

INTRODUCTION

SOLACE is the leading members' network for local government and public sector professionals throughout the UK. At the UK level, SOLACE policy leads influence debate around the future of public services to ensure that policy and legislation are informed by the experience and expertise of its members.

SOLACE Wales is the Welsh Branch of the Society of Local Authority Chief Executives and Senior Managers (UK). While being an important component of the UK framework, the Branch operates largely independently as the representative body for senior managers working within local government in Wales. The Society's members are drawn from a variety of backgrounds, and while engaging with all major players in Welsh governance at both local and national level, SOLACE Wales has a unique role to play in offering a corporate view of local government from an apolitical perspective.

SOLACE welcomes the opportunity to be able to offer its views and opinions on the Local Government and Elections (Wales) Bill and is pleased to be able to offer evidence directly to the Equality, Local Government and Communities Committee National Assembly for Wales's Stage 1 consideration of the Bill, particularly given the significance of many of elements of the Bill and given that it follows several years of work and consultation, including a Draft Bill as well as successive Green and White Papers.

SOLACE is aware that the WLGA and ALACE (Association of Local Authority Chief Executives & Senior Managers) has or will be submitting a response to the consultation and / or will give evidence to the Committee. This submission, will where relevant reference those responses as well as focussing on key areas which, in SOLACE's view require further consideration.

The Committee's terms of reference when scrutinising the Bill are to consider:

- the general principles of the Local Government and Elections (Wales) Bill and the need for legislation to deliver the stated policy intention. In coming to a view on this you may wish to consider addressing the individual Parts of the Bill:
 - o Part 1 – Elections
 - o Part 2 – General Power of Competence
 - o Part 3 – Promoting Access to Local Government
 - o Part 4 – Local Authority Executives, Members, Officers and Committees
 - o Part 5 – Collaborative Working by Principal Councils
 - o Part 6 – Performance and Governance of Principal Councils
 - o Part 7 – Mergers and Restructuring of Principal Areas

- o Part 8 – Local Government Finance
- o Part 9 – Miscellaneous
 - any potential barriers to the implementation of the Bill’s provisions and whether the Bill takes account of them,
 - the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).
 - whether there are any unintended consequences arising from the Bill, and
 - the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

As stated above this submission does not seek to comment on all aspects of the Bill, but instead focusses on areas that are most relevant to SOLACE.

Part 1: Elections

Two voting systems (Section 5)

SOLACE is of the view that the proposal to allow authorities to choose their own voting system is unnecessary and undesirable. Wales is a small nation, with only 22 local authorities, and as such there is no reason as to why there should not be a single uniform approach to local authority elections across Wales. This avoids unnecessary complexity and confusion.

Furthermore, such an approach could have the potential to disenfranchise voters with the worst-case scenario being an impact on turnout – clearly an unintended consequence. Another unintended consequence is that any changes may bring forward a need to introduce more multi-member wards than currently in existence and that would trigger the need (potentially) for further boundary review activity.

Qualification and Disqualification for election and being a member of a local authority (Sections 24-26)

SOLACE is aware of the submission of ALACE on this matter and supports the comments and observations made by ALACE. SOLACE has contributed to the formulation of that response. In summary:

- We welcome that the Bill preserves the position that an individual cannot be an employee and elected member of the same council.
- The provision made by clauses 24 and 25 is inappropriate as it could give rise to potential internal tensions between an employee standing and a current councillor re-standing or a prospective new councillor, both during the election itself and later.
- The benefits in promoting accessibility in standing for office and achieving a more diverse membership base are outweighed by the risks as it could potentially

impact negatively on employment relations, calling into question potential conflicts of interest, employee – member relations as well as tensions between employees.

Meeting expenditure of returning officers (Section 28)

Again, as in the case above, SOLACE is aware of the submission of ALACE on this matter and supports the comments and observations made by ALACE. SOLACE has contributed to the formulation of that response. In summary:

- The Bill does not make provision to require the chief executive to be the returning officer, thereby retaining local flexibility - this is welcomed.
- The role of returning officer carries significant personal responsibilities and liabilities. This needs to be recognised by Welsh Government.
- The independence and impartiality of returning officers is crucial to the fair running of elections; they must not be subject to any undue influence from those seeking election or re-election. This is particularly pertinent to local elections, which can test the relationship between the returning officer and members. Separation of remuneration is an important aspect of establishing the independence of the role. With particular reference to the question of independence, SOLACE has also seen the response of the Electoral Commission on this aspect of the Bill. The Commission is clear that Returning Officers play a central role in the democratic process and that they should be independent from both local and national governments when delivering statutory electoral administration duties. The Commission make the point that Returning officers are not employed by councils when they deliver official election or referendum duties but are independent. Removing personal fees may in practice risk reduce their independence, as well as there being the potential for impartiality to be questioned if payment for election duties is through their contract of employment by the local authority in which elections are being held.
- The rate of remuneration for principal authority and community council elections should rightly be a matter for each principal authority to decide. In the same way, and irrespective of the advice and views of the Electoral Commission, it should be a decision for each principal authority as to whether that remuneration should be separate from or be incorporated within the base salary of the individual's post.
- We do not support the purported intention of the clause which (according to paragraph 3.78 of the explanatory memorandum) seeks to remove the payment of fees to returning officers for local elections.
- If separate fees for local elections are to be removed, then it follows that there must be proper re-evaluation of salaries.
- This could clearly result in additional financial implications through potential increases in salaries as well as employer's national insurance and pension contributions.
- There is also concern at the proposal in paragraph 3.78 of the memorandum to remove the personal fee for returning officers at Assembly elections.
- This in effect requires local authorities to provide a free returning officer service to a third party, without having recourse to cover its costs. In effect, it

is suggested that a council employee would have to spend significant amounts of his or her employer's time running an election that was nothing to do with that council's services and responsibilities.

