

REFORMING LOCAL GOVERNMENT: POWER TO LOCAL PEOPLE

CONSULTATION RESPONSE OF DENBIGHSHIRE COUNTY COUNCIL

The County Council is pleased to respond to the recent White Paper entitled Reforming Local Government; Power to Local People. The Council has replied in detail to the lengthy consultation survey in the attached Appendix. The Council felt it important to provide an overview of its response which it seeks to summarise in this document.

The Council considers that the White Paper is in danger of being too ambitious in terms of the breadth of issues that it seeks to address. There is a danger that the focus of the Paper is diverted from what the Council considers to be the key themes, which if progressed properly, will give the newly formed Local Authorities every chance of succeeding in providing high quality services, but which if not addressed appropriately will set those authorities up to fail.

The key themes identified by this Council are Leadership, Corporate Governance, Performance and Improvement. If authorities are well led, governed appropriately and have a culture of high performance and continuous improvement they are much more likely to succeed than those that do not.

The Council agrees that there should be some statutory definition of the role of the Leader. The Council does not agree that this should be overly prescriptive but should set out the behaviours and competencies that reflect aspects of good leadership. What is most important is the quality and effectiveness of the leadership not a list of specific duties. The discharge of a specific statutory duty does not in itself demonstrate good leadership.

The Council agrees that there should be a development programme provided to support both current and future political leaders to help them achieve the necessary leadership competencies. The Public Service Leadership Panel could help to shape and define what excellent leadership looks like and devise a programme of training and support to help current and future leaders to achieve the required competencies.

The Council agrees that there should be generic duties for Chief Executives to improve consistency across Wales and that this should include the role of Head of Paid Service and a responsibility for performance and improvement.

The Council agrees that there should be a common assessment framework of appropriate skills and competencies for candidates for senior officer appointments but does not agree that such appointments should be the responsibility of a Public Sector Appointments Commission. The Council believes that Local Authorities should retain responsibility for the appointment of senior staff subject to a common assessment framework. Individuals appointed to senior officer positions need to be accountable to the people who appoint them. Local Authorities, if they are to take more responsibility for their own improvement, as suggested in the Paper, should take responsibility for the appointment of their senior leaders.

The Council agrees that there should be a consistent framework for the evaluation and grading of senior officer posts in the reformed Local Authorities. The Council

does however believe that Local Authorities should retain discretion as to the number of senior officers that they employ and that they should determine the composition of those senior roles.

The Council believes that the focus of Local Authorities should be on the quality of leadership and not the amount of time that a leader stays in post. The Council does not agree with artificial term limits either for politicians or for senior officers.

The Council welcomes the recognition that robust annual self-assessment is a key component of effective corporate governance. The Council has been conducting annual self-assessments for the last 4 years. These are effective because the self-assessment is a culmination of Annual Service Challenges. These are internal challenges including Cabinet and Scrutiny Members, Corporate Directors and Heads of Service. They also include regulators. WAO attend every Service Challenge and CSSIW and Estyn are invited to the appropriate ones. The Service Challenges are chaired by the Chief Executive.

The Council agrees with the proposal for the introduction of peer review. The Council does however consider that a bi-annual peer review could become burdensome and that there should be a minimum of one peer review per council term with the frequency of subsequent peer reviews being determined on a risk basis depending upon the findings of the initial peer review.

The Council agrees that a joint assessment by external inspectors and regulators of a Local Authority would be a valuable challenge to the Local Authority's self-assessment. The Council suggests that, as with peer reviews, there should be a minimum of one joint assessment per council term, with the frequency of subsequent assessments determined on a risk basis depending on the outcome of the first assessment. This would release the resources of those external inspectors and regulators to focus their attention where it is most needed.

The Council agrees the role of the Audit Committee is extremely important in ensuring proper standards of corporate governance. This Council's Audit Committee is called the Corporate Governance Committee and receives all external inspection and regulatory reports as well as an annual report on the Council's self-assessment.

The Council agrees that there should be a residual power for Welsh Government to intervene in poorly performing Local Authorities. The Council believes that where such interventions take place they should be corporate and not service based as it will almost inevitably be corporate governance and systems failures that will have contributed to or caused the service failure. A robust system of self-assessment should make much less likely the situation where Local Authorities are only alerted to failing services by external regulators.

The Council agrees that for Local Authorities to perform at their best they must understand the aims, objectives and goals to which they are working and use them to shape their corporate planning.

