [post@archwilio.cymru](mailto:post@archwilio.cymru)  
[www.audit.wales](http://www.audit.wales) / [www.archwilio.cymru](http://www.archwilio.cymru)

6 January 2020

Dear Mr Griffiths,

## The Local Government & Elections (Wales) Bill

1. At the Committee's meeting on 11 December 2019, I undertook to provide further thoughts on alternatives to the condition in section 128(2)(a) of the Bill (i.e. receipt of special inspection report) for the making of restructuring regulations.
2. To put these thoughts into context, it may be helpful if I briefly refer to the concerns expressed in the Auditor General's letter of 5 December 2019 and at the Committee's meeting on 11 December 2019. In essence, we have concerns that the conditions in section 128 may not be sufficient in themselves to ensure a sound basis for deciding on whether to make such regulations and for deciding their content. In particular, while a special inspection report may contain relevant information in relation to local government effectiveness and governance, it is unlikely to cover all the matters relevant to a decision on restructuring, even alongside further information obtained from consultation (the third condition). (This is in addition to our particular concern that having special inspection reports as a condition of making restructuring regulations may lead to the Auditor General's independence being called into question.)
3. The key condition in section 128 appears to be the fourth condition (s128(5)), i.e. that following consultation:  
*"...the Welsh Ministers are satisfied that, unless restructuring regulations are made, effective and convenient local government is not likely to be achieved in the area of the council under consideration."*
4. The term "effective and convenient local government" has been in use for some time; for example, it features in section 8 of the Local Government & Public Involvement in Health Act 2007, which concerns reviews of local



government areas in England. However, neither the Bill nor existing legislation defines the term<sup>1</sup>. The Welsh Ministers will, however, be required by section 146(2)(b)(ii) of the Bill to explain why they are satisfied that restructuring regulations are necessary for the achievement of effective and convenient local government (as per(s128(5)). It may therefore be helpful, whether on the face of the Bill, or in another publication, for the term to be defined along with criteria for drawing a conclusion as to satisfaction. This may help the Welsh Ministers to identify and take account of all relevant considerations.

5. In addition, under the Well-being of Future Generations (Wales) Act 2015, the Welsh Ministers are under a duty to pursue sustainable development. While that duty does not apply to every function the Welsh Ministers exercise, given the important role of local government in people's lives, it would seem appropriate for Welsh Ministers to arrive at their conclusion on satisfaction (the fourth condition) in accordance with the sustainable development principle (section 5 of the 2015 Act).
6. In any event, a credible approach to being satisfied that, unless restructuring regulations are made, effective and convenient local government is not likely to be achieved will require careful analysis of a range of factors. These are likely to include evidence of actual or impending service failure, democratic and service inaccessibility, and lack of financial sustainability. Such factors will need analysis in geographical context, including in terms of demographic change, economic development patterns and transport networks.
7. Finally, it seems to be implicit in the fourth condition that the Welsh Ministers must not only conclude that the current structure in an area is not likely to achieve effective and convenient local government but that also restructuring regulations can be made that make it likely (or more likely than not) that effectiveness and convenience can be achieved. If this interpretation is not correct, then it appears that section 128 provides nothing to help prevent restructuring regulations making a bad situation

---

<sup>1</sup> While not a definition *per se*, it may be helpful to note that the 2010 guidance for community governance reviews in England (under the 2007 Act), says:

*“...the effectiveness and convenience of local government is best understood in the context of a local authority’s ability to deliver quality services economically and efficiently, and give users of services a democratic voice in the decisions that affect them.”*

Also, while specific to parish and town councils, the guidance goes on to say:

*...effective and convenient local government essentially means that such councils should be viable in terms of providing at least some local services, and if they are to be convenient they need to be easy to reach and accessible to local people.*

worse. Either way, it would seem appropriate to clarify this point and to make explicit provision for restructuring regulations to be required to be designed to improve effectiveness and convenience of local government.

8. To ensure that the Welsh Ministers have adequate information and advice on these matters, it may be helpful for the Welsh Ministers to have a duty to seek advice from the Local Democracy and Boundary Commission for Wales. Such a duty could be included as a condition in section 128. The existing provision at section 137 of the Bill, by being confined to a power to direct the Commission to undertake reviews of electoral arrangements in relation to proposals and restructuring regulations appears unduly narrow.
9. I hope that this is helpful to you. I should be happy to discuss or provide further assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Martin Peters', with a stylized, cursive script.

Martin Peters

Head of Law & Ethics

John Griffiths AM  
Chair  
Equality, Local Government & Communities Committee  
National Assembly for Wales

8 January 2020

Dear John,

## Local Government and Elections (Wales) Bill

The Auditor General for Wales copied his response to the Equalities, Local Government & Communities Committee consultation on the Local Government and Elections (Wales) Bill to the Public Accounts Committee, which we considered at our meeting on 6 January 2020.

