

Doc 2 - WLGA Responses Re Government proposals/white papers

Note of meeting between WLGA and WG on LGR – Transition Committees and Transactions Regime - 18/1/2016

The meeting started with a WG overview of the timetable for coming into force of the 2015 Act provisions and the passing of the second Bill, the tight timetable for consultation and implementing guidance and regulations in relation to TCs and TRs, dependencies on the second Bill's introduction and local government elections in 2017, and our intention to engage with local government as extensively as possible throughout the process. WLGA welcomed this meeting, our continuing engagement with local government professional networks, and offered to support WG engagement whilst recognising the political realities of the moment.

The timetable for producing TC guidance and for bringing the transactions regime into force was discussed, and whether stakeholders would prefer high level or detailed guidance. WG's intention is to produce operational guidance for TCs in July for consultation, and to produce further functional guidance as needed and once the provisions in the draft Bill as introduced were known. TCs would need the operational guidance to guide preparations in advance of the May 2017 elections and in order to make provision for resourcing TCs within their 2017/18 budgets. They would require some key elements of the functional guidance by the time TCs were established, so WG's intention was to consult on the first tranches in early 2017.

There were views that as we can not foresee the composition of the elected councils after the 2017 elections we should err on the side of more rather than less guidance. The sensitive nature and complexity of the transactions regime suggests careful consideration of the guidance is needed. General agreement we should aim to be clear in the operational guidance about the full range of matters TCs will need to consider. There may be useful material to draw on from England following local reorganisations there in 2009.

The scale of the reforms and the impact on the workforce suggest good comms is essential and WG should develop a clear comms strategy for the duration of the reform process.

WLGA raised the issue that under the Standing Orders regulations, senior posts would be appointed by shadow authorities through open competition, and the potential impact on talent retention / corporate memory at a time of significant organisational change. Noted this could increase the costs of mergers in terms of redundancy payments (assuming externals appointed) and recruitment costs. In the 1996 reorganisation, only CEO posts were subject to open recruitment..

The issue of job evaluation and related matters was also raised, and the need for flexibility, particularly given the Staff Commission will also be involved in this area. Different local authorities specify roles in very different ways and a one size fits all approach may not be appropriate and may clog up the system. This will need to be handled efficiently (given the staff numbers involved) and could be hampered by trying to impose too much uniformity across Wales.

WLGA noted the UK government's proposed £95k cap on redundancy payments and that NI did not intend to implement. This would have an impact on voluntary redundancy schemes and the willingness of individuals to come forward, which might lead to higher costs in the long run.

Essential to focus on creating the right ethos and culture within the new organisations, bringing staff together early and giving them a stake in organisational change. This would require leadership. The specific complexity of the Gwent mergers and potential for different support needs was briefly discussed.

WG said its intention was not to produce detailed guidance on specific service areas but would welcome examples where specific issues needed to be considered e.g. where two authorities with different housing delivery models are merging. Further examples included the different approaches to domiciliary care between Authorities, archives, and revenues and benefits e.g. where Denbighshire has outsourced its revenue and benefits functions to Capita. Other areas to be considered included different approaches to fees and charging. National policy impacts should also be considered e.g. welfare reform and the staged introduction of universal credit. It was suggested the voluntary merger proposals may have flagged up similar areas and might be worth revisiting.

Asked how it saw its role during the reform process, WLGA saw itself as facilitating these kinds of discussions and bringing things together e.g. Workforce Partnership Council, policy areas and corporate matters. WG noted it's internal support for the reform programme e.g. in LGD and LGFP, would be dependent on the outcome of the Assembly elections.

Actions

In response to WG, WLGA had suggested bringing together a group of officials from WLGA, HR Directors, Monitoring Officers, Society of Welsh Treasurers and Solace in order to support WG officials in these early stages of engagement on transition. It was agreed this would be an informal group as it did not fit into any of the established structures (e.g. Partnership Council), a position which could change after the elections. DJ and DH will progress.

It was also agreed to maintain this group as an informal WG/WLGA exchange in advance of the elections, to meet as needed.

Consultation response to draft local government (Wales) Bill, with email.

From: WLGA (*names and email addresses redacted*)

Mon 15/02/2016 16:53

TO: WG (*names and email addresses redacted*)

Please find attached WLGA response to the Draft Local Government (Wales) Bill.

Consultation on the Draft Local Government (Wales) Bill

Consultation response form

The Welsh Government intends to publish a summary of the responses to this consultation. Normally, the name and address (or part of the address) of its author are published along with the response, as this gives credibility to the consultation exercise.

Organisation: Welsh Local Government Association

Consultation questions

These questions should be read in conjunction with the Draft Bill, draft Explanatory Notes and draft Explanatory Memorandum

Introduction

The Draft Local Government (Wales) Bill is potentially one of the most significant and far-reaching pieces of public service reform legislation since devolution.

A number of the Draft Bill's proposals are supported and welcomed by local government. In terms of the wider policy proposals in the Draft Bill, the Welsh Government has responded to many of the concerns and views expressed by councils during the 'Power to Local People' White Paper consultation. There are therefore a number of proposals that would be welcomed by councils including:

- Rejection of some of the more controversial White Paper proposals such as term limits for councillors, review of members' remuneration and elections by thirds;
- Proposed introduction of a power of general competence (Part 2);
- Flexible and proportionate approach to community asset transfers;
- Proposed clarification and simplification of authorities' executive and full council functions;
- Relaxation of Remote Attendance regulations and reform of community polls; and
- A reformed improvement regime based on self-improvement and proportionate external regulation.

There are other proposals where the underlying principles and aims are supported but the proposed detail is impractical or prescriptive and would benefit from redrafting with input from local government; the WLGA would therefore welcome further dialogue with Welsh Government regarding the refinement of certain

proposals.

There are a number of other proposals however that impact on or undermine local democracy, accountability or local flexibility which are not supported by the WLGA.

Furthermore, many of the Draft Bill's proposals would place additional administrative and bureaucratic burdens and resource implications for authorities. This additional bureaucratic burden contradicts the wider assumptions that underpin Part 1 of the Draft Bill that the anticipated savings of reorganisation would be realised through reductions in 'back-office' bureaucracy and capacity.

A wider concern relates to the proposed reforms being applied only to local government; it is not clear why proposed reforms regarding good governance, public engagement and transparency and elected member performance should be applied solely to local government when they could and should equally and consistently apply across all public services and all levels of government in Wales.

PART 1

Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?

Local authorities and the WLGA have long recognised need for public service reform. There however remain different views within local government, within political parties and across the Assembly itself, whether a compelling case has been made for reorganisation at all, whether reorganisation should occur during a period of austerity or what the future shape of local government should be if reorganisation does occur.

The WLGA does not currently have a formal view from all of the 22 authorities on the proposed merger maps. However, it should be noted that six local authorities submitted an Expression of Interest (EOI) and a further eight were prepared to merge in response to the Welsh Government's original 'preferred' map of 12 in November 2014. Powys is continuing to explore integration with the Local Health Board. The WLGA also explored the concept of combined authorities as alternative option to realise local government reform.

Local government has repeatedly stated that clarity and consistency is a pre-requisite for a successful public service reform programme. The Welsh Government has outlined 3 different 'preferred' options for local government reform in the past 18 months (the current proposed maps of 8 and 9 and the map of 12 put forward in the autumn of 2014). The consultation document accompanying the Draft Bill itself describes the 8 or 9 maps only as the Welsh Government's '...current preferred options'. It is widely anticipated therefore that the Assembly elections will have a significant bearing on the final direction of travel in terms of local government reorganisation.

The Draft Bill's accompanying documentation outlines some rationale for the determination of the proposed map of 8 or 9 authorities. However, the rationale has not been consistently applied across all of the proposed new county councils, notably with regards scale and coterminosity with Local Health Boards.

It is not clear how the proposed map of 8 or 9 address the issue of scale of local authorities in Wales. There appears to be no underpinning rationale regarding optimum size of a local authority in terms of economies of scale, corporate and service capacities, geographical and population coverage and local democratic links to communities.

The variation in population between the proposed 'Anglesey-Gwynedd' and 'Gwent' councils sees units of local government ranging in population from 190,000 to 575,000 (Powys County Council would be smaller at 133,000 however will be a more complex organisation following integration with the Local Health Board). Furthermore, merging Anglesey and Gwynedd would create an authority with a population of 190,000 and an area of 3,262 sq km; the current Carmarthenshire has similar rural characteristics, a population of 181,000 people and a land area of 2,371 sq km but will merge with Pembrokeshire and Ceredigion to create an authority of 374,000 people and a land mass of 6,158 sq km.

Given these issues, it is unclear why the Minister states that '...the case in North Wales is finely balanced between two and three Local Authorities'¹ whereas the proposals appear to be clear-cut for the rest of Wales.

Similarly, the Welsh Government was previously clear (as was the Williams Commission) that coterminosity with Local Health Board boundaries was a key consideration to ensure consistency, clarity and avoid complexity. It is therefore unclear why coterminosity is being relaxed for one proposed council configuration, but not in others, particularly where it might result in different and more appropriate council areas being proposed. Since the establishment of the Williams Commission, the WLGA's position has been that all public services should be subject to reform and a more holistic approach to structural alignment might lead not only to better consistency and contiguity, but also a more appropriate geographical scale of other public services.

The Regulatory Impact Assessment provides a cost-benefit analysis that was largely absent from the Williams Commission and previous Welsh Government proposals. The cost-benefit analysis is consistent (in parts) with the WLGA commissioned CIPFA analysis, but the financial analysis focuses in places on the more optimistic, lower-end cost estimates, underestimates the likely redundancy costs and implications of pay and terms and conditions harmonisation (see Q1.12 below).

Most significantly, the Regulatory Impact Assessment has not adequately consider

¹ Ministerial Foreword - P1 Consultation Document - <http://gov.wales/docs/ds/jlg/consultation/151124-lg-bill-consultation-en.pdf>

the options for or the financial impact of council tax harmonisation. The cost-benefit analysis is also inevitably based on historical employment and expenditure in a climate of austerity; by 2019-20 when reforms are scheduled to take place, a substantial proportion of the proposed savings (largely senior-management and back-office rationalisation) will have already been realised, so the proposed return on investment of reorganisation is likely to be lower and over a longer period.

The merger of local authorities as outlined in the Draft Bill will have consequential impacts on other authorities, such as Fire and Rescue Authorities. The Draft Bill establishes new councils and abolishes the old councils on 1st April 2020, however, this will have consequential impacts on Fire and Rescue Authorities Combination Orders, where the statutory composition, membership, operation and funding, amongst other things, is prescribed in secondary legislation by reference to the current local authority structure. Section 17 will not adequately cover the changes required to the Combination Order as it specifically relates to transfer of functions exercisable by and in relation to local authorities. As a separate legal entity, functions in relation to the provision of a Fire and Rescue Service are conferred on the Fire and Rescue Authority through separate primary and secondary legislation and are not conferred on the local authority.

Similarly, Section 18 of Chapter 3 of Part 1 makes reference to transitional provisions in Schedule 4; Schedule 4 paragraph 3 removes the requirement of the Minister to hold a public inquiry under the Fire and Rescue Services Act 2004 as a consequence of changes made to local government boundaries. It is not clear whether this proposed revision adequately meets the specified situations as outlined in Section 4 of the Fire and Rescue Services Act 2004 (sections 4(6) and (7)) why specify when a public inquiry need not be held.

Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?

WLGA member authorities in North Wales will provide their respective positions with regards this proposal. As noted above however, it is not clear whether the Welsh Government has applied consistent criteria across the whole of Wales in determining proposed new council boundaries. It is unclear why 'the case in north Wales is finely balanced' whereas the proposals appear firmer for Mid Wales, South West Wales and South East Wales. It is not clear from these proposals what is deemed to be the optimum size for a unit of local government or why different solutions are available in different parts of Wales. Indeed, WLGA would fully support the case for further debate in North Wales but also urge that this extended across Wales.

Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?

See above.

Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?

