

**Report to Council Workshop
26th March 2015**

**Welsh Government White Paper: Reforming Local Government:
Power to Local People**

The White Paper was published on the 3rd February 2015 by the Minister for Public Services in three versions, the full version, a copy of which is attached at Appendix 1, the Everyday (summary) version and the Young People version. The alternative versions can be accessed at <http://gov.wales/consultations/localgovernment/power-to-local-people>.

The paper is accompanied by a consultation survey a copy of which is attached at Appendix 2. The paper is extensive and includes a number of clear policy proposals, a reiteration of previous policy commitments and a number of open ended questions seeking views on policy options. Although some of the proposals and policy options are complex the paper offers limited detail around how they would be implemented.

At a recent engagement event civil servants set out the Governments drivers for change.

Devolution Settlement

There has been a change in the role of the Assembly and the Welsh Government since devolution but there are wider law making powers and a separation of Assembly and Government. Further devolution of powers is proposed and Government felt it was a good time to look at the relationship between national and local Government.

Local Democracy

There have been a number of service failures which it was accepted were mainly in South Wales. Despite intervention, not all of these services have improved and there is a need for better improvement mechanisms.

Financial Position

The cumulative nature of the cuts means that it will not be possible to continue to operate in the same way with further cuts to central funding. The Government wants to consider what Local Government does, how it does it and what it does not need to do.

The Government also believes that whilst the Williams Commission dealt with performance management issues it did not deal with democratic issues and the purpose of the white paper is to try and fill some of the gaps left by Williams.

These were identified as:

The operation of local democracy.

The Government would like to see a change in the relationship between Local and National Government with greater emphasis on Local Government managing its own affairs, having more autonomy and more power. It is not the role of Welsh Government to monitor the performance of Local Government but to set national standards in some areas such as Education, Social Services, Waste and Economic Development.

The proposed general power of competence is seen by Government as being an important tool for Local Government to be more innovative.

The Government is concerned about the blurring of boundaries between politicians and senior management in some Authorities and cited Estyn and WLGA reports in respect of Pembrokeshire and Carmarthenshire respectively. The Government is concerned to improve the quality of leadership both political and operational and seeks to address some of these issues in the paper.

The Government is increasingly concerned about the need for greater diversity in the membership of Local Authorities and wishes to see elected bodies that reflect the communities they represent whilst accepting that this is difficult to legislate for.

Relationship between the Local Authority and the community

The Government wants to see a broadening out of area committees and an approach to area and community governance which is inclusive of elected members and community bodies. They would like to see larger community councils with greater resources and high standards of corporate governance.

Corporate Improvement

The Government wants to make Local Authority's more responsible for their own improvement. The Government wants to see an increase in self-assessment and peer review which it considers to be more constructive than external inspection. The Government wants the corporate centre of the Authority to be responsible for improvement monitoring with less reliance on WAO and others. The Government wants to see an increase in the development of scrutiny with more resources and support and closer co-operation with external regulatory bodies.

Proposals

The white paper runs to approximately 100 pages with the consultation response survey covering an additional 30 pages. It isn't therefore possible to set out all of the proposals being made in this document. The following are a summary of the main proposals under the key headings set out above: -

Operation of Local Democracy

The paper seeks views on fixed Local Authority terms of five years. The Government also wants views on the phasing of elections e.g. elections by thirds.

The paper suggests that there be statutory definitions of the roles and responsibilities of the Leader, Cabinet members and Elected members. It suggests that candidates for the position for Leader should produce a written manifesto which, on election of the successful candidate, would become the executive priorities for the term. The Leader would then produce an annual report setting out the achievements delivered against the manifesto, set objectives for the Chief Executive and Cabinet members in respect of those priorities, hold each of them to account, and publish the results.

The Council would not approve a corporate plan. The corporate plan, under the new proposals, would be a document produced by the Chief Executive setting out how the Authority would deliver the priorities set out in the Leader's manifesto.

It is suggested that the Leader should have a duty to have regard to equality and diversity in appointing Cabinet members, and if unable to appoint a balanced Cabinet, to consider co-opting non-voting Cabinet members to act as advisors.