- At the very least, if the Welsh Government proceeds with this aspect, the Assembly should recompense councils for the time that staff spend on returning officer duties for Assembly elections. This would in effect be an administrative charge.
- We also consider that there are grave objections to expecting an individual – for no fee – to take on all the personal responsibilities associated with running an Assembly election, including responsibility for employing staff for the election.

Part 2: General Power of Competence

SOLACE welcomes the general power of competence. Potentially this will increase the ability of local authorities to innovate and transform key services, the aim being to retain and support vital public services. SOLACE refers to the fact that there already exists good examples of innovative work, and anything that makes innovation and transformation mainstreamed is welcomed.

SOLACE does however refer to the submission of Lawyers in Local Government Wales (LLG) on the interplay between the power and a range of other legislation which creates complexity and multiple possible risks. This is likely to constrain use of the power, resulting in it being used as a power of last resort, which would constitute a missed opportunity.

Part 3: Promoting Access to Local Government

Duty to encourage local people to participate in local government (Section 46)

Strategy on encouraging participation (Section 47)

SOLACE is generally supportive of the principles within this Part of the Bill. However, there is a concern that the Bill mandates much work that is already undertaken by local authorities. If local authorities are being required, through legislation to encourage 'local people to participate in the making of decisions by the council' and produce a detailed participation strategy (S47 (2) a-f), then the same should apply to other public authorities across Wales. The alternative would be to single out local government and create the perception that there are problems that need addressing within local government, which is not the case.

Electronic broadcasts of meetings of certain local authorities (Section 53)

SOLACE refers to the submission of the WLGA on this aspect of the Bill and endorses the comments made by the WLGA. In considering this aspect, there needs to be a consideration of the value of electronic broadcasting of all meetings against the cost of doing so and the wider benefits of such. By way of example, webcasting can prevent meetings being held out in communities, which would, potentially have a far greater benefit. This may therefore be an unintended consequence of this element of the Bill, as drafted.

Furthermore, and as indicated by the WLGA, the Regulatory Impact Assessment indicates that the additional costs of broadcasting all council meetings would be in the region of £12,000 per authority per annum, which is likely to be a significant underestimate.

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

SOLACE refers to the submission made by ALACE in relation to the appointment of Chief Executives and supports this element of the Bill (Clause 59).

On the subject of performance management, local authorities already have in place a range of performance management arrangements for their chief executives and senior officers. ALACE has made strong representations on this issue, and these are summarised below, as they are supported by SOLACE (and indeed SOLACE was in discussion with ALACE on this particular issue and assisted with drafting the ALACE response)

- The Bill should be less prescriptive. There should be an allowance for local flexibility for authorities to determine who should conduct a performance review (the Bill suggests the 'senior executive member'). It is worth noting that some Councils involve other members or external peers. The prescription can have unintended consequences, as it potentially limits the value and robustness of the performance review process.
- Restricting the performance review to a single individual is likely to result in a loss of objectivity and could cause considerable unfairness to the Chief Executive if there is clash of personalities with the Leader; or, alternatively, could result in a review that is insufficiently robust if the relationship is a close one.
- Clause 60(3) provides for the possibility of publication of performance reviews of chief executives. This should be removed. No public employee should have their performance review published. The review should be confidential to members of the council and the chief executive. SOLACE is not aware that this is the stance adopted within the Assembly or in any other public bodies. There is no case that indicates that this should be introduced for local authority Chief Executives. It suggests a targeted approach being applied, when no case exists for such a targeted approach. The vilification of senior public figures by certain elements of social media are likely to make any such publication a target for online abuse of the Chief Executive as an individual.
- In order to protect personal information, the Bill needs to reference that a report about the review (shared with members) shall be exempt from

publication under paragraph 12 of Schedule 12A to the Local Government Act 1972 as such a report contains “information relating to a particular individual”.

- The WLGA has previously expressed concern regarding Ministerial Guidance making powers with regards the performance management of Chief Executives as there are potential risks of Welsh Ministerial intervention in local relations and arrangements between a local authority or leader and a chief executive.

Part 5 Collaborative Working by Principal Councils

There are excellent examples of collaborative work already being undertaken across Wales, ranging from City Deals to shared services. There are also various models in place, ranging from Joint committees to shared posts to lead or host authorities.

SOLACE is aware that the WLGA will be making submissions on this particular aspect of the Bill and in particular the issue of mandatory Corporate Joint Committees (Section 79). It is critical that there continues to be regular and frequent dialogue on this particular aspect and that lessons are learnt from much of the collaborative work that has been undertaken to date. This is one area in particular where what matters is what works, and a single uniform approach would be undesirable.

Part 6: Performance and Governance of Principal Councils

SOLACE supports the general thrust of this Part of the Bill. The move to self assessment and peer review is welcomed. The streamlined performance duties will allow councils to better manage the assessments for organisational self-evaluation and improvement rather than to meet external regulatory expectations.

There are however concerns that there may well be duplication with the introduction of statutory panel assessments (which will have a cost) and the role of Wales Audit office and other Inspection bodies (which come at a cost). The WLGA has also submitted evidence on the statutory nature of the panel assessments as well as the need for local flexibility when establishing a ‘panel’.

It is important that the legislation takes effect within the context of the Review of Strategic Partnerships, and that joint committees are not seen as a panacea to a sub-optimal and overly complex partnership structure across public bodies.

CONCLUSION

SOLACE is grateful for the opportunity to provide evidence to the Committee. As an organisation, its members already engage with Welsh Government and will continue to do so where appropriate. SOLACE would also welcome the opportunity to continue to engage on those aspects of the Bill highlighted above.

