

LG 46

Bil Llywodraeth Leol ac Etholiadau (Cymru)

Local Government and Elections (Wales) Bill

Ymateb gan: Cyngor Sir Fynwy

Response from: Monmouthshire County Council

Local Government and Elections (Wales) Bill

This is a response to the Equality, Local Government and Communities Committee Inquiry on behalf Monmouthshire County Council.

We welcome the opportunity to comment on the Bill. The deadline for submission of responses combined with the timing of the General Election means that there has not been an opportunity for the Bill to be debated by full council.

Part 1 – Elections

We welcome the proposals to extend the vote to 16 and 17 year olds as part of broader moves to widen democratic engagement and participation. As part of any changes it is important that adequate notice is given to Elections Managers to ensure a smooth transition to any new arrangements including targeting the registration of new voters. We are also supportive of proposals to allow EU citizens who have settled here to fully participate in the local elections.

We support individuals being prevented from standing for election as a councillor where they are subject to the notification requirements of Sexual Offences Act 2003.

We are not supportive of the proposals to allow councils to choose their own voting system for local elections. Having two separate systems in place in Wales would be administratively complex and could cause confusion for electors. However we would be keen to see Wales consider piloting the use of digital technology within its voting systems under the powers referred to in sections 26 and 27.

We support the formal extension of the term for councils from 4 years to 5 years which mirrors recent practice.

As previously stated we welcome proposals to make it easier for people to become involved in local democracy which can help increase the diversity of elected members serving the people of Wales. We do however have concerns about allowing officers to stand and candidates in their employing authority. This could have negative impact on working relationships that could extend beyond election periods blurring the clear lines between paid officers and elected officials. Officers work for the Council, regardless of administration and without bias. For someone to stand for election for a particular party, lose, and then return to work would be problematic in terms of potential accusations from either Members of the public of bias.

Part 2 – General Power of Competence

We welcome the general power of competence which will increase the ability of local authorities to innovate and identify new sources of revenue which can be used to underpin the delivery of core services. Further work should be undertaken between Welsh Government Lawyers and Monitoring Officers to ensure that the final draft of the Bill reflects lessons learnt from England where the drafting of the legislation requires councils to explore all other legislation first meaning it is seldom used other than as a final justification.

Part 3 – Promoting Access to Local Government

We fully support the aspiration of The Bill to improve participation in, and access to, local government. We do not agree that local authorities should be responsible for participation in other tiers of government as these are sovereign bodies who would want to retain accountability for their own aspirations and activity to improve involvement.

We recognise the importance of public participation. However, the requirement to involve local people is already embedded in law for Assembly sponsored public bodies in Wales as part of the Well-being of Future Generations Act and therefore do not agree with the need for further legislation in this area. We do support the proposals for local petition scheme, however it should be important for it to be explicit both within the Bill and any national publicity around these, that petitions are not referenda and are only advisory rather than binding.

Openness is a long-standing and core value of Monmouthshire County Council and we have been live-streaming meetings of Council, Cabinet and Committees for a number of years. We presently do this at very low cost using YouTube and would be opposed to any overly prescriptive approach that ties authorities to costly-solutions that may not reflect the rapidly changing digital environment. It will also be important to ensure that appropriate safeguards are in place to allow meetings to continue in the event of technology failures – such as a disruption to broadband - which can often be beyond the control of individual public bodies and will inevitably be a feature of taking meetings to locations across the County that do not have sufficiently robust internet connection to support the intention of this clause. It would be inappropriate for decisions taken when a live-stream was not running to be subject to legal challenge on that basis alone and while s53(6) attempts to address this there is still some doubt as to where primacy lies between it and the previous paras.

There is also concern at how this might expose local authorities to greater risk of challenge from an equality duty perspective. The detail as to how appropriate remote access to meetings is to be provided to those with a sensory disability or requiring translation services is unclear, and almost certainly will invite additional cost.