The Welsh Government will need to consider a number of specific issues regarding the integration of Powys County Council and Powys Teaching Health Board; these issues may require further legislative or policy reform. Issues that need to be considered are:

- Power to create an arms-length organisation or a community interest company which could either be controlled or influenced by a local authority and local health board jointly. Powys County Council's Cabinet are keen to explore the options and opportunities and risks of creating a health and social care community interest for Powys, which is a model that is common in England and is used by, for example, Plymouth City Council. The Council is currently seeking legal advice because whilst the power exists for a council or local health board to establish such a vehicle, it is not clear whether the power to jointly run such an enterprise exists in Wales.
- Corporate planning and regulation - Both health and local government have very different improvement and corporate planning and regulatory regimes. The Draft Bill outlines a complex approach for councils (see Q5.1 below) and the highly prescriptive nature of the health board's Integrated Medium Term Plan (IMTP) drives the health board in a unitary direction rather than jointly with the council. In addition to a different regulatory framework, there are two separate performance regimes with different standards and targets.
- Human resources – the two organisations have two distinct workforces operating on different terms and conditions, with different HR policies and strategies. Although the Staff Commission will consider these matters, it is a hugely complex and potentially controversial aspect of the reform programme.
- Elected member roles – at this stage, it remains unclear what role and responsibilities elected members will have with regards health in an integrated model. There would need to be specific consideration to allow democratic engagement in the scrutiny of the health functions, as the Scrutiny of Designated Persons regulations (through the Local Government (Wales) Measure 2011) which would allow scrutiny of health boards have not yet been introduced. The relationship with and future role and membership of the Community Health Council will also need to be reviewed.

Question 1.5: What are your views on the procedure for naming the new Counties?

The proposals outlined in the Draft Bill appear appropriate.

Question 1.6: What are your views on the proposed changes to the Local Government election timetable?

The proposals outlined in the Draft Bill appear appropriate, though it should be

noted that there is scope for electoral congestion should timetables slip and significant burdens will be placed on local elections staff.

Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?

The WLGA recognises that local government finance requires reform, and has commissioned an Independent Commission on Local Government Finance in Wales. The Commission is due to report in the Spring of 2016. The WLGA notes a number of fundamental financial considerations that have not been adequately considered within the Regulatory Impact Assessment for the Draft Bill; the consideration of the impact of council tax harmonisation in particular is a significant omission (see 1.12 below).

Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?

This is difficult to measure and information needed would require definition across the various types of avoidance practices. Information is not currently collated pan Wales and it would probably be best to progress this through a working group including Welsh Government, WLGA and lead practitioners.

Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?

A fundamental review of NNDR legislation could help provide clarity over which types of property are eligible for reliefs or exemptions.

Regulation that would require ratepayers to notify billing authorities of any changes in circumstances would be welcomed and this could perhaps stipulate a timeframe for this and potentially a penalty regime. The review could consider prescription around qualifying usage rates and extending the “6 week rule”. The use of charities by commercial property owners to gain empty property relief is also worth reviewing.

Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?

Welsh Government targeted funding looking at specific abuses could encourage compliance and send a message to those seeking to avoid payment.

Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the counties in existence after 1 April 2020?

Lord-Lieutenants and High Sheriffs are currently appointed to the 8 preserved counties. Should mergers take place, it would be appropriate for purposes of consistency and clarity that the new counties should be used for the appointment of Lord-Lieutenants and High Sheriffs from 1st April 2020.

Question 1.12: Are there other matters of a technical nature which should be considered?

Options Appraisal - The Draft Bill's Options Appraisal presents each of the options as if they are mutually exclusive and achievable after almost a decade of austerity. Option 1 seems to be predicated on the assumption that no savings will be made in the future despite the fact that continuing austerity means that cost is being taken out of budgets especially in the areas of corporate support identified in the KPMG review and the work commissioned on the costs and benefits of reorganisation (for example, the KPMG study identified that £33m of savings for 14-15 and 15-16 were already planned).

Redundancy Costs - The Regulatory Impact Assessment (RIA) bases redundancy cost estimates on work undertaken by KPMG during the Administrative Services Review. Under the current proposals the cost of redundancy is estimated between £16k and £21k for 'administrative staff'. It is not clear what assumptions are made for pension strain and the RIA (p46) acknowledges that further actuarial work is required and we would support this. However the assumption that each employee has 10 years' service understates length of service that most in corporate support roles have. The CIPFA work showed this to be 15-20 years.

Change Management: the RIA underestimates the change management capacity required for a reorganisation and suggests that the (reducing) current management of the existing councils can manage the exercise with some small additional administrative support. There is no reference in the analysis to the evidence and learning from comparable exercises of this type or scale elsewhere, or indeed other local government reorganisations of recent times in the UK.

Pay Harmonisation - The approach eventually taken on pay harmonisation, like council tax harmonisation, will have significant implications on the costs and future financial planning. The WLGA notes that the Minister is '...committed to ensuring the terms and conditions of Local Authority staff are protected so no-one will be disadvantaged by transfer to a new Authority'². The RIA (p49) however states that it is possible to be cost neutral if newly formed authorities 'converged to a weighted average' but uses the pay harmonisation estimate from the CIPFA study of £27m. We now think this to be a low estimate.

² Ministerial Foreword - P1 Consultation Document -

<http://gov.wales/docs/ds/jlg/consultation/151124-lg-bill-consultation-en.pdf>

Council Tax Harmonisation - Council tax harmonisation has not been adequately considered as part of the Draft Bill nor the RIA. Council tax harmonisation is a significant component and a potential risk to the reform proposals not only in terms of potential income forgone and financial volatility, but in terms of political and public acceptability of proposed reforms. It is therefore essential that the Welsh Government urgently considers the implications and plans for transition at an early stage. Council Tax payers will need some assurance about the future direction of Council Tax Bills in merged authorities and practitioners will need to make take account of any future constraints on Council Tax to make reasonable estimates of income forgone for financial planning purposes.

The limiting cases are for Council Tax levels to 'level up' or 'level down' or convergence to a weighted average. The 'levelling up' scenario where the highest Council Tax is held constant and the others catch up was described by CIPFA as the 'most prudent' in terms of ensuring local financial stability and minimising income forgone. The WLGA is currently modelling the potential income forgone under this method for the Welsh Government's preferred maps of 8 or 9 authorities, as it could take up to 7 years in the Dyfed area and up to 9 years in the Gwent area to harmonise. The CIPFA study conservatively estimated the income forgone annually at £56.9m for 12 authorities (option 3a) over a shorter period of harmonisation. The council tax damping scheme from the last reorganisation (to manage these council tax changes) was £140m; this figure would be much greater now given the passage of 15 years of inflationary pressures and differential council tax rises across Wales. Whichever approach is taken there needs to be a balance in terms of impact on the council tax payer and income forgone.

PART 2

Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?

The WLGA welcomes the proposed introduction of the power of general competence. The WLGA has long called for a general power of competence and welcomed its inclusion in the White Paper.

Whilst this new power is welcomed, as drafted, it is constrained by legal provisions which local authority lawyers would have to carefully consider before the power could be used, as has been the case in England where a power of general competence was introduced under the Localism Act 2013.

Despite legal constraints, the Local Government Association has said that it has given authorities the confidence to work in new ways and develop new services and partnerships. Use of the power has been limited, a survey by the magazine Local Government Lawyer and Freeth Cartwright (December 2013) found only 6% of

councils said GPC had made ‘a significant positive difference’. 45% said it made a ‘slight’ positive difference, and the remaining 49% said it made no difference.

APSE have argued that “the power must be seen to be in line with ordinary principles of public law. The doctrine of ‘ultra vires’ remains and local authorities still have a fiduciary duty to local taxpayers not to act in an irresponsible or risky way and therefore, how the new general power is exercised, will be potentially subject to challenge through judicial review. As with previous restrictions on commercial trading through a company APSE would point out that the formation of a company for these specific purposes can be time consuming and cumbersome to set up. Companies should only be considered after a full market assessment, taxation and market analysis. However local authorities could put to great effect better use of charging powers to realise additional income (in a sensible and sensitive way) for example through selling services to the public or private sector to help balance budgets, improve productivity and maximise the use of assets and human resources. The new general power should help to alleviate, for English local authorities, any previous uncertainties about the powers to charge for certain non-statutory services.”

Bearing in mind these caveats it is vital that Welsh councils are given renewed confidence in their powers to continue this work to improve efficiency, for example through joint arrangements, in particular to provide back office and support services which may be defined as ‘incidental’ in law to their primary functions.

Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?

The WLGA does not have strong views on the proposal relating to community councils with competence, although notes that given the legal constraints around use of the power as outlined above, likely use of the power by community council will be limited given the limited legal capacity of community councils.

It would be appropriate that should a community council consider exercising this power, it should consult with the county council to assess any consequential impact on the county council’s planned discharge of its own duties or powers.

With regards the criteria for ‘community councils with competence’, guidance will need to clarify the definition of a clerk’s ‘relevant professional qualification’. Should such requirements be too onerous, this could affect recruitment and disadvantage smaller community councils.

PART 3

Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?

Part 3 of the Draft Bill seeks to promote access to local government by placing duties on councils to promote access to, and public participation in, local government

The WLGA is supportive of the underlying principles and ambitions of the Welsh Government; councils active seeking to engage with communities and promote democratic and participative engagement. Many authorities have adopted the nationally developed principles of public engagement, the majority broadcast council meetings, hold youth forums or councils and undertake extensive consultation and engagement over budget and service planning proposals. Many are engaging with communities over local priorities around the delivery of services or provision of assets, some of which may lead to alternative delivery models or community asset transfers.

Although the WLGA is supportive of the underlying principles and ambition, many of the proposed new duties however will create additional burdens on authorities which will require additional investment in administrative and 'back-office' capacity during a period where resources are being focused on front-line services. Some proposals are impractical and their likely effectiveness and impact are therefore questioned.

The WLGA also notes that some provisions in Part 3 and elsewhere in the Draft Bill apply only to local government. The WLGA notes for example that expectations and duties to broadcast do not apply to meetings of the Local Health Board or Welsh Government Sponsored Bodies. Local authority leaders believe that there should be consistency of expectations and processes of good governance across all public services and levels of government; the Welsh Government and National Assembly should show leadership and lead by example, particularly when they are seeking to legislate for others to follow.

Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?

As noted above, the WLGA is supportive of the spirit of the Welsh Government's ambitions and councils are committed to promoting access to local government. It is therefore not clear what improvements a new 'public participation duty' on local authorities would achieve, apart from creating an additional regulatory burden; there is already a requirement on local authorities to 'involve' the public through the Wellbeing of Future Generations (Wales) Act 2015.

Councils already consult and engage with communities on budget proposals, so it is unclear what value a new statutory duty to undertake such activity would achieve.

The WLGA does not agree with the proposal to place statutory responsibilities on councils to discharge duties over or on behalf of other autonomous 'connected

authorities' such as community councils, fire and rescue authorities and national park authorities; this will inevitably have resource implications for councils but, critically, clouds accountability and responsibility for delivering on any public participation duties.

Question 3.3: How should community representatives to sit on community area committees be sought and selected?

In response to the White Paper, the WLGA supported the concept of community based models of governance particularly should county councils merge and become more remote from local communities. There were however some concerns from consultees regarding the clarity and complexity of the original proposed models and, critically, the relationship with community councils and Public Service Boards.

The WLGA remains unconvinced of the specific proposals for Community Area Committees (CACs) as drafted and would welcome further dialogue with Welsh Government to allow councils flexibility to establish appropriate local community governance structures and approaches to community engagement in an era of larger county councils.

The Draft Bill proposes that the areas covered by CACs would be established by Public Service Boards under S37(5) of the Wellbeing of Future Generations (Wales) Act 2015. The WLGA does not support this and argues that community governance arrangements should be more flexible and at the local democratic discretion of the county council. It is not appropriate that a statutory partnership (the PSB), should determine the area coverage and the basis for local democratic and community governance mechanisms (which would form the basis of statutory council committees). The provisions of the Wellbeing of Future Generations (Wales) Act 2015 regarding community areas were set out for very different purposes (e.g. the undertaking of wellbeing assessments and planning) and not necessarily for determining identifiable communities for community governance or representative purposes.

CACs will also have a duty to annually 'prepare a statement of priorities and objectives' (S52) and must consult on these priorities and objectives. This will require considerable resources in terms of policy and support staff given there will be numerous CACs in a council area, and that there needs to be consultation and engagement around these priorities and objectives. It remains unclear, as yet, how many CACs there would be in each council area, the size of membership and number/regularity of meetings – however, CACs will further present an additional burden on authorities in terms of administration as well as committee administration, translation and electronic broadcasting requirements.