The Council does not however agree with the proposals set out in Chapter 3 of the Paper regarding the Leader's manifesto and the Corporate Plan. The Council agrees that candidates for leadership should set out their values and the priorities

they wish to see pursued by the Council, and that they should present this to the Council before the election. This Council's Constitution currently provides for candidates for the position of Leader to present their preferred priorities. The Council does not agree however that these should, as seems to be suggested in the Paper, become the Council's priorities. The Council currently consults the public on what its priorities should be, involves all members in the formulation of those priorities, and then approves the priorities in Full Council. This takes time, but is a powerful method of ensuring that the whole Council is committed to the achievement of these agreed priorities. The Council's energies are then applied to the delivery of an agreed set of priorities and not in arguing over whether they are the correct priorities. The Council's Corporate Plan is then approved by the whole Council.

Leaders are usually elected within a short time of the Local Government Elections themselves, usually at the first Council meeting thereafter. The model proposed by the Paper suggests that a Leader would be able to produce a detailed set of priorities for the whole Council for the next term within a matter of days. This has the potential to lead to rushed and potentially ill thought out manifestos. This may be a model that the Paper anticipates may work where a single political party has overall control of a Local Authority but would not work in councils where there exists no overall political control.

The Council agrees that there should be an annual report setting out the achievements against the agreed priorities and already does so.

The Council believes that the duty imposed by Part 1 of the Local Government (Wales) Measure 2009 to make continuous improvement is an important obligation and would wish to see it restated in any new legislation.

There are some areas of the Paper which the Council believes are overly prescriptive, unlikely to achieve the stated intention, and inconsistent with the concept of Local Authorities having greater autonomy.

Whilst the Council would welcome a fixed 5 year term for Local Authorities it believes that phased elections are a bad idea. Apart from imposing an additional burden on Local Authorities to have to organise more frequent elections, the Council does not believe that this would assist Local Authorities to improve service delivery. The Council considers that election by thirds could lead to instability and an almost inevitable focus on the short rather than the long or medium term.

The Council does not agree with the reduction in the number of Cabinet Members, nor does it agree with the concept of full and part time Cabinet Members. Local Authorities are likely to get bigger and the delivery of services more complex. If Cabinet Members are to be able to properly hold officers to account, their portfolios should not be so broad and wide ranging that their capacity to focus on individual service improvement and delivery is diminished. There is also the issue that non-executive members already feel removed from decision making. Further reducing the number of decision makers does not seem to be helpful in addressing this. In addition Local Authorities who seek to reflect a political balance in their Cabinets will find it much harder to do so with a smaller Cabinet. Where there is no overall political control a balanced Cabinet helps to achieve stability.

The Council is concerned that the identification of certain Cabinet roles as being part time or junior may lead to a perception that some services are less important than others. Local Authorities should be able to determine portfolios for their Cabinet Members which are appropriate to their local circumstances.

The Council is concerned that a proposal to reduce the remuneration of Elected Members will be counterproductive if the government wishes to see an increase in the number of Elected Members of working age and from diverse backgrounds. It is difficult to see how a reduction in the level of remuneration is likely to encourage people of working age or those from less affluent circumstances to take on the challenge of standing for election.

The Council considers that the Paper's focus should be on encouraging and increasing the diversity of candidates for election to Local Authorities rather than seeking to impose constraints on the composition of Cabinets from among those who have been elected, and does not believe that co-opting non-elected non-voting Cabinet Members is something that would be helpful. The Council is committed to the principles of equality and diversity and is already subject to the public sector equality duty in the exercise of its functions.

While the Council agrees that local communities should have a voice in the identification of local issues and propose solutions to them, it believes that the proposals for member led community governance are vague, muddled and lacking in detail. There is no clear definition of the role and responsibilities of Area Boards or how they would fit with Public Service Boards and existing Local Authority structures.

The Council believe that it is overly ambitious to suggest a review of all Community Councils by 2022 by newly merged authorities which will only come into being in 2020. The Council also believes that there is an undue burden placed upon the new Local Authorities in seeking to review their Community Councils, judge whether or not they are competent and monitor their continuing competence. The Council considers that there should be greater detail regarding the proposals for community participation and asset transfer.