We understand that your Committee's consultation on the Bill closed on 3 January but we wish to endorse the Auditor General's views and highlight a number of additional concerns that have arisen during our recent scrutiny of the operation of Town and Community Councils (T&CCs) in Wales. These concerns are set out below and I trust that these will be considered as part of your Committee's stage 1 scrutiny of the Bill.

## Auditor General for Wales Consultation Response

While we wish to endorse the response as a whole we have a number of specific points that we wish to draw your attention to:

- Self-Assessments

We share the concerns of the Auditor General that the requirements of section 90 will not necessarily improve the quality of self-assessments. We are not convinced that self-assessments will deliver the level of rigour and consistent objectivity that is required to be effective. We are not clear on how these requirements will



improve upon the experiences of 'Best Value Reviews', which local authorities were required to do under the Local Government Act 1999, and the 2009 Measure, which demonstrated weaknesses in this approach.

- Panel Assessments

We share the Auditor General's reservations about whether panel assessments (section 91) will achieve Welsh Ministers' objectives and the risks involved in local authorities appointing their own panels. This would appear to conflict with good governance as self-selecting panels are open to the risk of self-interest undermining of their objectivity.

- Co-ordination between regulators

We are surprised at the requirement in section 118 of the Bill to produce timetables for each council for the exercise of functions by regulators. We agreed that inspections by regulators need to have an element of short notice in order to be effective and gain an accurate insight into the bodies being inspected.

### **Towns and Community Councils**

- Increasing democracy and participation

You may be aware that the PAC held an evidence session with the Welsh Government on 25 November 2019 on the financial implications and governance of town and community councils. Following that session, the Welsh Government agreed to write with data relating to the number of uncontested T&CC council seats at the last election (2017).

The Committee has forwarded a copy of the Welsh Government's letter to inform the work your Committee is undertaking on the Bill. We were concerned about the high numbers of uncontested seats and the additional duties that are being placed on these organisations, which coupled with capacity issues, means that in many Town and Community Councils, these additional duties are not being able to be discharged. We are also of the view that there are too many T&CC's which is exacerbating the issue of under capacity and further reducing their effectiveness.



In written evidence to us, the Welsh Government set out an action plan around using existing powers to ensure 'community reviews' are conducted regularly and campaigning to encourage more people to stand for election in T&CC elections.

We consider increasing democracy and participation with T&CCs to be of utmost importance and the Welsh Government's action plan must be a priority. We heard in oral evidence that the Welsh Government is considering a more public facing campaign in the run up to the next elections. The purpose of which is to draw attention to the work of T&CCs and encourage more people to engage but also more actively participate. We think this needs to be an action rather than just a consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Darren Millar". The signature is fluid and cursive, with a long horizontal stroke at the end.

**Darren Millar AM**  
**Chair (Temporary)**



Committee Chairs  
National Assembly for Wales

16 December 2019

Dear Chair,

### **Committee on Assembly Electoral Reform**

As you will be aware, the **Committee on Assembly Electoral Reform** was established by the National Assembly for Wales in September 2019 with a remit to examine the recommendations of the **Expert Panel on Assembly Electoral Reform**. I am writing to invite your views on the potential implications for Assembly committees of any change in the size of the Assembly.

In particular, we would welcome the views of your Committee on:

- Whether the current size of the Assembly has given rise to any implications or limitations for your Committee's work or the way in which you approach policy, legislative and financial scrutiny of the issues within your remit.
- How any recent or anticipated changes to the Assembly's powers or responsibilities, or the broader constitutional context, might affect your Committee's remit or how you undertake your role.
- Any implications an increase in the size of the Assembly might have for the work of Assembly committees, including the support services they receive.

We would also welcome information about how your Committee assesses the impact of its scrutiny work, and examples of effective scrutiny or missed opportunities. It would be helpful to receive your response **by Monday 27 January 2020**.



**Cynulliad Cenedlaethol Cymru**  
Bae Caerdydd, Caerdydd, CF99 1NA

✉ SeneddDiwygio@cynulliad.cymru

☎ 0300 200 6565

**National Assembly for Wales**  
Cardiff Bay, Cardiff, CF99 1NA

✉ SeneddReform@assembly.wales,

☎ 0300 200 6565

I will be making an oral statement in Plenary on Wednesday 8 January 2020 to provide an update on the Committee's work. In the meantime, if you have any questions about the work of the Committee, or would find it helpful to meet to discuss these issues, please contact the Committee clerk, Helen Finlayson, at [seneddreform@assembly.wales](mailto:seneddreform@assembly.wales) or on 0300 200 6341.

Yours sincerely,



**Dawn Bowden AM**  
**Chair, Committee on Assembly Electoral Reform**

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

