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Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: Unison Wales



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

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

Summary

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

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

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

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

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

General Overview

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

Paragraph 3.116 of the Williams Report states that:

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

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

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

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

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

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

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

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

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

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

Specific Sections of the Bill

Section 4: Consultation before making merger application

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 February 2015
