

Local Government (Democracy) (Wales) Bill

Consultation Response Form

Organisation (if applicable):

Welsh Local Government Association (WLGA)

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Introduction:

The following is a provisional response from the WLGA; WLGA members have not yet had the opportunity to consider the Local Government (Democracy) (Wales) Bill formally and will not be able to do so until its Coordinating Committee meeting of 25th January. Any further comments on the Bill will be submitted to the Communities, Equality and Local Government Committee ahead of the 15th February consultation deadline.

The Welsh Local Government Association (WLGA) represents the interests of local government and promotes local democracy in Wales. It represents the 22 local authorities in Wales and the 3 fire and rescue authorities and 3 national park authorities are associate members.

The WLGA's primary purposes are to promote better local government and its reputation and to support authorities in the development of policies and priorities which will improve public services and democracy.

The Local Government Boundary Commission

Question 1: Is there a need for a Bill to make changes to the constitution and functions of the Local Government Boundary Commission for Wales (“the Commission”) and to make various provisions relating to local government?

Question 2: Do you think the Bill will improve the delivery of the statutory roles and functions of the Commission? (paragraph 3.1 of the explanatory memorandum)

Question 3: Do you think the changes being made to the Commission are appropriate? (Part 2 of the Bill)

Yes			
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The WLGA supports the Welsh Government’s commitment to reform and modernize the Local Government Boundary Commission for Wales (the Commission).

The Bill seeks to implement a number of the recommendations from the Mathias Review which the WLGA welcomed. The WLGA has a constructive ongoing relationship with the recently appointed Commission, however, legislation is required to implement the Mathias recommendations to enhance the capacity, powers and resources of the Commission.

In its response to the Welsh Government’s White Paper, the WLGA was not however convinced of the need to rename the Commission. Although this is not a significant concern, the Commission’s role will fundamentally remain around boundary and electoral review matters, a change of name therefore will be inconsistent with the other Local Government Boundary Commissions in the UK and the inclusion of ‘Democracy’ may cause confusion with the wider remit of the Electoral Commission.

Local Government arrangements

Question 4: Do you think the provisions relating to procedures for local government reviews are appropriate? (Chapter 4 and 5)

Question 5: Do you think the arrangements for local government in relation to:

- Duties of the Commission
- Duties of a principal council

are appropriate? (Chapter 1)

Yes			
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Please expand on your answer

The WLGA supports the Welsh Government’s intention to improve the procedures for undertaking boundary, community and/or electoral reviews. The Bill seeks to implement a number of the recommendations from the Mathias Review.

The WLGA welcomes and supports the Welsh Government’s clarification through the Bill that, in the electoral review process, community identity and community ties have equal importance to the aim of establishing that each councillor is to represent (as closely as possible) the same number of electors.

The Bill proposes a number of amendments to clarify, improve and streamline review procedures which are supported. The Welsh Government has also taken on board a number of comments provided during the White Paper consultation, for example the clarification for a route of ‘appeal’ around the Commission’s fees charged on local authorities where it undertakes Community Reviews (see S26 (5)).

There is a need for further consideration however around the commencement of provisions regarding community reviews. As noted in the Explanatory Memorandum, community reviews are due to be received by the Commission by July 2015 and, given 2013 is a non-election year, some authorities are planning to undertake community reviews shortly. However, the Bill’s Commencement Provisions (S69) state that the parts of the Bill relating to Community Reviews will be commenced 2 months following Royal Assent. There is a concern therefore that community reviews already commenced or concluded (yet not formally implemented or approved) which were undertaken under current guidance and legislation may be affected by the new provisions under the Bill (particularly the issuing of the Commission’s guidance on community reviews). It is therefore suggested that the Bill only applies to Community Reviews which are commenced after the Bill has been introduced.

Question 6: Do you think the arrangements for local government in relation to:

- Democratic Services Committees (Section 56)
- Audit Committees (Section 57)
- Standards Committees (Section 63)

are appropriate?

Yes			
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Please expand on your answer

- **Democratic Services Committee.**
 The WLGA supports the amendment to the Measure which broadens the power and remit Committees. The Welsh Government has responded to feedback from local authorities following the establishment of Democratic Services Committees following the Measure; in summary, the interpretation of specific provisions in the Measure regarding the powers and functions of the Democratic Services Committee could, unintentionally, constrain the remit and ambition of a Committee. The Bill seeks to give greater local flexibility which is welcomed.