Furthermore, 'community' statements of priorities and objectives add to a wider annual community and corporate planning regime as outlined elsewhere in the Draft Bill and under the Wellbeing of Future Generations (Wales) Act 2015 which will become complex and burdensome (see Q5.1 below). Although there is no duty on

the Committee or the Council to produce annual reports on the achievement or otherwise of the CACs' statements of priorities and objectives, it is inevitable that such committees will request or require the council to report annually on progress and whether or what priorities have been achieved, and if not, the rationale for either not accepting the objective corporately or the reason for not achieving the objective within the year.

It is not clear how the committee roles relate to the proposed roles or geographical areas of reviewed (and larger) community councils. Furthermore, not all council areas would have community councils and so geographical spread of community representation could be imbalanced as could the balance of democratically elected members with community and public body 'co-optees'. It is critical that the areas of any 'community area committee' should be undertaken after the Local Democracy and Boundary Commission has prepared its reviews of community council arrangements in each county area (from 2019 as per Part 6 of the Draft Bill) to ensure adequate alignment.

Although the Draft Bill allows councils to delegate functions to CACs, there are implications around delegations of powers and functions given the broad membership of the committee which could include executive and scrutiny members, and, potentially, members of the community with particular interests; this therefore could affect good governance and cause confusion around the separation of executive and scrutiny functions.

Depending on the membership of public bodies on CACs, there could be implications in terms of burden of representation on multiple bodies which the current PSB reforms are seeking to address. Larger public bodies such as fire and rescue authorities, local health boards and police representatives have found it challenging to sit on numerous LSBs within their area, whilst there will be fewer PSBs (8 or 9) with the proposed local government reforms, these bodies could be invited to attend numerous CACs, for example, South Wales Fire and Rescue Service currently sits on 10 LSBs and would sit on 3 PSBs under the new reforms, but could feasibly be invited to attend at least 30 CACs (assuming 10 per authority as noted in the Draft Bill documentation). Should community safety planning functions be devolved to CAC areas, fire and rescue authorities would be required to attend as statutory members.

It should be noted that CACs may be affected by political balance requirements, given it is feasible in some areas that the majority of members of a CAC would be from one political group.

Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?

Notwithstanding the above concerns with the committee model as outlined, the WLGA would support flexibility to allow councils to delegate functions to more

localised community governance models. It should be noted however, that the political balance implications as outlined above may have an impact and levels of delegation need to be carefully considered in order to avoid any confusion of roles and responsibilities around quasi-judicial, executive or scrutiny functions.

Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?

There are no significant implications in terms of transition from existing areas committee arrangements.

Question 3.6: Do you have any comments on the revised provisions for ‘improvement requests’ or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?

The proposal for ‘improvement requests’ builds on the Welsh Government’s ‘activist council’ ambitions as outlined in the Power to Local People White Paper. Councils and the WLGA were broadly supportive of the ‘activist’ concept as councils are pro-actively (and increasingly) engaging with communities and partners in the design and delivery of services. Many councils have led the way in terms of developing alternative delivery models for services.

Councils already initiate and respond to informal ‘improvement requests’ on an ongoing deliberative basis in terms of service design and delivery, both through formal community consultation and engagement and ongoing user and service feedback or complaints. Councils are increasingly devolving services or transferring assets to community councils and to community groups through alternative delivery models.

This proposed ‘improvement request’ power is similar to that of ‘participation requests’ introduced in Scotland through the Community Participation and Renewal Act 2015. It is not clear whether any analysis or evaluation of the Scottish experience has been completed since enactment, however, during the passage of the Bill, COSLA expressed the following concerns:

“The financial impact of the Bill in this area is two-fold. Firstly, the resource required to enable communities, on an equal basis, to have the ability and capacity to take a proactive role in how services are planned and delivered. Secondly, the staff resource required to set up and manage a new process for participation requests within Local Authorities. However, the main concern from COSLA centres around the difficulty of anticipating the demand for this legislation and, in turn, quantifying the costs that will be incurred by Local Authorities. It has been suggested that the impact could be similar to the current Freedom of Information process and COSLA is therefore concerned by the potential administrative burden that these new duties could create.”

The WLGA would echo those concerns. As noted above, councils already initiate and respond to ‘improvement requests’ on an ongoing basis through formal consultation or service user and community feedback. The ‘improvement requests’ proposal as drafted over-formalises such an approach and will create a significant amount of bureaucracy which would add burden and could impact on the speed of decision-making; it is likely that councils will have to formally consider and report (either through executive or scrutiny or both) any such requests from the community received. Concerns have been expressed regarding ‘counter’ improvement requests where a different community group or body submits an alternative request in response to a request from another body. There should therefore be proportionate criteria to indicate levels of wider community support for any proposal and proportionate accountability and governance arrangements should be built into any alternative delivery model that may arise as a result.

The Welsh Government is currently consulting on a draft Action Plan to support the development of Alternative Delivery Models in Welsh public services. It should be noted that community groups will require adequate business and project planning capacity and capacity-building support for community groups may be necessary.

Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?

The WLGA has been supportive of the roll-out of webcasting across authorities and most councils are already webcasting some council meetings.

It should be noted however that a duty to broadcast all public council meetings (including proposed new CACs) will create an additional administrative burden on councils and require additional resources that have not been adequately factored into the RIA. The Draft Bill’s accompanying documentation assumes that the combined cost of current councils’ expenditure on webcasting would cover the likely future costs of webcasting in 8 or 9 councils. The costs are likely to be higher as there would be a duty to broadcast all council meetings which would see around a 50% increase in the number of meetings being broadcast compared to present (most currently broadcast only council and planning meetings and some broadcast cabinet, scrutiny and other meetings of interest to the public). This increase would mean more meetings being broadcast in a wider number of committee rooms or other community venues – there would be additional cost implications in terms of investment in hardware, maintenance costs (due to likely degradation due to transportation and regular set up/break-down) as well as ongoing administrative support to manage the broadcasting of meetings.

Any legislative duty to broadcast all meetings would need appropriate caveats to allow for instances where the public broadcast is either interrupted or not possible due to technological issues, for example.

Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?

Councils already actively engage with children and young people, and promote the concept of democracy, and the role of council and councillors through school councils, youth councils or forums and engagement and participation initiatives during Local Democracy Week. There is already a statutory duty on local authorities through the Children Act 2004 to have a lead elected member for Children and Young People, and a specified part of that role is to engage with children and young people to gain their views on policies that impact on them. It is therefore unclear what benefits a new statutory duty would achieve.

PART 4

Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?

Part 4 of the Draft Bill outlines proposed new Functions of County Councils and their Members, including 'Performance Duties' for councillors.

In its response to the White Paper consultation, the WLGA argued that any new proposals affecting councillors' remuneration and standards of conduct should be applied consistently across all levels of representative government. Furthermore in response to the recent Welsh Government consultation on Draft Directions to the Local Democracy and Boundary Commission, leaders called for consistency across all levels of government in Wales and a wider review of all levels of governance. This stems from a wider frustration that the Welsh Government response to the Williams Commission, which proposed wholesale public service reform, has focused on local government structural reform and new duties and standards applying only to local government rather than all public services.

As noted previously, local authority leaders believe that there should be consistency of expectations and processes of good governance across all public services and levels of government; the Welsh Government and National Assembly should lead by example, particularly when they are seeking to legislate for others to follow.

The proposed 'Performance Duties' on councillors are therefore not supported by the WLGA as they are not only inconsistent with expectations placed on Assembly Members for example, but also appear to be based on an outdated understanding of the role of a local councillor which is at odds with the community activist concept outlined elsewhere in the Draft Bill.

Similarly, the implicitly critical undertone of an excessive and prescriptive 'performance' and standards regime for councillors is at odds with the wider narrative of trust between devolved and local government and enhanced local accountability. The prescriptive and burdensome implications of the proposed 'performance duties' are excessive in that there is not a wide-spread problem with

regards councillor attendance or 'performance'.

The list of performance duties in the Draft Bill, including compulsory meeting attendance and the holding of surgeries, presents a simplistic interpretation of the 'formal' council role of councillors, whereas many see the most significant and valued role of councillors being their outward facing community leadership role in their communities, facilitating community engagement with public services and providing an advocacy and support role to members of the community with particular needs.

Similarly, the above list does not adequately equate to assessing a councillor's 'performance', for example, a councillor may attend every council meeting and therefore be deemed to be performing well by the above criteria, but he or she may not contribute effectively or at all to those meetings. Similarly, a member may decide only to be appointed to council and attend all 8 meetings in the year, but a more committed, ambitious councillor sitting on various committees may miss a few of his or her 50 meetings a year and be deemed underperforming in comparison. Likewise, the proposal that councillors must reply to correspondence within 14 calendar days is inconsistent with the Welsh Minister's 'aim to reply within 17 working days'.³

Notwithstanding the above, the conflation of 'performance duties' with the current standards regime is problematic, as the comparable seriousness of breaches is questionable. Indeed, the Assembly's Standards Commissioner whilst recognising perceptions of Assembly Member 'performance' are increasingly important is "...clear that 'performance' issues were not matters for standards [and] I am clear that it would be very difficult to set down prescriptive time scales for letter answering or phone call replies – even if it were desirable, which I do not accept".⁴

The proposals as drafted risk the generation of a significant number of vexatious complaints which will affect the reputation of councillors and councils and create additional workload for Monitoring Officers and Standards Committees.

The prescriptive and far-reaching implications of the proposed 'performance duties' are excessive in that there is not a wide-spread problem with regards councillor attendance or 'performance'. Whilst there are some individual councillors whose attendance, whilst lawful (under the terms of the '6 month rule' (Section 85 of the Local Government Act 1972), is not satisfactory given the current expectations placed on councillors, they are in the minority and wholesale reform with the consequent burdens of bureaucracy is not a proportionate response. Many councils already operate local 'customer service' standards or council-agreed expectations of attendance and conduct, for example where councillors' attendance at training and meetings is published and considered by Standards Committees or Group Leaders if

³ <http://gov.wales/about/cabinet/writingtoministers/?lang=en>

⁴ P1 Standards Commissioner: Annual Report 2014-15
<http://standardscommissionerwales.org/wp-content/uploads/2015/07/Annual-Report-Final-2014-15-English.pdf>

particular members' attendance rates are a concern.

In order to address its concerns about councillor 'performance', the Welsh Government should instead therefore consider the effectiveness of the current '6 month rule' and empower councils to set and 'enforce' their own attendance and/or performance standard regimes, as is the case in the Assembly.

The WLGA notes from the consultation document that the Welsh Government is continuing to explore options for the recall of councillors. In response to the White Paper when this was originally proposed, the WLGA stated that it does not support the concept of the right to recall. While WLGA members are fully prepared to engage in a national debate on the right to recall this must be on the condition that it covers all levels of political representation across Wales.

The Draft Bill proposes that leaders should produce a manifesto before seeking election as leader. It is however not clear why a leader of a majority group elected on an electoral manifesto should also need to set out a further manifesto prior to their election as leader, a process which is not replicated in the National Assembly or Parliament.

The WLGA agrees that councils need clear political leadership and accountability and notes that the Draft Bill proposes that leaders publish and report annually on 'political' objectives for the executive. The Draft Bill however also proposes that leaders separately set and report on objectives for the Chief Executive on an annual basis, and the council in turn sets and reports on a corporate strategy and annual corporate objectives annually, as well as wellbeing objectives and joint PSB wellbeing objectives. This duplication will create bureaucratic and regulatory burdens and will be of little value to the authority or in terms of contributing to enhanced public accountability, engagement or understanding. These proposals therefore need further consideration. See response to question 5.1 below.

S104(8), concerning the leader setting of objectives for a chief executive, states that Welsh Ministers may issue guidance, to which the Council must have regard. The WLGA and SOLACE has concerns about the potential risks of Welsh Ministerial intervention in local relations and arrangements between a leader and a chief executive. This risks considerable incursion into the running of a local authority without any parameters around the Minister's reason for issuing such guidance.

Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?

The WLGA supports the proposals to strengthen arrangements which promote and support good standards.

Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?

The WLGA is supportive of proposals to reform regulations around delegation of functions and looks forward to future consultation on proposals as they are developed.

Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?

The WLGA would strongly object to the proposal to give Welsh Ministers the power to effectively direct the Independent Remuneration Panel for Wales (IRPW).

