

Report To: Corporate Governance Committee

Date of Meeting: 25 March 2015

Lead Member / Officer: Head of Legal, HR and Democratic Services

Report Author: Head of Legal, HR and Democratic Services

Title: Welsh Government White Paper – Reforming Local Government: Power to Local People

1. What is the report about?

1.1 The report is about the Welsh Government's White Paper entitled Reforming Local Government: Power to Local People ('the Paper').

2. What is the reason for making this report?

2.1 The Paper is the subject of consultation until 28th April. The purpose of the report is to ascertain the views of the Committee on the proposals contained within the Paper. The Committee's views are particularly sought in respect of the elements of the Paper that relate directly to corporate governance matters.

3. What are the Recommendations?

3.1 That the Committee considers the content of the Paper and comments on those matters that are the subject of consultation.

4. Report details.

4.1 The Paper was published on 3rd February 2015 by the Minister for Public Services. The Paper was published in three versions, the Full Version, the Everyday (summary) version and the Young People version. The Full version is attached as Appendix 1 to this report. The other two versions can be accessed via the following link <http://gov.wales/consultations/localgovernment/power-to-local-people>

4.2 The White Paper is extensive and includes a number of clear policy proposals, a reiteration of previous policy commitments (such as mergers, links to Future Generations Bill etc.) but also includes a number of open ended questions seeking views on policy options. Some of the proposals and policy options are complex but the White Paper offers limited detail around how proposals would be implemented.

4.3 There are nine main chapters contained within the Paper and it is accompanied by a consultation survey, a copy of which is attached as Appendix 2 to this report. The Committee is asked to consider in particular the chapter entitled

'Corporate Governance and Improvement' together with other areas of the Paper which impact on corporate governance issues and are identified in this report.

- 4.4 The Paper at paragraph 2.12 suggests that while rules are necessary to ensure good governance, too many can hinder decision making, make it difficult for local people to understand decision making and do not help communicate the values of the Council. The Paper suggests that constitutions should first and foremost set the authority's values and principles under which it will operate rather than being simply a rule book. The Paper seeks views on this and whether bureaucratic burdens imposed by local government legislation should be repealed or amended.
- 4.5 Paragraph 2.10 of the Paper proposes a general power of competence for local authorities and some community councils. Such a power would allow authorities to do anything not specifically prevented by law rather than, as currently, only being allowed to do those things that they are specifically authorised to do by law. This paragraph also suggests that back office function could be provided by a single national provider in the wholly owned subsidiary of Local Government in Wales.
- 4.6 Chapter 3 impacts on aspects of corporate governance in that it seeks to redefine the role and responsibilities of the Leader, Cabinet Members, Elected Members and the Chief Executive. The Paper proposes that candidates for the post of Leader should publish a written manifesto and present it to the Council before the election of the Leader. The Leader would subsequently present an annual statement of progress in delivering that manifesto. The Leader should be required to set objectives for each member of the Cabinet, to hold them to account annually for their progress and publish this information. The Leader would also be required to set objectives on behalf of the authority for the Chief Executive, assess the Chief Executive's performance annually and make a report to Council.
- 4.7 The Leader's manifesto and annual statement will be separate and different from the corporate plan. The corporate plan will be produced by the Chief Executive and set out how the authority will deliver the priorities set out in the manifesto. The Paper is clear that there must be no confusion between these roles.
- 4.8 Paragraph 3.5 set of the Paper sets out the expectations of an Elected Member of an authority. These include mandatory training, participation in community governance, the holding of surgeries, attendance at committees to which they are appointed, to be accessible to the public through e-mail and social media and to hold the executive to account through scrutiny. Elected Members should be required to produce annual reports. Elected Members failing to fulfil their duties satisfactorily could be required to appear before the Standards Committee. Members upon whom sanctions had been imposed could be subject to recall.