The Council agrees that pre-decision scrutiny is a valuable part of good decision making and that there should be clear structures and processes whereby Elected Members and the community can refer matters to scrutiny. The Council agrees that there should be clear forward planning of scrutiny focusing on key themes and priorities. The Council agrees that there should be stronger links between external regulatory and inspection bodies at Scrutiny Committee and that external bodies should better co-ordinate their activities in respect of individual Local Authorities.

While there is much to welcome in the Paper, translating these broad proposals into positive outcomes will depend very much on a focus on the key issues identified in this response, avoiding the distraction of trying to deal with too many issues and reforms at once and the detail produced by the Welsh Government in draft legislation. The Council looks forward to commenting on draft legislation and to contributing to the development of those proposals.

APPENDIX

Chapter 2 – Balancing the Responsibility of National and Local Government

Status of Reformed Authorities

The main focus of the Paper should be on the themes of leadership, performance and corporate governance. The Council has no opinion on whether the name of an authority will impact upon these themes. The Paper suggests that Authorities should better engage and involve their communities. Where local people wish to see their authorities retain such identities then there should be no bar to their retention.

The Council agrees that whether the Civic Head should be called Mayor or Chair should be a matter for local determination.

General Power of Competence

Local Authorities should be granted the general power of competence. This power should not, however, be regarded as a panacea. The law already places constraints on the use of this power in that it will not allow Local Authorities to do anything which they are currently prohibited from doing by existing legislation. There are many such prohibitions and restrictions. Local Authorities will also be constrained by the public law principles which apply to the exercise of any of their functions. The Council does not see the need for any further constraint.

The Council considers that the provisions of the Deregulation and Contracting Out Act 1994 should be reviewed to provide greater clarity and flexibility. The Council does not agree with the suggestion that a single back office function for the whole of Wales would be effective.

Local Authority Constitution

It is agreed that Local Authorities should set out their values and the principles they will use to operate in their constitutions. The current Constitution contains the Members' Code of Conduct, Officers' Code of Conduct, Member/Officer Protocol and Access to Information protocols which to some extent set these values out although a simpler, clearer summary may be helpful. In addition the Council has in the Constitution set out role descriptions for each of the roles that Elected Members may undertake. Each of these descriptions makes reference to the Council's values.

The Paper appears to suggest that Constitutions are too long and contain too many rules. The Council must have rules to govern the making of decisions and the spending of money. At the very least Councils will need Financial Regulations, Contract Procedure Rules and a Scheme of Delegation. Councils also need clear rules of debate and procedures for the conduct of their meetings and those of their committees. If these are not to appear in the Constitution, then where should they appear?

Legislative Burdens and Review of Local Government Legislation

There is merit to reviewing this legislation with a view to simplification and consolidation. This will however be a lengthy task and what the newly merged Local Authorities will require is a period of stability in order to focus on their own performance and not be distracted by continual legislative change.

Chapter 3 – Reviewing Democracy

Local Government Elections

It is agreed that a 5 year cycle of elections would be appropriate. This is the cycle considered appropriate for the UK Parliament and National Assembly for Wales. A 5 year cycle would also cost Local Government less than a 4 year cycle.

The Council does not agree with the suggestion that there be a phasing of elections. There are clear practical implications and additional costs of having to organise phased elections some of which may clash with elections to other bodies, and the potential confusion for electors, both of which are reasons cited by the Paper in support of having a 5 year cycle.

More importantly the Council does not believe that this would assist Local Authorities to improve service delivery. The Council considers that election by thirds could lead to instability and an almost inevitable focus on the short rather than the long or medium term. It will also mean some Elected Members will not have had the opportunity to elect the Leader or contribute to the Council's priorities, unless this is to take place after each phased election. This would provide the potential for changes in leadership and priorities every two years which would cause the Council to operate on a permanent short term cycle.

Defining the Roles and Responsibilities of the Leader

The Council welcomes the focus placed by the Paper on the question of leadership both political and operational. The Council agrees that candidates for Leader should set out their values and the priorities that they wish to see pursued by the Council, and that they should present this to the Council before their election. This Council's Constitution currently provides for candidates to present their preferred priorities.

The Council does not agree however that these should, as seems to be suggested in the Paper, become the Council's priorities. The Council currently consults the public on what its priorities should be, involves all Members in the formulation of those priorities and then approves them in Full Council. This takes time, but is a powerful method of ensuring that the whole Council is committed to the achievement of these agreed priorities. The Council's energies are then applied to the delivery of an agreed set of priorities and not in arguing over whether they are the correct priorities.