There have been widespread concerns in the recent period over the influence, actual or perceived, that the first ever Ministerial remit letter has had on the IRPW's determinations in its Draft Annual Report 2016. The IRPW has provided assurances to the WLGA that it remains independent and its determinations are based on evidence and engagement with stakeholders. A Ministerial power of this nature would fundamentally undermine the credibility of the independence of the IPRW and it would be little more than an advisor group for a Ministerially set remuneration framework for councillors.

Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?

The WLGA would support proposals to make remote attendance more flexible.

The WLGA was supportive of the original policy intentions behind remote attendance as introduced in the 2011 Measure, however, both the WLGA and the (then) Association of County Clerks and Solicitors (now Lawyers in Local Government) advised the Welsh Government (and Assembly during pre-legislative scrutiny) that the provisions as drafted were too restrictive and impractical.

Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?

This proposal seems appropriate.

Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?

In its response to the Welsh Government consultation on the Local Authorities (Standing Orders) (Wales) Regulations 2006 (Amendment) Regulations 2013, the WLGA expressed support for a reformed Designated Independent Person (DIP)

process.

Regulations have created a process which is often overly bureaucratic, time consuming and costly, depending on the type of issue under investigation. The LGA's view at the time of the UK Government's removal of the DIP process was:

"...while we welcome the removal of the requirement to follow the rather bureaucratic statutory process we believe that a streamlined alternative that still incorporates a role for an independent third party is necessary to ensure the process is legally robust, fair and protect the interests of both sides."

The WLGA would therefore welcome a decision by the Welsh Government to review the existing statutory process with a view to replacing it with a streamlined alternative that still incorporates a role for an independent third party to ensure the process is legally robust, fair and protect the interests of both sides.

Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?

The WLGA welcomes the proposal to reform the framework of council functions; successive local government legislation, particularly since the Local Government Act 2000 which introduced executive arrangements, has created a complex framework relating to the responsibilities for the discharge of certain council functions, duties or powers.

Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?

The WLGA was broadly supportive of the principles around community asset transfer as outlined in the White Paper, and many authorities already work closely with communities regarding the transfer or management of community assets. The WLGA welcomes the proposal in the consultation document to make the community asset transfer process more proportionate and looks forward to considering the detail when published in due course. A more strategic and coordinated programme of community asset transfers however will create resource implications for authorities

PART 5

Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?

The WLGA welcomed the White Paper proposals regarding the reduction of regulation and promoting self-assessment and peer assessment. The WLGA, with local government, had developed a programme of self-assessment and peer

assessment which has largely been translated onto the face of the Draft Bill.

The underpinning principles around self-improvement, self-assessment and good governance are therefore generally welcomed and shared by local government. Although the detail and likely burdens around external regulation needs to be explored further, it appears on the face of the Draft Bill that external regulation is likely to be more timely and proportionate than the current regime (under the Local Government (Wales) Measure 2009).

The proposals around corporate planning (S112) largely build on the processes that councils already follow, albeit prescribe a list of specified documents or policies (or links to such documents) that should be included in a council corporate strategy.

The good governance, corporate planning and reporting proposals, as outlined in the Draft Bill should be better aligned with the new duties of the Wellbeing of Future Generations (Wales) Act 2015. The specific corporate planning proposals (and other objective setting proposals elsewhere in the Draft Bill) duplicate new Wellbeing duties and therefore will increase internal bureaucracy and do little to aid public understanding or accountability.

The Wellbeing of Future Generations (Wales) Act 2015 already sets out duties that local authorities must:

- Set and publish well-being objectives (s.3(2)(a))
- Take all reasonable steps to meet those objectives (s.3(2)(b))
- Publish a statement about well-being objectives (s.7(1))
- Publish an annual report of progress (s.13(1) and Sch.1)

In ‘taking all reasonable steps’, councils must comply with the sustainable development duty, which includes taking into account the statutory sustainable development principle (S5) which broadly refers to governance arrangements in the form of: long term decision-making, integration, involving other persons with an interest, collaboration with other persons and prevention.

Furthermore, governance arrangements, corporate planning and objective setting is further articulated in the duty to prepare a ‘wellbeing statement’ which must explain⁵:

- Why the well-being objectives will contribute to the achievement of the well-being goals;
- Explain how and why the well-being objectives have been set in accordance with the sustainable development principle.
- The steps to be taken to meet well-being objectives in accordance with the sustainable development principle
- How the council will govern itself to meet its well-being objectives

⁵ P4-5 Welsh Government Guidance for the Well-being of Future Generations (Wales) Act 2015SPSF2 – Individual role (Public Bodies) <http://gov.wales/docs/desh/consultation/150907-spsf-2.0-individual-role-public-bodies-en.pdf>

- How council will keep the steps it takes to meet its well-being objectives under review;
- How the council will ensure that resources, including financial, are allocated annually for the purpose of taking steps to meet its objectives
- When the council expects to meet its well-being objectives;
- Any other relevant information about their well-being objectives that councils consider relevant.

Corporate objective setting, annual reporting and decision-making and governance duties for local authorities are therefore already outlined in some detail in recent legislation, so it is unclear what additional value the governance, objective setting and reporting requirements in Part 5 of the Draft Bill add. Indeed, the requirements of the Draft Bill will create complexity, administrative burdens and resource implications.

For example, when the proposed annual objective setting and reporting duties in the Draft Bill are combined with the new duties of the Wellbeing of Future Generations (Wales) Act 2015, councils will have to set (or at least participate in the setting of) and report on six sets of similar corporate priorities:

1. **Councils must set and report annually ‘Wellbeing Objectives’** (S7 of the Wellbeing and Future Generations (Wales) Act 2015)
2. **PSBs must set and report annually ‘Wellbeing Objectives’** (S39 of the Wellbeing and Future Generations (Wales) Act 2015)
3. **Leaders must set and report annually ‘objectives to be met by the Executive’** (S99 of the Draft Bill)
4. **Leaders must set and report annually ‘objectives to be met by the chief executive’** (S104 of the Draft Bill)
5. **Councils set and report annually on corporate plan priorities** (‘council’s priorities in relation to the exercise of its functions (including its priorities in relation to its performance in the short-term, medium term and long-term) (S112 of the Draft Bill)
6. (A number of) **Community Area Committees must set an annual ‘statement of priorities and objectives’** in relation to the exercising of council functions in relation to the area of the committee (S52 of the Draft Bill). As noted previously, councils will inevitably have to annually report back to each of the many CACs on the progress or otherwise of their chosen priorities and objectives.

The Draft Guidance accompanying the Wellbeing of Future Generations (Wales) Act states that public bodies ‘...should not treat well-being objectives as separate from the objectives that guide and steer the actions and decisions of the organisation...’. It is therefore unclear why there needs to be numerous sets of separate statutory duties to produce what are, in essence, the same set of priorities.

The proposals will therefore create administrative burden and complexity and do little to aid public engagement or understanding.

Statutory Performance Indicators do not feature on the face of the Bill (unlike the predecessor 2009 Measure) but it is understood that they may feature in a final Bill. At this stage, it is not clear what the relationship of any new national local government performance indicators will have with the proposed new National Wellbeing Indicators, nor why any local government review is being undertaken separately from the wider consultation on the national Wellbeing Indicators, many of which cover local government performance.

Whilst the Ministerial powers of intervention and support are similar to the present powers (under the Local Government (Wales) Measure 2009), there are no criteria (such as evidence which might be considered) before the triggering of an intervention.

The WLGA agrees with the Welsh Government on the need to better align the work and conclusions of 'relevant regulators'. The WLGA notes (from the evidence to the Assembly's Communities, Equality and Local Government Committee in February) that the Auditor General for Wales is not convinced of the practicability of the proposed 'combined regulators' assessments' (S123-127). The WLGA also notes that S143 seeks to ensure the 'coordination of relevant functions of relevant regulators, however, it is not too dissimilar to the existing 'Co-ordination of audit etc.' duty under S23 of the Local Government (Wales) Measure 2009, which has had mixed impact in terms of achieving a consistent approach to coordination of activities across all 22 authorities. This proposed duty to coordinate might therefore need to be further strengthened to ensure consistent collective compliance by external regulators.

The WLGA notes that the consultation paper states that a final Bill will include provisions for councils to publish key data and documents through an online portal. As noted in the WLGA's response to the White Paper, such a portal already exists in the form of My Local Council <http://mylocalcouncil.info/>. This includes comparative performance information (across authorities and across time) of statutory and national indicators, local summaries of the National Survey of Wales, links to councils' statutory improvement plans, objectives and performance reports as well as links to external inspection or regulatory reports. My Local Council also includes a contact form should members of the public wish to address any performance queries to a council.

Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?

The WLGA broadly welcomes the proposed governance arrangements duty, but better alignment is needed with the 'governance' duties of the statutory sustainable development principle of the Wellbeing of Future Generations (Wales) Act 2015 (see above).

Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?

The WLGA welcomes the Welsh Government's recognition of the value of peer review and agrees that it should remain a key component of a reformed improvement regime in the future.

The WLGA stated in its White Paper response however that Peer review should remain a sector-led, sector-owned and sector-commissioned model and should not be legislated for. This is the model that applies in England and currently in Wales, which operates with some success and credibility. The WLGA therefore does not agree that there should be legislative requirement for peer reviews.

Legislating and prescribing a peer review process as drafted in the Draft Bill essentially creates a peer inspection framework, rather than a peer review framework; although the membership and process might remain largely the same, the purpose, dynamics, ownership and outcomes of a review will significantly change.

At present, peer review is an effective improvement process owned by, designed and timed to meet the needs of authorities. The suggested model turns it into a quasi-regulatory role which potentially duplicates the role of the Wales Audit Office. Formalizing the process will affect the dynamics and flexibility of the review process and the openness and ownership of the authority.

The current approach in Wales is not broken and does not require fixing and has delivered a credible, robust and respected mechanism for providing critical-friend challenge which has supported improvement in services and corporate governance arrangements.

Notwithstanding the above, the Draft Bill includes some prescription around proposed peer review processes which is excessive and has unintended consequences, for example, councils would only be allowed to choose Welsh peers from a non-neighbouring authority; given Powys County Council borders all but one of the proposed new county councils, the only Welsh peers that the council would be permitted to use would be from the new Cardiff-Vale of Glamorgan council.

Prior to changes in the WLGA's improvement role, the WLGA Council committed in 2013 that every council would receive a peer review once during a rolling four year period (as is the case in England) and seven authorities have received a peer review between 2013 and early 2015. The WLGA agrees that peer review reports should be published, but that this is a matter for local discretion and does not need legislation. To date, all WLGA peer reviews have been published by authorities.

Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self assessment, peer assessment, combined assessment and governance review?

The WLGA supports the proposed role of new Corporate Governance and Audit Committees.

The relationship with and role of councils' overview and scrutiny committees will however need to be reviewed in the new constitutional arrangements to avoid confusion and duplication of roles.

The WLGA does not support the proposed changes to the membership of corporate governance and audit committees. Lay members are valued members of audit committees currently, but the balance of membership should be left to local discretion. The proposed prescription regarding the increased proportion of lay membership and that the chair must be a lay member fetters local discretion and undermines local democracy, particularly as the reformed committees will have an enhanced role in terms of overseeing the governance and service performance of councils.

Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?

The WLGA agrees that it is not necessary to establish local public accounts committees as the original proposal largely duplicated the role of existing scrutiny committees and the duty to scrutinise designated persons (regulations for which are yet to be introduced).

That said, the scrutiny arrangements as introduced under the Wellbeing of Future Generations (Wales) Act 2015 curtail scrutiny committees' 'public service scrutiny' powers as it only allows scrutiny of the joint functions of the 'corporate body' of the PSB (not the individual members). The public service scrutiny powers over 'designated persons' under the Local Government (Wales) Measure 2011 (if introduced through regulations) would be more flexible and allow the concept of 'local public accounts committees' through enhanced democratic oversight over public bodies and their outcomes for communities. The scrutiny of a PSB's joint functions is limited as the PSB will not undertake a significant range of joint functions (other than exercising its duties to prepare a wellbeing assessment, publish (and review) a well-being plan and publish annual reports; it will be the constituent bodies' individual and joint actions and duties under the Act where all the impact and outcomes will be achieved.