- **Audit Committee**
 The WLGA supports the proposed amendments to ensure Audit Committees are politically balanced.

- **Standards Committee.**
 The WLGA supports the power to establish joint standards committees. The WLGA would also echo ACSeS' proposal to include an additional power for an authority to refer a matter (subject to prior agreement of relevant parties) to another authority's standards committee where there might be a difficulty in the 'home' authority's standards committee dealing with a case.

Independent Remuneration Panel for Wales

Question 7: Do you think the provisions relating to the Independent Remuneration Panel for Wales are appropriate? (Chapter 5, Sections 58-62)

Yes

The WLGA supports most of the proposed changes to the Independent Remuneration for Wales (the Panel).

The WLGA understands and supports the proposed changes to timescales for publication and consultation around the Panel’s reports; the WLGA welcomes the proposal to allow the back-dating of allowances, however, there is an issue around linking the Panel’s reports into councils’ financial planning arrangements which currently works well. Whilst minor adjustments to members’ allowances can be accommodated by councils, a significant and fundamental overhaul by the Panel of the allowances framework could provide a financial challenge if councils have already set their budget in advance of the Panel’s recommendations. In its response to the White Paper consultation, the WLGA suggested that legislation or Ministerial guidance could state that when the Panel undertakes a wholesale review of an existing allowances framework, that these determinations should be reported by 31st December, to allow authorities an opportunity to take into account any necessary financial implications within its budget setting process.

The WLGA does not support the proposed amendment to the Measure to allow the Panel to prescribe the numeric limitation on those entitled to senior salary payments. The established approach had hitherto worked well and allowed local discretion and flexibility set within an overall cap; whilst the WLGA supports the independence of the Panel and recognizes that there should be a cap on senior salaries, the proposed approach as outlined allows the Panel to constrain and effectively determine the governance arrangements for each local authority. Local authorities are best placed to decide on the most appropriate governance arrangements required to conduct local business effectively, this includes the appropriate constitutional structures as well as the number of members required to exercise executive, scrutiny and statutory functions accordingly. The WLGA would propose that the legislation is amended to the pre-2011 Measure position where no more than 50% of council members could receive a senior salary.

Access to information (Town and Community Councils)

Question 8: Do you think the provisions relating to improving access to information (Town and Community Councils) are appropriate?

Yes			
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The WLGA supports these proposals, although would echo ACSeS' point regarding rewording this section of the Bill as 'Publicity for Information' rather than 'Access to Information' which has a much broader and specific application which would not necessarily be appropriate for community and town councils.

Chairing of Principal Councils (Chairs and Mayors of Principal Councils)

Question 9: Do you think the provisions relating to the Chairing of Principal Councils (Chairs and Mayors of Principal Councils) are appropriate?

Yes			
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The WLGA supports this part of the Bill. ACSeS have highlighted an issue which will require further consideration and some redrafting, however, around terms of office of elected members and who should chair the first AGM following a council election prior to a new Chair being appointed.

General Provisions of the Bill

Question 10: What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?

Please expand on your answer

Other than the points of clarification outlined above, there are no specific barriers to implementing the provisions of the Bill other than the inherent complexity of some of the processes over which it seeks to legislate, notably the community and electoral review processes. However, the Bill seeks to better resource these arrangements and aims to clarify and improve current procedures.

Question 11: What are the financial implications of the Bill, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Impact Assessment), which estimates the costs and benefits of implementation of the Bill.

Please expand on your answer

The financial implications are covered in the Explanatory Memorandum. The only area of some uncertainty is around the new charges that could be levied by the Local Government Boundary Commission on authorities for undertaking a community area review. The costs for such reviews vary, and the Explanatory Memorandum estimates that this would cost between £8,000 to £15,000 and that it should not be in excess of the cost should the authority have undertaken a review itself. Most of the costs incurred undertaking a community review relate to local authority staff time; where an authority requests that the Commission undertakes a community review on its behalf or the Commission decides to undertake a review due to delays, it is likely to be due to internal capacity constraints within the authority in question. Any reviews undertaken by the Commission are therefore likely to be an additional cost to an authority.

Question 12: What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e. statutory instruments including regulations and orders) (section 5 of the Explanatory Memorandum)?

Please expand on your answer

The WLGA has no comments.

Question 13: Are there any other comments you wish to make about specific sections of the Bill?

The WLGA has no comments at this stage.