It is proposed that there be generic roles, responsibilities and duties for Cabinet members to be defined in legislation and views are sought on what these duties should be. Cabinet should not become part of the Council's bureaucracy, they should set the political direction of the Authority and not become part of the machinery of operation. Their role is to challenge the senior management team and ensure national standards and local priorities are delivered.

The paper suggests a reduction in the size of Cabinet and seeks views on this. It also suggests that not all Cabinet roles should be considered full-time with the exception of the Leader and the Cabinet members for Social Services and Education. It suggests some full-time senior Cabinet and part-time deputy Cabinet positions.

The Government wants to set out clear expectations in legislation of elected members to include the holding of surgeries, attendance and participation at Committees and holding the executive to account through scrutiny. All members should be accessible to the public via e-mail and, preferably, social media. There would be a statutory list of mandatory training for members and a mandatory requirement for them to complete annual reports.

The paper also suggests that Standards Committees have powers to sanction members who fail to fulfil their duties satisfactorily. It also asks for views on the right of re-call for members who have been sanctioned by a standards committee either for failing to fulfil their duties or for misconduct.

The paper proposes a duty on the Chief Executive of the Local Authority to promote engagement and diversity and democracy and to establish a Youth Council.

Webcasting of all full Council and Cabinet meetings will be compulsory. The public should have the right to report live via social media from Council proceedings. A duty will be placed on Authorities to make arrangements to enable the public to make their views known on any open agenda items of Council, Cabinet or any Committee of the Council and for those views to be taken into account.

The paper wishes to see a reduction in remuneration for elected members, a reduction in the number of elected members and seeks views on term limits for elected members. The suggested limits are that no member should serve for more than five terms and that no member should be able to serve more than two terms as a Leader or Cabinet member. The paper also seeks to clarify the role and responsibilities of Chief Executive by imposing statutory duties to ensure effective Government and to provide a basis for judging the performance of the Chief Executive.

Views are sought in the paper on term limits for Chief Executive either by setting a limit on the length of an appointment of a Chief Executive or a term period which would lead to a review before a re-appointment could be considered.

The paper wishes to see a reduction in the cost of senior management in Local Government with a requirement that the Independent Remuneration Panel be consulted on any variations to the pay of Chief Officers which is proportionally higher or lower than other employees. The paper considers the establishment of a Public Sector Appointments Commission to manage all senior appointments to Local Government. This Commission would ensure that all senior officers have appropriate leadership skills and competencies, and create a pool of leaders to be employed on a common basis so that they could move between roles and organisations in Wales.

Alternatively, the Commission could test the competence of potential candidates and Local Authorities would be required to make appointments from among candidates who were approved by the Commission.

If there was no Public Sector Appointment Commission, the Public Services Staff Commission could develop a framework and process for evaluating and grading all senior roles in the new merged Authorities. Local Authorities would retain the responsibility for appointment but there would be consistency in role descriptions and remuneration packages.

Relationship between Local Authority's and Communities

The paper wants to see an inclusive and participative neighbourhood or area approach to community governance. The preferred option is a national framework requiring Local Authorities to put in place a community governance system meeting certain guidelines but passing responsibility to Authorities of how this is designed in their area. The suggestion is that there would be Area Boards led by local members with a guaranteed role for community bodies, the third sector, community councils and other public services. These Area Boards may have budgets and decisions delegated to them.

The paper proposes that Local Authorities should review all Community Councils in their area by 2022 with a view to creating fewer, larger, Community Councils. The paper proposes a competency test to ensure higher standards of governance and financial management. Competent Community Councils will have greater rights than other Community Councils.

The paper wishes to improve community participation. One suggestion is that where a community body (as defined in the paper) believes it could improve a service it would be able to make a request to the Local Authority setting out how it considered it could help improve the service. The Authority would be required to respond promptly and engage actively with the community body to take the work forward unless there were valid reasons for not doing so.

Eligible community bodies should be able to initiate the process of asset transfer by a request to the Local Authority.