Although scrutiny committees could continue to exercise the power under S21 (2)(e) of the Local Government Act 2000 'to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area', the WLGA would favour an amendment to S169 of the Wellbeing of Future Generations (Wales) Act 2015 or implementation of the scrutiny of designated persons regulations to give local authority scrutiny (and therefore local democratic representatives) greater remit over the scrutiny of public services in their areas.

Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?

Public Service Boards and their individual member organisations were established to consider and inform (through wellbeing assessments) the policy choices facing public services.

As noted above, local authority scrutiny needs to be strengthened to allow locally elected members a broader remit in examining policy choices facing all public services (either individually or collectively) in their area.

Question 5.7: If so, would they benefit from additional legal powers?

The legal powers of Public Service Boards as introduced in the Wellbeing of Future Generations (Wales) Act 2015 appear appropriate.

Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?

The proposed general power of competence should provide legal ‘confidence’ around public sector-wide shared services, but it should be noted that other non-local government legislation may be restrictive in terms of other public service functions being discharged by a local government body. In addition, there are state aid considerations in terms of commercial trading but these can be accommodated with the appropriate legal advice.

PART 6

Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?

The WLGA welcomes the Welsh Government decision that a review of community council arrangements will be conducted by the Local Democracy and Boundary Commission. Such a duty on newly established county councils would have been a significant burden during a period of significant organisational transition.

It is important that the process for the establishment of any area based model of county council governance (as per the Draft Bill proposals for Community Area Committees) need to be aligned with any reforms of community council arrangements (as noted above).

Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?

The WLGA is supportive of this proposal as it will allow earlier and more timely consideration of any draft proposals.

Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?

The new County Councils will have a large amount of work to do following their establishment, and implementing the recommendations of the Local Democracy and Boundary Commission reviews will be one of a large number of competing priorities. Given reduced corporate capacity and other competing priorities, on balance, the WLGA would support the proposal that the Commission should implement its recommendations, following consultation and engagement with the new County Councils.

Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?

The WLGA supports and encourages all elected members to undergo appropriate development and training for their roles. Generally, the WLGA supports the concept of locally determined compulsory member development and training, as outlined in the Draft Bill.

The Draft Bill proposals around compulsory training for community councillors should be refined however, as they place a burden and responsibility on clerks as well as risking a 'strain on the good relations between the clerk and the council' (as the consultation document itself notes).

Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?

A six year term would be a very long municipal term with implications in terms of local accountability, however, it is a necessary transitory arrangement during a period of significant reform which will lead to greater clarity around accountability and electoral management in the future.

Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?

The WLGA does not support the proposed duty (under S167) that county councils should consider the training needs and 'secure the provision' of training for

community councillors. This would be an additional burden and will have resource implications for local authorities and should be the responsibility of community councils themselves; it is not appropriate that local authorities should have a duty to discharge over other autonomous and democratically accountable bodies.

Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?

This is a matter for community councils.

Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?

The WLGA welcomes this proposal as it 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.

PART 7

Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?

The Ministerial powers over workforce matters as outlined in Part 7 of the Draft Bill are far reaching and potentially allow Welsh Ministers to make regulations that can affect all of the local authority workforce (and of other public bodies) on a wide range of workforce matters as fundamental as: the planning by public bodies in relation to the size and composition of their workforce; recruitment and retention of staff; the management, organisation and remuneration of staff; and the training and development of staff of public bodies.

These powers could potentially ‘cut across’ and affect the legal contractual relationship between that public body as the employer and its employees, as well as undermine local democracy and local planning. This is particularly relevant in local government where there are 22 individual sovereign employers.

Democratically elected councillors are best placed to determine how to shape the workforce to deliver services most cost effectively. Different councils face different challenges and demands from their electorate. A ‘one-size fits all’ approach will not enable local needs to be met and councils need the freedom and flexibility to make and implement decisions on recruiting and restructuring (including decisions on pay) that are designed locally to best meet the needs of the communities they serve.

Local authorities have demonstrated that they can successfully develop and improve services working in partnership with others, and engaging with their workforce and their representatives to improve services. A managed approach to workforce reduction has also been successful whilst maintaining as best as possible the local services the community want. However there are some areas that the WLGA could work in partnership with Welsh Government to develop and agree guidance that could help support Councils on workforce issues.

Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?

The WLGA has previously supported the establishment of a Public Service Staff Commission (PSSC) to specifically assist with the development of guidance to help Councils manage their workforces as part of any local government re-organisation. Section 178 does repeal the role of the PSSC in 2021 to reflect that the PSSC is specifically to assist with local government reorganisation planned for 2020.

The WLGA would not wish to see a statutory PSSC set up if there is no local government re-organisation. Therefore the WLGA would wish to see that the establishment of the statutory PSSC and its role is predicated on and explicitly linked to local government re-organisation.

There would need to be clarity and a renewed agreement on the matter of any continuation of a non-statutory PSSC if no local government re-organisation should take place.

PART 8

Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?

The Part 8 provisions and schedules, taking into account the above comments, appear appropriate.

ADDITIONAL QUESTIONS

Question 9.1: Are you aware of any consequential amendments to legislation that will need to be made?

No

Question 9.2: Please provide feedback you think would be useful in relation to the supporting documents published alongside the Draft Bill i.e. Draft Explanatory Memorandum (including the Regulatory Impact Assessment) and specific Impact Assessments.

N/A

Question 9.3: We have asked a number of specific questions. If you have any related issues which we have not specifically addresses, please use this space to comment.

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept anonymous please tick the box:

WLGA submitted paper: Local Government views on Cabinet Secretary's (CSFLG) proposals for Local Government Reform – December 2016

From: WLGA (*names and email addresses redacted*)

Sent: 23 December 2016 10:31

To: WG (*names and email addresses redacted*)

Please find attached the WLGA's consolidated response to the Cabinet Secretary's recent set of questions on Local Government reform. This has been approved through the WLGA and also been discussed at consultation events and through regional fora. You will note in particular the annexes which have been compiled at the regional level by local authorities. Can we thank the Cabinet Secretary for his extensive engagement on this.

LOCAL GOVERNMENT VIEWS ON CABINET SECRETARY'S PROPOSALS FOR LOCAL GOVERNMENT REFORM

December 2016

Background

1. The Cabinet Secretary for Finance and Local Government Mark Drakeford AM announced proposals for local government reform in the Assembly on 4th October 2016 based on the concept of retaining the 22 local authorities as the 'front-door' to a range of services, some of which might be regionally delivered on an LHB or a 'city region' footprint.
2. The Welsh Government has since sought to engage with wider local government to consider how the Cabinet Secretary's reform proposals could be further shaped and delivered. Welsh Government officials have met with various professional groups and the Cabinet Secretary has met with the 22 Coordinating Committee on 25th November, through individual meetings with leaders and chief executives and through regional board meetings.
3. The Welsh Government has also convened and concluded three regional senior officer engagement events and the WLGA, following WLGA Council agreement, has organised three regional member engagement events (12th, 16th and 19th December).
4. During discussions with Coordinating Committee the Cabinet Secretary confirmed that he would not expect a 'big bang' approach to local government reform, with reform being introduced over a five to ten-year period and he also confirmed that he did not intend for successful collaborations (which crossed the two proposed footprints) to be dismantled in the short-term.

5. The timescale for reform and, in particular, the phased implementation of collaborations is a welcome approach. Whilst the Cabinet Secretary's commitment that given the significant amount of sunk investment in the current collaborations they would not be dismantled in the short-term, it could be that such collaborative models could be reviewed periodically to examine the cost/benefits of dismantling and aligning with the two-footprint model or maintaining the status quo.
6. The WLGA has broadly welcomed the reform proposals, particularly as it seeks to build on the collaborative models already established by local government and, in turn, seeks to redefine and strengthen local democracy, ensuring that there remain '22 front-doors' to regional and local services.
7. The WLGA has also welcomed the Cabinet Secretary's approach to consensus building, dialogue and engagement with local government.
8. The Cabinet Secretary has outlined a number of themes underpinning his reform programme, but has highlighted two in particular, Resilience and Renewal:
 - **Resilience** in local government both in terms of service delivery and finances; and
 - **Renewal** in terms of a new constructive and mature relationship between Welsh Government and local government and also the renewal of relations between local government and local communities.
9. In order to inform his final proposals in the New Year, the Cabinet Secretary posed the following five questions during the WLGA Coordinating Committee, which have also formed the basis of discussions at the officer and member regional engagement events:
 - What should be the regions?
 - What should be the functions?
 - What should be the governance?
 - How should the funding flow?
 - How should the accountability/scrutiny arrangements work?
- 10. Given the high-level nature of the local government reform proposals it is possible only to provide commentary, initial views and in principle support based on local government's own experiences of successful and unsuccessful collaborative initiatives.**
- 11. The commentary below is not binding and is provided with a view to help shape the Cabinet Secretary's final local government reform proposals. A firm WLGA commitment and position cannot be provided until fuller discussions had been undertaken through the 22 authorities**

and via WLGA Council following the publication of the final proposals in a White Paper in the New Year.

12. The commentary below summarizes members' views from the WLGA Management and Audit Sub-Committee meeting on 15th December 2016 as well as the discussions and feedback from regional engagement events with local authority members and officers and discussions and/or proposals emerging from regional boards (see Annexes).
13. A detailed summary note of the WLGA-facilitated regional member engagement events will also be submitted separately to inform the Cabinet Secretary's preparations of a White Paper.
14. The paper is also informed by the WLGA Labour Group paper on local government reform (discussed at Coordinating Committee on 30th September⁶) and the positions set out in the WLGA's recent Manifesto "Localism 2016-21 – A Plan for Public Services in Wales"⁷..
15. Although there has been general support for the Cabinet Secretary's proposed regional footprints, common themes have emerged from regional events (in particular from elected members) that regionalized service commissioning and management needs to be balanced by strong local accountability and local democracy. In particular:
 - **Funding should continue to be distributed to the 22 local authorities** via the RSG, who would then agree the budgets and funding of any regional services'
 - **Statutory duties should remain with the 22 local authorities**, who would then determine how such duties would be discharged, either jointly or via another lead authority; and
 - **Local accountability through local councillors' oversight and scrutiny is essential** in holding regional services to account and ensuring that the needs of local communities are being met and outcomes are being delivered.
16. The Cabinet Secretary's commitment to maintaining local accountability, outlined in his message to the member engagement events, is therefore particularly welcome:

"I am clear that democratic accountability is non-negotiable, and critical to making any new arrangements work. Indeed, I see these proposals as an opportunity to strengthen the role of elected members in decision-making at a regional level where, sometimes at present, there may be largely officer led

⁶ See Page 23: <http://www.wlga.gov.uk/download.php?id=6300&l=1>

⁷ <http://www.wlga.gov.uk/local-government-policy-priorities-for-the-national-assembly-for-wales>

arrangements in place...Equally important is the need to ensure that we enable effective, timely and influential scrutiny by elected members."

17. In seeking to address the Cabinet Secretary's questions, in particular 'What should be the regions and which services?', member and officer engagement events considered whether the 'Local, Regional, National: What services are best delivered where?'⁸ report produced by Joe Simpson in March 2011 could be revisited.
18. Although local government has moved on in the six years since Simpson undertook his review, and many collaborations have been established and, given austerity, many of the potential savings outlined have already been stripped out of services, much of Simpson's analysis may remain relevant.
19. 'Form should follow function' was a regularly repeated phrase during engagement events and that a framework of principles should guide the reform programme and underpin any transition towards collaborative models of service delivery. Simpson set out a framework of principles that could be revisited and revised to ensure relevance for the current reform programme:
 - Principle 1: The outcome must be better for the citizen and user
 - Principle 2: Focus on functions not whole services
 - Principle 3: It is about better collaboration not just hard geography
 - Principle 4: Collaboration can take many forms
 - Principle 5: Local accountability and freedoms must be enhanced and not diminished through the process
 - Principle 6: We have to ask the right questions
 - Principle 7: Leadership to deliver the change
 - Principle 8: Engaging staff is critical
 - Principle 9: Creating a Compact with consequences
 - Principle 10: Supporting the change to deliver the change

What should be the Regions?

20. Although not unanimous, there has been broad support from local government regarding the Cabinet Secretary's proposals for two distinct geographies as the foundation for local government reform based on Local Health Boards and city regions.