Leaders are normally elected within a short time of the Local Government elections themselves, usually at first Council. The model proposed by the Paper suggests that a Leader would be able to produce a detailed set of priorities for the whole Council for the next term within a matter of days. This has the potential to lead to rushed and potentially ill thought out manifestos and would not work in Councils where there

exists no overall political control. Alternatively, if there were to be sufficient time for candidates for leadership to formulate and consult upon their priorities, there would be a period of instability with no Leader.

It is agreed that an annual report should be produced setting out the achievement against the agreed priorities.

The Council agrees that there should be some statutory definition of the role of Leader. The Council does not agree that this should be overly prescriptive. The Paper suggests a new relationship between National and Local Government with greater autonomy for the latter. Any definition should perhaps be cast as broadly as possible to reflect aspects of good leadership. What is most important is the quality and effectiveness of the leadership, not necessarily a tick box list of specific duties.

The Council agrees that the Leader should be required to set objectives for Cabinet Members. This is the practice in this Council. The Council agrees that objectives should be set for the Chief Executive. This is the practice of this Council. However, the annual setting of objectives and performance appraisal of the Chief Executive is conducted by a politically balanced panel of members and is not the preserve of the Leader. The Chief Executive is after all accountable to the whole Council not just the Leader.

There are employment law and data protection safeguards to be considered before deciding whether to make what is effectively a performance appraisal of a Chief Executive public.

Defining the Roles and Responsibilities of Cabinet Members

The Council agrees that the generic roles and responsibilities of Cabinet Members should be defined. Again the Council believes that these should not be too prescriptive and should allow for Local Authorities to retain sufficient flexibility to suit their local priorities and circumstances. This definition should perhaps reflect the role description currently set out in this Council's Constitution which is itself based upon a description provided by WLGA.

With regard to the number of Cabinet posts, the Council believes that this is a matter for local determination within an overall cap. The current limit is 10. This Council has a Cabinet of 8, including the Leader. Although there may be perceived to be some relationship between the size of an authority and the number of Cabinet posts required, all Local Authorities have the same range of Executive functions.

The role of a Cabinet Member is not just internal to the Council, but includes a representative role in regional and national bodies. Increasingly, streamlined decision making processes will be required, making further demands on Cabinet Members to make delegated decisions.

There is no suggestion in the Paper that the workload of a Cabinet Member will diminish. If Cabinet Members are to be able to properly hold officers to account, their portfolios should not be so broad and wide ranging that their capacity to focus on individual service improvement and delivery is diminished. Further, in the new larger Local Authorities, the Cabinet is already likely to be a relatively small

proportion of the total Council. A further reduction suggests a concentration of decision making via an ever decreasing number of members. Non-executive Members already feel removed from decision making. Further reducing the number of decision makers does not seem to be helpful in addressing this. Local Authorities that seek to reflect a political balance in their Cabinets will find it much harder to do so with a smaller Cabinet. In Local Authorities with no overall political control, the balance of the Cabinet helps achieve stability.

The Paper misrepresents the position regarding senior salaries for Cabinet Members. There is no entitlement to a senior salary under the current arrangements for anyone other than the Leader of the Largest Opposition Group. Cabinet Members are eligible to receive a senior salary if the Council decides to pay one to them. They are not entitled to it.

The concept of 'Deputy' or 'Junior' Cabinet Members needs to be clarified. The word 'Deputy' implies a person who stands in for the substantive Cabinet Member when they are unavailable; perhaps representing the Cabinet Member at meetings that he or she is unable to attend. This may provide opportunities for those who wish to become Cabinet Members in their own right. These 'Deputies' would, if they formed part of the Executive, not be able to take part in Scrutiny. The number of elected members on the Local Authority will determine whether this would hamper effective Scrutiny.

The word "Junior" implies a secondary or lesser Cabinet Member, deferring to the "Senior". This could have the effect of identifying certain functions of the Council as somehow less important or worthy of attention. The Leader of a Local Authority should be given the flexibility to assemble a Cabinet with portfolios made up of sufficient areas of responsibility that justify the role and are appropriate to the needs of that Local Authority at that time. Some services not identified in the Paper as deserving of a 'full time' Cabinet Member may in some authorities require full time attention due to the improvement required in their performance. It should be a matter for local determination.