The Paper also suggests a right of first refusal for community bodies in respect of “community assets” such as village pubs or shops in private ownership when they are put up for sale.

Corporate Governance and Improvement

Where Welsh Government has formally intervened in respect of service failure it’s diagnosis has been of corporate failings and governance weaknesses. Cuts to corporate capacity have in Government’s view, restricted some Authorities ability to improve. Statutory duties for Chief Executives to make arrangement for securing systematic improvement are proposed to enable the Chief Executive to give assurance to the Executive and the public that the Council is well run.

The Government considers that the duties placed on Local Authorities under part 1 of the Local Government (Wales) Measure 2009 should be repealed. The Government considers that they have been effective in achieving better corporate focus on improvement, but it has been difficult to assess whether any performance improvements have occurred. It also considers that there are questions about the usefulness of the Welsh Audit Office annual improvement assessments in supporting improvement.

They propose to re-name the Audit Committee as the ‘Corporate Governance and Audit Committee’, expand its independent membership and require that it be chaired by a suitably appointed independent person.

The Chief Executive would be required to undertake annual self-assessment of the Authority’s corporate governance and service performance and report to the Leader. In addition the Chief Executive should make arrangements every two years for a peer review to provide external challenge to the self-assessment.

The Welsh Government considers that the public will still expect it to take action when required where there are failings within specified service areas, so does not propose to amend their powers of invention. In addition they propose to give Welsh

Ministers the power to commission an independent review of the corporate governance of a Local Authority following which the Government may intervene.

The paper also deals with corporate planning. A Local Authority must understand the aims and objectives to which it is working. These will include national policy direction set by the Government as well as local priorities.

The Well-Being of Future Generations (Wales) Bill will require the Assembly to set out long term well-being targets for Wales Local Authorities and public services will align objectives to these national goals. This will require a local wellbeing plan to set out the collective public service plan for the area and will include the Local Authority's priorities for planning its service provision.

The Leader's manifesto referred to above will set out the Councils political priorities. The Chief Executive's corporate plan will detail how these will be delivered but will no longer be approved by Council.

The Government intends to develop a new approach to performance data by collecting fewer, more meaningful, measures.

Corporate plans will include standardised sets of performance outcomes and measures. They seek views the use of minimum standards and the use of financial penalties for non-compliance.

Government also proposes a single, accessible portal for the public to receive regular, timely and comparable information in respect of performance, to include data from the whole of the UK.

There will be a requirement to have an online complaints process.

The paper considers the role of Scrutiny in improvement and proposes that Local Authorities set out "key decisions" that they would be considering, to enable internal review to be planned more effectively. This is in place in England and requires some key decisions, and the reports supporting the making of those decisions, to be published many weeks in advance of a decision being made in order to assist Scrutiny.

The Government also wants to strengthen Scrutiny's forward planning by requiring them to make reference to these key decisions and the corporate plan, setting out not only what they intend to scrutinise but who they will engage with in doing so.

There should be a greater emphasis on pre-decision scrutiny.

Government proposes to require external review bodies and regulators to share information with each other and with Scrutiny. These bodies should also coordinate their work and produce a combined assessment of each Local Authority every two years.

The paper also suggests increased support for Scrutiny. This includes consideration of the separation of support for the executive and non-executive functions of the Council with separate funding streams.

The paper suggests greater use of co-option onto Scrutiny Committees and that co-optees should be entitled to vote. There should be greater joint scrutiny of regional collaborative working. There is also a suggestion of an independent Local Public Accounts Committee with oversight over all public expenditure in a local area. This Committee would have power to scrutinise all public expenditure.

Finance

The paper discusses Local Government finance and the Government's intention to simplify and clarify financial governance and accounting arrangements. It proposes a phased approach to develop a new local government finance system with greater emphasis on Local Authorities raising more of their own finance themselves. At the recent engagement event Civil Servants accepted that this chapter was vague and that there would need to be a further white paper about funding and the potential re-design of local taxation systems. This further white paper will not appear until after the Assembly elections in 2016.

Members' views on the proposals set out in the paper are sought in order that they can be built into a Council response to be approved by full Council in April.