A 'constitution guide' is not a feasible proposition as it could result in misinterpretation of a complex system of rules and procedures. Instead work could be undertaken at a national level to ensure a broader understanding of the roles and decision-making powers and structures that exist at different tiers of government alongside local work to ensure that work is undertaken locally to ensure that council constitutions are structured and drafted in language which is as accessible as possible.

This authority has already amended its constitution to enable remote attendance and welcomes the detail of how this is achieved being left to local discretion.

Part 4 – Local Authority Executives, Members, Officers and Committees

We can only achieve the best for our communities by seeking a broad range and diversity of talent from all walks of life and welcome any arrangements which make the role of councillor more welcoming to a diversity of people including those with young families, including the ability to job share certain roles.

We have concerns about the potential for Welsh Ministers to become involved in the performance management arrangements that council leaders have with their Chief Executive as these should be matters for local determination.

We see little value in placing a duty on standards committee to make annual report to Council. This should be matter of local judgement.

Part 5 – Collaborative Working by Principal Councils

Discussions around Collaborative Joint Committees have been rehearsed extensively in recent months and the local government family has expressed real concerns about the principle of ‘mandation’ which is seen as undermining local democracy.

The inclusion in The Bill of the requirement that Welsh Ministers can only establish a CJC in the areas specified in s79(3) and following extensive local consultation with the groups outlined is a positive step away from ‘mandation’ as is the caveat that Ministers can only change the purpose of an established CJC with the consent of the CJC itself and relevant local authorities as per s82. However, we would propose that this develops to the point whereby the establishment of CJs can only take place with the consent of local authorities and without provision for Welsh Government to impose them, and we would welcome the opportunity to continue to contribute to this ongoing discussion.

Through discussions it is hoped that further clarity will emerge on myriad practical considerations regarding CJs, examples of such include: will the Ombudsman have powers over those carrying out duties as part of them; will they need their own Monitoring Officers and standards committees; who will carry out functions of scrutiny; how will things reserved to Council only be dealt with; will there be provision mandating attendance of Members etc.?

Part 6 – Performance and Governance of Principal Councils

We are pleased to see the repealing the Wales Programme for Improvement and performance provisions of the Local Government (Wales) Measure 2009. We are supportive of self-assessment in principle but have concerns around the resource requirements of mandated Panel Assessments carried out once every electoral term. We also have some reservations around whether section 93 of the Bill will result in Welsh Ministers becoming directly involved in appointing panel members rather than leaving this to local members to determine. Nonetheless there has been extensive engagement on the development of this section of the Bill through WLGA networks and are pleased to see how this has helped shape the arrangements.

We support the proposed role of new Corporate Governance and Audit Committees. Our Audit Committee is presently chaired by a lay-person and we see huge value on this. However we feel that the number of lay-people on these committees should be a matter of local discretion rather than national prescription.

Part 7 – Mergers and Restructuring of Principal Areas

Debates on local Authority mergers have consumed a huge amount of energy and capacity in recent years. We do not intend to reheat these debates in this response but instead wish to use this as an

opportunity to re-iterate support for the outputs from the Local Government Reform Working Group.

Part 8 - Finance

The power to give Billing Authorities the right to inspect properties will potentially incur additional costs and the recognition of this is welcomed.

The proposal linking the NDR multiplier increase to the Consumer Price Index in line with England is welcomed as this gives Councils some continuity and means there is no need for an annual order to be made.

The removal of the threat of imprisonment is a positive change. However this does potentially weaken council's ultimate ability to collect unpaid council tax, as there is no real consequences for any persistent non-payers. It would help if for example unpaid council tax counted towards an individual's credit score.

Part 9 – Miscellaneous

We welcome the deletion of the section within the 2011 measure which prevents the Monitoring Officer also being the Head of Democratic Services which can lead to unhelpful fragmentation of some key responsibilities.

The potential for merged Public Service Boards to de-merge or partially de-merged is welcomed.

On behalf of

Cllr Peter Fox OBE

Leader of Monmouthshire County Council