⁸ <http://gov.wales/docs/dsjlg/publications/localgov/110325lnrsvicesv2en.pdf>

21. Whilst there are clear service integration benefits of aligning certain services such as health and social care on the same footprints, it is logical to work on the principle of larger spatial areas when it comes to economic development, transport and regeneration. The establishment in South East Wales of a new Regional Transport Authority is being taken forward alongside a review of strategic land use planning. The Planning Act provides for strategic planning in other parts of Wales, with South West Wales and 'the A55 corridor' specifically mentioned. In South West and North Wales - and also in Mid Wales – active consideration is being given to re-establishment of regional level transport planning as an integral part of regional economic development plans.
22. Whilst health, social care and education boundaries may be prescribed by government, the economy and markets operate in a different way and are in the main independent of government. Economic activity is driven by a different set of dynamics and role of government is often to facilitate, to enable and to support rather than to prescribe. This is recognised and is accommodated by what is proposed.
23. For example, this approach allows an authority such as Bridgend to locate itself within the Abertawe Bro Morgannwg/Western Bay remit for health, social care and other services but take a wider M4/South East Wales related view in relation to economic activity and education improvement. In South West and Mid Wales the successful ERW consortia does cut across the boundaries of the Swansea Bay City Region and the Growing Mid Wales Partnership. However as ERW operates through three regional hubs formalizing relationships with the regional strategic frameworks is possible.
24. Over the recent period there has been an impressive acceleration of collaborative regional partnerships within Wales. Some of this has built on the WLGA regional boards while others have been linked to the city region agenda. All these arrangements have their own unique regional features and evolved as locally and collectively agreed responses to deliver particular common priorities or address common needs.
25. There is also scope, as is the case in North Wales and Mid and West Wales (see Annexes), for sub-regional units of collaboration that may be appropriate and relevant which are set within the two footprint model. This is particularly relevant where other public sector partners also adopt sub-regional units of planning or delivery, such as LHB localities and GP clusters or the Police Basic Command Units.
26. It should be noted however that many of the established and successful collaborations currently do not consistently follow the proposed two footprints. It is therefore welcome that the Cabinet Secretary has confirmed that he would not expect the immediate dismantling of existing successful collaborations that did not fit the proposed two foot-print model, at least in the short-term.

27. It was widely recognized that there is a significant amount of sunk investment in the current collaborations, notably financial and officer resources, which could be lost if successful collaborative models were broken up and realigned. It could be that such collaborative models could be reviewed periodically to examine the cost/benefits of dismantling and aligning with the two-footprint model or maintaining the status quo.
28. Feedback has suggested that existing local authority collaborations should be mapped out to provide a full picture of the range of collaborations currently in operation as well as to assess the implications of overlaying any new mandated geographical footprints. For example, a 2015 Report to a joint scrutiny committee meeting in Torfaen County Borough Council identified 86 separate collaborations involving the authority, 7 of which were deemed significant enough to warrant ongoing corporate monitoring and tested using the Council's agreed "Collaboration Framework"⁹.

What should be the functions?

29. The Welsh Government high-level proposals outline the following:

- City regions - covering strategic transport, land-use planning and economic development; and
- Local health board footprint - for services such as education improvement, social services and public protection

30. Although there is not unanimous support, there has been broad support from leaders regarding these initial proposals, which also chime with proposals outlined within the WLGA Labour Group paper.

31. Discussions during regional engagement events have highlighted the following further services as potentially deliverable on a regional footprint (or are already being delivered collaboratively within some regions), but all would require a clear business case with cost/benefit analysis and political agreement prior to reform:

- Waste (some strategic elements, but not local delivery)
- Telecare and commissioning of domiciliary care
- Corporate support services, such as HR, legal services, translation
- Emergency Planning
- Regulatory
- Parking
- ICT and Digitalisation of Services (e.g. Revs and Bens)
- Learning and Skills
- Minerals Planning

⁹ <http://moderngov.torfaen.gov.uk/documents/s6508/FINAL%20-%20collaboration%20update%20report%20-%20Final%20for%20despatch.pdf>

- Whilst strategic planning function could move to a larger footprint, local development control needs to remain local.
32. Although 'social services' has been generically described as being an option for regionalisation on the LHB footprints, it is not clear whether the proposal would be for the entirety of the service to regionalise or specific social services functions, building on some of the regional arrangements already in place. It is appropriate that some social services remain local, while others could feasibly be delivered on a wider geography, as has been the case with the establishment of the national adoption service.
33. There has been some discussion about the scale of Public Service Boards (PSBs) and the WLGA Labour Group Paper explored the potential to merge PSBs on the LHB footprints so they could fulfil the remit of the (Part 9) Regional Partnership Boards for social services. There is merit in exploring mergers (PSBs already have powers to collaborate or merge if they wish), and some PSBs have already either merged or integrated, a balance needs to be struck between placing PSBs on a strategic footprint which may address alignment and a reduced administrative burden on larger partners (such as LHBs, police and fire and rescue services) but ensuring a local enough footprint to ensure community relevance of wellbeing plans and collective priorities.
34. Similarly, local government's community leadership role (set out in the Local Government Act 2000) should remain a key feature of local partnership working through PSBs; it is therefore important that the relevant sections of the Wellbeing of Future Generations (Wales) Act 2015 should be revisited to ensure that a local authority leader should chair the PSB. This would go some way in addressing the wider concerns of many elected members about the perceived democratic deficit of PSBs.

What should be the governance arrangements?

35. There are a range of governance options that may be applicable for collaborative services, some of which are features in Welsh local government currently. These include:
- An informal network
 - A Shared Appointment
 - A Contractual Arrangement
 - Delegation of Functions
 - Lead Authorities
 - Joint Committees (under the Local Government Act 1972)
 - Joint Executive Committees (under the Local Government Act 2000)
 - A Special Purpose Vehicle

- A Joint Venture
- Combined Authority

36. The legal aspects of many of the above are considered further in the WLGA commissioned 'Legal Guidance for Collaboration' produced by Trowers and Hamlin¹⁰ in 2012.

37. Joint committees (under the powers of the 1972 Act) are currently the most common form of formal governance arrangements in existing regional collaborations, for example, most of the Education improvement consortia follow this model. In legal terms there are some issues relating to the Joint Committee model which need consideration:

- A joint committee does not have a legal personality. It cannot enter into contracts for procurement or employment. It cannot receive grants from Welsh Government or Westminster. It must nominate a lead authority to act on its behalf.
- Any one authority can leave the joint committee at any time.

38. This is an issue for the future but it would be a missed opportunity should any local government reform bill not include the power to provide for Combined Authorities in Wales. The WLGA consulted on these vehicles in 2014 but did not achieve consensus, although a number of authorities were supportive in principle. Thus the Welsh Government may wish to hold a power in reserve to create combined authorities following an evaluation of the joint committee model or to respond to differential regional approaches.

39. Governance and accountability will be fundamental in ensuring the success or otherwise of any regional local government reforms and this is clearly recognised by the Cabinet Secretary. It is therefore a key risk to the project as regional delivered services without adequate governance arrangements will lead to the diminution of local accountability and democracy, reduced opportunities for co-production and public engagement and an undermining of political and public trust.

40. Furthermore, whilst governance arrangements should be proportionate and appropriate to the service being delivered and therefore 'one-size-doesn't fit all', conversely, a multiplicity of different governance arrangements involving the same local authorities but operating on different footprints could lead to administrative burden, complexity and confused accountabilities. This will require a delicate balancing act as the risk is that a decade on from Beecham and three years on from Williams, Wales could become an increasingly complex patchwork of statutory partnerships and delivery vehicles.

¹⁰ <http://www.wlga.gov.uk/wlga-regional-boards-publications/wlga-legal-guidance-for-collaboration>

41. There are also governance issues relating to the role of statutory officers, and whether they have separate or joint duties to both their local authority and the regional organisation or corporate body which could lead to potential conflicts of interest. There may be particular issues that could affect the role of the S151 officers that will need to be considered and addressed.

How should the funding flow?

42. Funding has a direct impact on accountability; the preference and presumption therefore should be that RSG funding should continue to be distributed to local authorities. Local government would then decide on priorities, business plans and budgets for any regional collaborative services.
43. The WLGA maintains its position that specific grants should be transferred to the RSG, but acknowledges that in some circumstances top slicing the funding from RSG or aggregating specific grants for particular regional services may be appropriate, however, this should always be subject to detailed discussion and agreement with the WLGA. Aggregating grants to a regional level may be less problematic than removing funding from the settlement. Where current spend is poorly aligned to the formula, top slicing can have profound financial implications.
44. Direct funding of regional services by the Welsh Government could potentially compound already complex regional-local accountabilities. Stronger regional-central accountabilities have potential to cause tensions and undermine the wider intended purposes of the reform programme to strengthen local democracy.
45. A regional approach based on a combined authority model raises questions about fiscal devolution. How much a new body could raise its own income is an issue currently being explored in the English devolution debate.

How should the accountability/scrutiny arrangements work?

46. Whichever governance arrangements (as above) are adopted for regional services, local accountability and scrutiny arrangements should be 'designed in' at the planning stage of any reform.
47. Local oversight and scrutiny from non-executive members will be critical in ensuring local government and local services remain relevant to and rooted in Wales' communities. The Cabinet Secretary firmly recognises this with his commitment to the continued but 'renewed' role of the 22 councils as the 'front-doors' to regionalised services.
48. Although the regionalisation of certain services may lead to pooling and sharing specialisms or creating economies of scale and greater resilience, the premise should be that services should be 'regionally planned and managed, but locally delivered' wherever possible. Locally elected members therefore have a key role in ensuring that local delivery meets local needs and delivers on local outcomes.

49. There is often an assumption that regional services require regional scrutiny often mirroring any regional managerial or executive governance architecture. Whilst some form of joint, regional scrutiny is appropriate to examine strategic matters, local scrutiny of the delivery, funding and performance of regional services is essential to maintain robust accountability and ensure delivery to meet local community needs.
50. Scrutiny has to be undertaken locally to complement the accountability framework the Cabinet Secretary has set out; the concept of “22 Front Doors” for the public can only work if accountability and scrutiny is rooted at this point and linked in and to local communities.

Other Issues

51. A common theme from engagement sessions was that collaboration was only one ‘tool’ in the public service reform ‘toolkit’ and that focus solely on collaboration could mean other opportunities for reform are missed or could compound ineffective public services i.e. merging two ineffective services would merely create one larger ineffective service. Service redesign and transformation, through co-production, is essential to ensure any new, larger combined services remain relevant and fit-for-purpose.
52. Similarly, there is the potential for reform of services through use of digital and ICT should feature as a key enabler or, indeed, as an alternative to structural reforms.
53. Although regional collaborative reform has been led and delivered by Welsh local government during the past decade, the complexity and scale of the ‘mandated and systematic’ Welsh Government proposed reforms are significant. In particular, there will be specific challenges regarding the wholesale harmonisation of a large number of employees’ terms and conditions.
54. The Welsh Government can therefore play a crucial role in enabling and supporting collaboration, a role which needs to be balanced against any directive or prescriptive approach. The lessons of successful and unsuccessful collaborations need to be learned; success has been built on foundations of clear shared objectives and outcomes and has been delivered through constructive relationships based on mutual trust. There is a risk therefore that ‘mandating’ unwilling partners may hinder the progress for proactive partners; it may therefore be more productive to allow willing partners to forge ahead with collaborations and encourage those previously unwilling partners to engage at a later stage once ‘proof of concept’ has been shown.
55. A common theme from the regional sessions was that local government reform should not be undertaken in isolation and should be part of a wider public service reform. This point was echoed by public service partners who participated in the officer engagement events. Although discussions stopped short of structural

reform of the wider public services, it was suggested that the early experiences of Public Service Boards were more positive and more effective than the predecessor Local Service Boards, but greater alignment and streamlining of planning and performance regimes across the sectors would be welcome.

ANNEX 1

North Wales Regional Leadership Board Leading Public Services
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Local Government Reform: North Wales will build on the success of current structures

North Wales Councils and its partners on the North Wales Regional Leadership Board (the North Wales Police, the Betsi Cadwaladr University Health Board and the North Wales Fire and Rescue Service) welcome: -

- The emphasis on retaining the 22 local authorities as the “front door” to access local services.
- The conciliatory and personal style in which the Minister has conducted meetings with local authorities

The Members of the North Wales Regional Leadership Board will: -

- Work with the Cabinet Secretary to establish a new way forward for local government in North Wales and develop more resilient local authorities.
- Build on the successful regional working which we have developed over the last 4 to five years.
- Work across local authority and sectoral boundaries to identify best practice and effective collaboration which can be rolled out at pace to the benefits of the communities of North Wales.