- 4.9 Chapter 4 sets out a new relationship between local authorities and local communities. The Paper suggests new area governance arrangements giving a prominent role to elected members. Paragraph 4.5 sets out a preferred option of a national framework requiring local authorities to put in place community governance systems. These arrangements would include 'Area Boards'. Legislation is proposed to ensure local authorities establish Area Boards. These would be member led but would include guaranteed roles for community bodies, the third sector, community councils and other public services. These Boards would have delegated to them certain responsibilities and budgets.
- 4.10 The Paper proposes that there be fewer, larger, community councils and local authorities should review community councils within their areas to achieve this by 2022. Community bodies would be given a number of rights which they can exercise in relation to services and assets. A community body would be defined as voluntary sector organisation, co-operative, mutual, social enterprise and certain community councils.
- 4.11 Chapter 6 deals with corporate governance and improvement. The Paper suggests the repeal of Part 1 of the Local Government (Wales) Measure 2009 which placed a duty on local authorities to secure continuous improvement, set improvement objectives and publish plans for achieving this improvement each year. The Wales Audit Office produces an annual assessment of whether an authority has achieved its planned improvements and has the capacity to improve further. The 2009 Measure also gives the Welsh Ministers powers to offer support to failing authorities and to intervene when necessary. The Paper suggests that a more risk based approach to improvement and innovation would allow authorities to respond more quickly and effectively to the challenges they face. The Paper also proposes the inclusion of specific improvement duties for the Chief Executive and strengthening local authorities' internal accountability processes. The Paper seeks views on whether any aspects of Part 1 of the 2009 Measure should be retained within new legislation.
- 4.12 Paragraph 6.4 of the Paper suggests strengthening local authorities' corporate governance arrangements including the role of the Audit Committee. The Paper proposes amending the Local Government (Wales) Measure 2011 to clarify the functions of Audit Committees, call them Corporate Governance and Audit Committees, expand their independent membership, and requiring that they be chaired by independent persons. The Chief Executive would be required to undertake an annual self-assessment of the authority's corporate governance and performance, provide and publish a report to the Leader on matters of concern, actions taken in response to reports of the Audit Committee, self-assessment and peer review. The Chief Executive should also make arrangements biannually for a peer review to provide challenge to the self-assessment process. The peer review would be conducted by current and retired members and senior officers from other authorities, professionals in

areas such as law, IT, HR and finance, and suitably qualified individuals from the private and third sectors.

- 4.13 The Paper suggests Welsh Ministers retain powers of intervention when there are failings within specified areas such as social services or education. They should have power to commission independent reviews of the corporate governance of local authorities. These reviews would inform Ministers' decisions on whether to offer support or undertake formal intervention.
- 4.14 Chapter 7 deals with performance. Paragraph 7.2 suggests that long term well-being goals for Wales will be set by the National Assembly for Wales under the Well-being of Future Generations (Wales) Bill. Local authorities and other public services would align their objectives to the achievement of these national goals. The local well-being plan will set out the collective public service plan for an area, developed by the Public Services Board. The Leader's manifesto as referred to earlier will set out the local authority executive's political priorities and the Chief Executive will produce a corporate plan to put these priorities into effect. The council will no longer approve the corporate plan. The council will approve the budget and its committees and the executive will be required to scrutinise the senior management team on delivery of their objectives through the corporate plan. This plan would be a source of evidence for the Auditor General in routine auditing of local authorities and a tool for Scrutiny Committees to challenge the executive.
- 4.15 Chapter 7 also proposes a new approach to performance data with fewer, more meaningful measures. The corporate plan will include a standardised set of performance outcomes and measures. The Paper seeks views on the use of minimum standards and financial penalties for non-compliance with such standards.
- 4.16 Chapter 7 also proposes a requirement that all full council and cabinet meetings be broadcast online as well as encouraging the broadcasting of other committees. It also proposes a duty to have arrangements for the public to make their views known on any open agenda items of the council, the cabinet or any committees of the authority.
- 4.17 Chapter 7 proposes a requirement on all local authorities to establish a streamlined online complaints process and a statutory duty to provide a regular report on complaints to the Corporate Governance and Audit Committee.
- 4.18 Chapter 8 deals with the review function of scrutiny committees and external regulators. The changes proposed are to require authorities to set out 'key decisions' that will be considered in order to enable better planning of scrutiny. The Paper also suggests strengthening Scrutiny Committees' forward planning, requiring external review bodies to share information with each other and local Scrutiny Committees, requiring external review bodies to co-ordinate their work and produce a combined assessment of each Local Authority every two years and a joint annual assessment of the state of local government in Wales.

4.19 Chapter 9 deals with the reform of local government finance. The first phase will identify and implement the changes needed to effect the merger of authorities. The next phase will consider more fundamental changes to the way local government is funded to include looking at the balance between funding which is provide centrally and that which is generated locally through local taxes and charges. This is expected to lead to a further White Paper after the next Assembly Elections in 2016.

5. How does the decision contribute to the Corporate Priorities?

5.1 The decision does not impact directly on the Corporate Priorities.

6. What will it cost and how will it affect other services?

6.1 Responding to the consultation will not incur any additional cost.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

7.1 There is no requirement for an Equality Impact Assessment.

8. What consultations have been carried out with Scrutiny and others?

8.1 The Paper has been discussed by the Chairs and Vice Chairs of Scrutiny, in particular with regard to Chapter 8 which deals with scrutiny issues. The Paper has also been discussed by the Democratic Services Committee with particular emphasis on Chapter 3. The Paper will be the subject of a report to Full Council.

9. Chief Finance Officer Statement

9.1 There are no additional costs involved in responding to the consultation. Any proposals emerging thereafter through either legislation or government guidance would need to be considered individually to assess the cost and organisational implications.

10. What risks are there and is there anything we can do to reduce them?

10.1 The risks of not responding to the consultation is that the Council's view will not be taken into account when Government considers the legislation that will be enacted in respect of the proposals contained within the Paper.

11. Power to make the Decision

11.1 Section 111 Local Government Act 1972.