North Wales is a region with a strong sense of identity and a good record of partnership working at a regional level.

The Region voluntarily established a Cross Sector Leadership Board comprising of Local Government, Police, Fire and Health. The Regional Leadership Board works with: -

- A Safer Communities Board which works on crime reduction, reducing substance abuse and developing responses to new patterns of crime such as Domestic Violence, Cyber Crime, Child Sexual Exploitation and Modern Slavery.
- The GWE Joint Committee which is seeking to help local authorities improve educational attainment

- The Part 9 Regional Partnership Board (Social Care and Well Being Act 2014) which is working on implementing the provisions of the Act with regard to integration of social care and health services and the creation of pooled budgets.
- The North Wales Economic Ambition Board, which has delivered the functions of the Regional Learning and Skills Partnership, campaigned for investment in the infrastructure of North Wales and developed a Growth Vision working in partnership with HE, FE and the Private Sector.
- The North Wales Residual Waste Disposal Joint Committee, which is delivering improvements in waste disposal and recycling

Our regional bodies have enabled us to work together both as six councils and as six councils working in partnership with regionally organised public service partners (Police, Fire and Health) to share and discuss best practice in service delivery. This joint working has contributed to more effective partnership working, programmes of efficiency and shared services where appropriate and supporting resilience. (Examples – Emergency Planning, Legal Services (Conwy to Anglesey), Joint LDP process (Anglesey and Gwynedd), NW Wales EDT (Wrexham, Flintshire and Denbighshire). There are many more.

Future Generations Act – A Developing Footprint for Partnership Working in North Wales

The Region is also working to support the implementation of the Future Generations Act by developing links between the Regional Leadership Board and Public Service Boards.

There are four PSBs in North Wales, Wrexham, Flintshire and two combined PSBs: Gwynedd and Anglesey and Conwy and Denbighshire.

The Partners wish to experiment with developing relationships for joint working at the PSB, with two joint PSBs covering 4 Local Authorities.

North Wales has a single regional footprint allied to good sub-regional co-terminosity

North Wales has same regional footprint for Health and Social Care, Education, the Economy and Policing.

The BCUHB has developed an Area Director Structure which enables the Health Board to work more closely with local authorities on a sub-regional basis. This provides a platform for closer partnership working in the future.

Police and Health have sub-regional arrangements (area and divisional) based on East (Wrexham and Flintshire), Central Conwy and Denbighshire) and West (Gwynedd and Anglesey), that link well with the four PSBs.

The Local Authorities are considering organising shared services at a sub-regional level. For example, in Education, where local authority capacity is stretched there will be an opportunity to consider sharing resources on the same footprint as GWE's sub-regional hubs (East, Central and West).

The advantages of this approach are that: -

- Relationships that enable partnership working are easier to build on a sub-regional level
- Successful sub-regional collaboration will be easier to roll out at pace across the region.

The Challenge of Scale and Diversity

The challenge for North Wales is not one of different regional configurations for different service blocks but rather one of scale and the diversity of the communities across the region, with deep rurality and a fundamentally Welsh culture and way of life in the Western and Southern parts of the region, contrasting with urban and suburban areas along the coast and in the North East. The North Eastern communities have close cultural and economic links with the neighbouring areas of Cheshire, Shropshire and Merseyside.

Principles

A regional system for North Wales that builds greater resilience into local government must also be able to work with local accountability, recognise and embrace the wide diversity in the region and accommodate local and sub-regional delivery of services.

The North Wales Councils and their partners are keen to work together regionally in the established regional structure on issues that are jointly agreed with the Cabinet Secretary as best responded to and led regionally.

The Councils wish to be able to determine what is best dealt with at what level. Ministers should give direction with regard to outcomes and give flexibility to Councils on how to deliver those outcomes and encourage councils to seek and discuss the support they need to deliver agreed outcomes.

We therefore urge the Minister to allow Councils to have the flexibility to determine how to deliver and organise regional approaches to service delivery that take account of local circumstances. This is an approach that will respect the diversity of

the region, potentially utilising sub-regional and local solutions within a regional framework.

The Regional Architecture should not only enable top down proposals from the Leadership Board but also enable “bottom up” proposals and promotion of best practice for partnership working. We envisage that PSBs and sub-regional arrangements will enable greater engagement of front-line staff in partnership and collaborative working, thus engendering greater ownership of any proposed collaborations.

Local Authorities will remain sovereign and hold their statutory responsibilities. Regional Boards will commission on their behalf where it is judged advantageous for the citizen for councils to organise services on a joint regional or sub-regional basis

Next Steps

North Wales will strengthen and develop its existing regional “leadership” institutions.

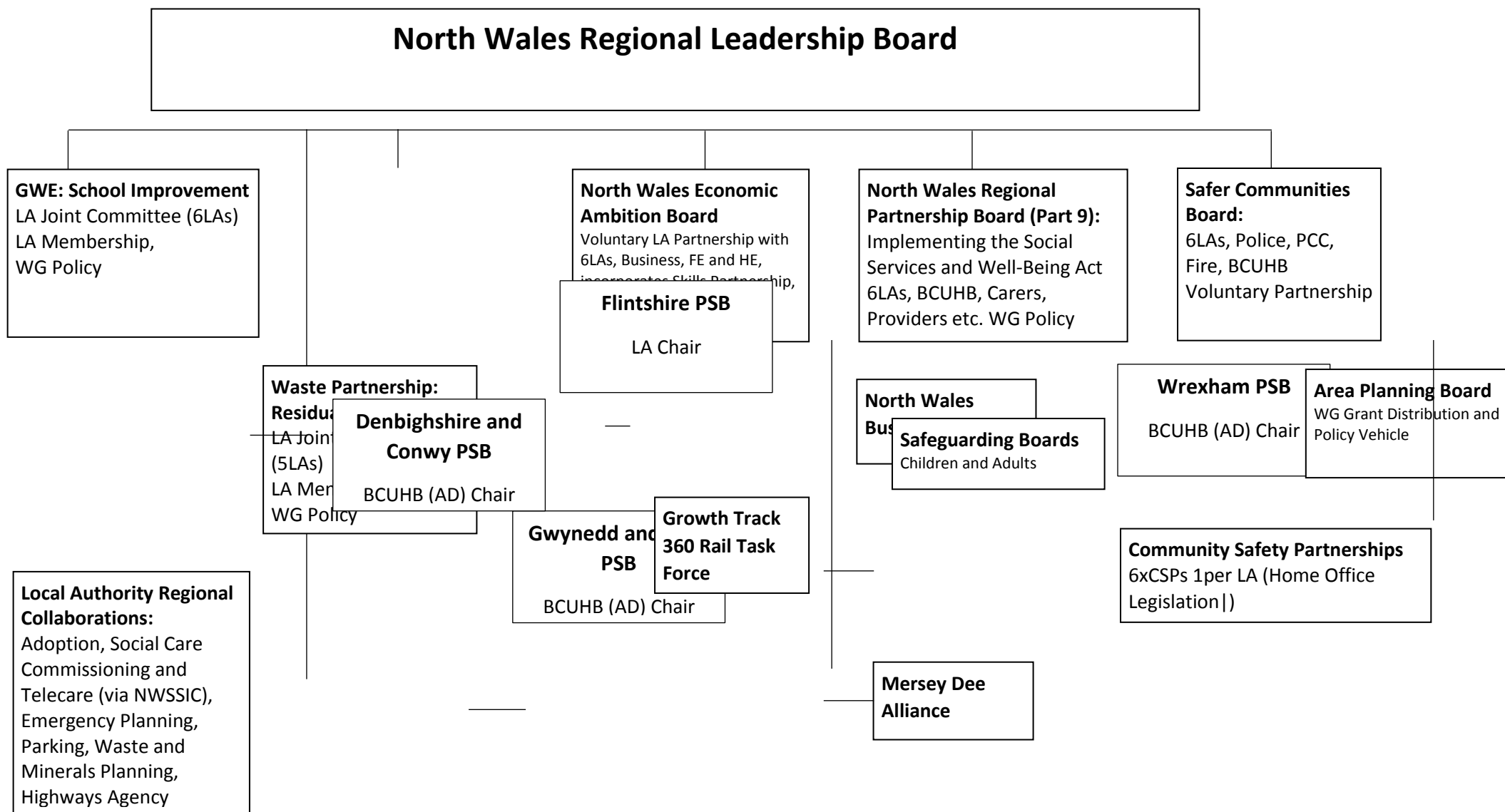
The NW Regional Leadership Board could be constituted as a Joint Committee commissioning services and addressing challenges/issues referred to it by: -

- GWE
- The Part 9 Board
- The NW Economic Ambition Board
- The Safer Communities Board
- The four PSBs (Flintshire, Wrexham, Conwy-Denbighshire and Gwynedd-Anglesey
- The Residual Waste Joint Committee with regard to Waste and recycling issues

The region could: -

- Develop formal reporting from regional boards up the NWRLB
- Address the challenge of building greater resilience of public services by engaging with front line practitioners in local and PSB settings, to ensure that policy development and delivery of services are grounded in evidence, local knowledge and local needs
- Develop collaborative solutions to promote greater efficiency in service delivery where such approaches add value and improve the experience of the citizen
- Produce a list of services suitable for pilot projects for regional collaboration and partnership working
- Develop a cross sector, regional strategy for digitization of services and harmonization of ICT systems over time

- Continue to develop support for and work with Town and Community Councils to enable them to take a greater role in the management and delivery of local services
- Respond to Welsh Government Policy for regional partnership working and regional distribution of grant through the relevant regional board e.g. the Part 9 Board and the distribution of ICF.
- Work with the Welsh and UK Governments to develop regional and cross border approaches to economic development, transport, business support and strategic planning through the regional footprint established by the North Wales Economic Ambition Board and its cross border partners.



Notes

North Wales Regional Leadership Board

This is voluntary Partnership bringing together the 6 councils, Police, Fire and Health in North Wales.

It seeks to share challenges, best practice and enable closer cross sector working to improve services.

Meeting as a Local Authority Board, it supervises and leads local authority partnerships.

GWE

GWE is a school improvement organisation overseen by a LA joint committee.

It is a product of Welsh Government Policy and receives ring-fenced funding.

The role of GWE will grow over time.

Local Authorities are strengthening links between local authority Education Departments and GWE by working through three sub-regional hubs, East, Central and West.

Residual Waste Partnership

This is governed by a Joint Committee of 5 LAs. It is procuring the Parc Adfer facility from Wheelabrator which will dispose of residual waste which cannot be recycled.

The development is enabling an increase in recycling and a reduction in Landfill.

North Wales Economic Ambition Board

This is a partnership which is promoting economic growth in North Wales. It is a LA collaboration with business, HE/FE and WG support. Funding is roughly 50/50 LA and WG. The Board incorporates a Skills Partnership which is WG funded and directed. It links with the Mersey Dee Alliance and a network of economic bodies.

North Wales Regional Partnership Board (Part 9)

This is established by WG legislation to deliver integration of health and social care services and supporting pooled budgets. The WG will also channel an increasing volume of specific grant (like ICF) through this Board. The BCUHB has configured its area structure to work on health and social care integration on a three hub basis – East, Central and West.

Safer Communities Board

This Board is a collaboration of LAs, Police, Probation and Health. It incorporates the Area Planning Board. It seeks to influence the Community Safety Partnerships and aligning LA work with Police priorities and evidence of crimes. It is addressing multi-agency challenges like DV, CSE and substance abuse. It seeks to promote regional commissioning to improve efficiency.

Safer Communities also includes links to other regional bodies: -

- ☐ PREVENT and CONTEST Counter Terrorism Initiatives with a legislative basis.
- ☐ Local Resilience Forum Established to enable effective responses to emergencies of all kinds
- ☐ Police and Crime Panel Legislative requirement to hold the PCC to account.

Safeguarding Boards

There is a legislative requirement to have regional Children's' and Adults Safeguarding Boards in the SS&WB Act 2014

Public Service Boards

These bodies are working to fulfil the requirements of the Future Generations Act. A number of local authorities are positioning their PSBs to be the main forum for partnership working locally.

ANNEX 2

Central & South West Wales Regional Forum
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Local Government Reform

Short discussion paper for Regional Forum Meeting 16th December 2016

Following the Cabinet Secretary's discussion with local authorities over the summer and his subsequent statement in the Autumn, it is perhaps opportune for the region to begin to form a view on how we might wish to structure ourselves to deal with those services that the Cabinet Secretary has indicated will be delivered at a regional level in future.

The Cabinet Secretary, Mark Drakeford, has made it clear that he wishes to see economic development, strategic planning and highways, education improvement, some social care and public protection all delivered through regional structures. The preferred model would seem to be Joint Committees, rather than a regional Council or other alternative.

Existing Structures

Economic Development

This is primarily delivered by individual councils although the Swansea Bay City Region Board (a Ministerial Board) has been meeting for some time. This covers 4 councils; Carmarthenshire, Pembrokeshire, Neath Port Talbot, and Swansea. The Board comes to an end on 31 March 2017. SBCR have bid for a city deal and a Joint Committee is proposed if that is successful.

Growing Mid Wales is a partnership between Ceredigion and Powys Councils and there has already been ministerial involvement and launch.

Bridgend is part of the Cardiff City Deal region and a shadow Joint Committee is in place.

Education Improvement

This is delivered to the 6 councils by ERW, which is a Joint Committee.

Bridgend is part of the Central South Education Consortium.

Social Services (and Community Health)

Social Services is delivered by councils, but there are s33 agreements in place with some councils to deliver joined up services. There are also partnerships in place at LHB level to commission some services. The partnership which formerly included Powys and the 3 councils in Hywel Dda was broken up earlier in the year at the insistence of Welsh Government. There are now 3 separate partnerships covering the distinct LHBs, namely :

1. Ceredigion, Carmarthenshire and Pembrokeshire
2. Powys
3. Mid Wales Collaborative – Ceredigion, Powys and Meirionnydd.

Public Protection

Collaboration and mutual aid agreements between councils have been ongoing for some time. The Carmarthenshire, Ceredigion and Pembrokeshire Councils collaborate. Bridgend is part of a collaboration with the Vale and Cardiff councils. Swansea and NPT collaborate. There is however no formal structure.

The Future

Economic Development

It would seem certain that regional working will be through Joint Committees, as follows:-

- Swansea Bay City Deal
- Growing Mid Wales
- Cardiff City Deal

It would therefore seem sensible to accept this configuration and begin planning accordingly. For example, the Regional Learning Strategic Partnership that at present covers Swansea Bay and Growing Mid Wales should be broken up into separate bodies to serve respective economic areas.

It would also seem sensible to fold strategic highways/transport and strategic planning into these Joint Committees at some time in the future.

Education Improvement

Given that the Education Consortia already exist and on the whole seem to be driving education improvement in the right direction, there would appear to be no need to create something new. The Cabinet Secretary has recently completed a 'Challenge and Review' set of meetings with consortia. Those Leaders/Chief

Executives who attended these meetings may wish to share feedback with the Forum. It would appear that the Cabinet Secretary was impressed with ERW and said as much in the meeting. Those attending were left with the view that she saw no need to dismantle this structure.

Social Care

This area is perhaps less clear than others, but certainly there appears to be a drive from the Cabinet Secretary to use the existing LHB footprint to put new structures in place. If this were the case, then Hywel Dda, Powys and ABMU would be the basis for new Joint Committees. If there is to be democratic control then that could entail directly elected Health Boards.

If this were to be agreed, then councils may wish to make a case for public health and perhaps community health to also be folded into these new bodies. This would perhaps provide a new and dynamic set of regional bodies to promote and protect community based services, something which everyone appears to agree would be a good thing, but has proved elusive to date. A jointly appointed Director of Public Health reporting to a Joint Committee might be considered a good development to pursue for example.

Mid Wales Health and Social Care Collaborative

We would argue for the retention of the Mid Wales Health and Social Care Collaborative in order to ensure focus on the health needs of rural mid Wales. This collaborative includes Gwynedd, Powys and Ceredigion and their respective LHBs.

There are other questions which members may wish to consider such as whether Powys wishes to be on its own with its Health Board. Similarly, Bridgend has previously mooted the question of which LHB area it ought to be in?

Whatever the ultimate footprint, it would seem sensible that public protection be folded into those Joint Committees.

Conclusion

It is suggested that the 7 Councils that make up the Regional Forum discuss their preferred model. If agreement can be reached, it is possible, indeed probable that the Cabinet Secretary may agree with our views. It is also likely that if our region can come to an agreed position, that this may well form the basis of the footprint and model across Wales. Informal soundings with WG indicate that they would welcome a proposal from us.

Whatever is discussed by the Forum cannot be binding on any constituent council. Further dialogue and agreement would need to be sought with WG and any putative agreement brought back to the Forum and constituent councils.

Recommendations

It is suggested that members consider the possible models and configuration set out in this discussion paper and see whether an agreed position, in principle, can be reached.

Any broad/in principle agreement would not in any way bind any constituent council but may form the basis of useful dialogue with the Cabinet Secretary and his officials.

Members may even wish to consider a favoured alternative, with fall back positions if that is not agreed by WG.

Mark James CBE
Chief Executive
Carmarthenshire County Council

December 2016

ANNEX 3

South East Wales

Local Government Reform – discussion paper for the Shadow Joint Cabinet

The Region has taken a number of significant steps towards regional and sub-regional collaboration over the past 12 months and is well placed to inform the future delivery of local government services in the future.

South East Region delivery structures

City Deal

The 10 councils have committed to a £1.229bn City Deal Heads of Terms and the necessary governance and assurance frameworks are being finalised before each council will consider committing to:

- the funding of the City Deal; and
- the shared planning and delivery of the strategic functions associated with land use, transportation, economic development and business support.

A Shadow City Deal Joint Cabinet of Council Leaders has already been in operation for the year and a Shadow Regional Transport Authority has met on two occasions with a particular focus on the “co-design” of the Metro. The Regional Transport Authority has also agreed to pilot a regional approach to managing Concessionary Fares. In the future other opportunities to simplify and improve the planning and delivery of transportation functions will be considered.

Bridgend is firmly embedded in the Cardiff Capital Region but under the health boundaries would be included within the Swansea Bay City Region.

Sub-regional delivery structures

Education Improvement

This is delivered to the 5 Gwent councils by the Education Advisory Services (EAS), which is a separate company limited by guarantee. The EAS provides services within the prescribed local health board boundary.

The Central South Consortium, a Joint Committee, of the 5 councils of Bridgend, Cardiff, Merthyr, RCT and the Vale of Glamorgan, provides a similar service.

Both education improvement services have proved to be successful. If the education improvement service in Central South was to be delivered on the LHB boundaries, it would split the service into 3, with Bridgend being part of the ERW arrangement. This would create diseconomies of scale and have a significant adverse impact on educational attainment.

Social Services

Similar to other regions, Social Services are delivered by councils, but there are s33 agreements in place with some councils to deliver joined up services. There are also partnerships in place at LHB level to commission some services.

Public Protection

The councils of Bridgend, Cardiff and the Vale of Glamorgan provide statutory regulatory services in collaboration, which has proved to be successful at a reduced cost. This is a good example of collaboration that provides an opportunity to further expand this service to allow other councils to join this arrangement if both parties agree.

The Future

Economic Development, Strategic Land-use, Transportation and Business Support

There is a commitment of the 10 Leaders to adopt a Capital Region approach to the delivery of these functions via the Joint Committee of Leaders.

Education Improvement

Given that the Education Consortia already exist and are making good progress in delivering education improvement, there would appear to be little appetite to do something different in Central South.

The Cabinet Secretary has recently completed a 'Challenge and Review' set of meetings with both consortia and the feedback has been generally positive. The consortia need to embed the educational policy changes already agreed and these would be little or no benefit from further structural change.

Social Care

Within the Region this creates relatively simple structures of two examples of two councils working with one LHB (Cardiff and the Vale of Glamorgan; and Merthyr and RCT in Cwm Taf), and complex structures in Gwent of 5 councils working across the area, and Bridgend focusing west and working with Swansea and NPT as part of ABMU.

Social Care could be delivered on a LHB footprint, but the greatest benefit will accrue from taking the opportunity to reconfigure social care with primary health care with integrated professional teams working across a LHB footprint providing consistent and joined up services. Just bringing together local government services could be considered to be a lost opportunity.

The opportunity also exists to plan and provide on a regional basis child focused services in specialisms that have traditionally been under-resourced and/or ineffective such as CAHMS that could include key education services such as education psychology, behaviour support and learning support services.

In England, all public health services are delivered by local authorities. Is this effective and should this be an opportunity we explore as part of the reconfiguration of health and social care services?.

Corporate Functions

The NHS in Wales Shared Services provides payroll, procurement, creditor payments, internal audit and other shared back room functions on an all Wales basis. To facilitate this, each LHB operates the same accounting system across Wales. This clearly has significant economic and practical benefits.

The 8 local authority pension funds are currently combining the management of their investment funds in accordance with the requirements of UK Government. If Welsh Government were minded they could do something similar for many of the transactional services local government manages such as NNDR, benefits, council tax, payroll, procurement, pension fund administration etc. Alternatively, this could be delivered on a sub-regional basis.

Many councils have put off investing in new ICT systems due to the proposed council reorganisation. Now that the 22 councils remain, do we take this opportunity to adopt the mature approach taken by health bodies a number of years ago and all agree to, over time, transfer to a common ICT platform that could deliver shared services across Wales?

Conclusion

It is suggested that the 10 South East Councils discuss their preferred model. If an agreement can be reached, it is probable that the Cabinet Secretary may agree with our views. It is also likely that if our Region can come to an agreed position, that this may well form the basis of the footprint and model across Wales.

Whatever is discussed by the 10 South East Councils cannot be binding on any constituent council.

Further dialogue and agreement would need to be sought with WG and any possible agreement brought back to the Joint Cabinet of Leaders and constituent councils.

Recommendations

It is suggested that members consider the possible models and configuration set out in this discussion paper and see whether an agreed position, in principle, can be reached.

Any broad/in principle agreement would not in any way bind any constituent council but it may form the basis of useful dialogue with the Cabinet Secretary and his officials.

Members may even wish to consider a favoured alternative, with fall back positions if that is not agreed by WG.

ANNEX A

Cyngor Sir CEREDIGION County Council

Y Cyngorydd / Councillor Ellen ap Gwynn
Arweinydd y Cyngor /
Leader of the Council

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Professor Mark Drakeford AM,
Cabinet Secretary for Finance and
Local Government,
National Assembly for Wales,
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CARDIFF

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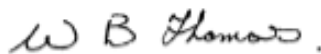
- We have met with the Cabinet Secretary for Economy and Infrastructure and discussed our 'Framework' and plans and are looking forward to welcoming him at a partnership meeting during the coming year.
- Similar meetings to discuss the 'Framework' and our plans with the Cabinet Secretary for Environment and Rural Affairs and Minister for Skills and Technology have been arranged in early 2017.
- We have embarked on a series of meetings exploring common challenges and possible joint approaches with the Marches Local Enterprise Partnership on a number of themes including cross border transport and infrastructure.

Our regional economic partnership is developing quickly and already forms the key arrangement for economic development and strategic transport working across the region. We are seeking to coordinate regional skills issues and other related agendas which will support our core economy and growth focus.

While the details arising from Brexit and arrangements thereafter will gradually emerge, we believe that there is substantial financial loss resulting for the Mid Wales economy and an even stronger need to work together to build the region.

We would emphasise that we would welcome the opportunity to discuss the arrangements we have developed around our regional economic partnership footprint with you and your officials ahead of the formal consultation in the New Year.

Yours sincerely,



Y Cyngorydd / Councillor Barry Thomas
Executive Leader, Powys County Council
Chair of the Growing Mid Wales Partnership



Y Cyngorydd / Councillor Ellen ap Gwynn
Leader of Ceredigion County Council
Vice-Chair of the Growing Mid Wales Partnership

Dyma ymateb WLGA i ddogfen
ymgynggori Llywodraeth Cymru
Diwygio Llywodraeth Leol: Cadernid ac
Adnewyddiad

Please find attached the WLGA response
to the Welsh Government Consultation
Reforming Local Government: Resilient
and Renewed

Welsh Local Government Association

**Please see response in Doc 2A for WLGA response to Reforming Local
Government: Resilient and Renewed**