It is agreed that a development programme should be provided to support both current and future political leaders. The Public Service Leadership Panel should define what excellent leadership looks like and a programme should be developed to support current and future leaders to achieve the necessary competencies.

Defining the Roles and Responsibilities of Elected Members

The roles and responsibilities of elected members and their additional roles and responsibilities as Scrutiny members, Chairs of Committees, Cabinet Members or as Group Leaders are all set out in the Council's Constitution. These are based upon role descriptions provided by WLGA. These could form the basis of a generic statutory definition.

Members of this Council have previously expressed surprise and frustration at the lack of a statutory requirement to attend committees more frequently than the current minimum threshold for disqualification contained within the Local Government Act 1972. Members of this Council have agreed a set of core mandatory training sessions.

Elected Members do not agree that the holding of surgeries should be mandatory, neither do they agree that Annual reports should be compulsory. Elected Members are of the view that it is up to them to communicate with their constituents in the manner that they and their constituents consider best, and not have any particular method dictated to them.

Standards Committees

The question of whether Standards Committees should consider cases of a Councillor's poor performance raises many questions.

What is the consistent threshold to be applied to Councillors?

Is the judgement qualitative or quantitative, e.g. the number of meetings attended or the effectiveness or lack of a contribution at the meeting?

Who may make a referral to the Standards Committee?

Will such referrals be used as political tools by political opponents or pressure groups?

Will there be a requirement for a minimum number of persons to request a referral?

Who conducts an independent investigation into the referral?

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This proposal is fraught with the potential for abuse. The Paper suggests a need for the separation of officers and members and a stop to the blurring of roles. The Paper wishes to see Local Authorities that are not officer led. Does it now suggest that officers 'manage' members? If not officers, are members to manage this process? Will political groups refer their own members? Will they be allowed to refer members of other groups?

Recall

There may be situations where an Elected Member has a period of suspension imposed on them by the Standards Committee or Adjudication Panel for Wales as a result of misconduct. In such circumstances the member's conduct will have caused their constituents to be unrepresented for a period of time. It may be appropriate to consider recall for these more serious cases of misconduct.

Equality and Diversity

The Council is committed to the principles of equality and diversity and is already subject to the public sector equality duty in the exercise of all of its functions. The co-option of non-elected, non-voting Cabinet Members is not something that the Council supports. Cabinet Members already have advisers, they are the professional officers employed to advise members on the exercise of their functions including their duties with regard to equality and diversity. All decisions taken by Cabinet and Council are informed by an Equalities Impact Assessment.

It would appear to the Council that Government's focus should be on encouraging an increase in the diversity of candidates for election to Local Authorities rather than seeking to impose constraints on the composition of Cabinets from those who have been elected. The political parties will have a role to play in the diversity of the candidates that they select.

The Council agrees with the suggestion that Local Authorities should be placed under a duty to promote democracy and to establish Youth Councils.

The Council agrees that all employers should be encouraged to release staff to undertake their duties as Elected Members. The suggestion of requiring public service bodies to release staff may have an unintended consequence of providing an advantage for such staff to stand for and hold public office to the detriment of those who work in different sectors of the economy. There may be a danger of stifling innovation and blurring the roles of officers and members if disproportionate numbers of those elected also work in the public service.

Remuneration of Elected Members

The remuneration of Elected Members is something that the Government has placed in the hands of the Independent Remuneration Panel for Wales. Local Authorities are required to implement their recommendations. This has led to consistency across Wales.

The Paper suggests that there should be an increased number of Elected Members of working age and from diverse backgrounds. The Paper correctly identifies that the current level of remuneration will have different consequences for different groups of people, suggesting that it is most beneficial to those who may have retired. It is difficult to see how a reduction in the level of remuneration is likely to encourage people of working age or those from less affluent circumstances to take on the challenge of standing for election.

The Paper suggests that it does not want to see a cadre of professional politicians, yet suggests measures intended to professionalise the role of Elected Members. The reduction in the number of Local Authorities will inevitably lead to a reduction in the number of Elected Members and a higher number of constituents for them to serve. In rural areas in particular, this will lead to larger geographical areas including populations scattered across a number of communities, each with their own community bodies with which to engage. This is likely to require a greater time commitment than currently and appears inconsistent with a reduction in remuneration.

Term Limits for Elected Members

The Council does not agree with any of the proposed term limits. It is for the electorate to decide who represent them.

In the case of Cabinet Members and Leaders, their term should be limited by their performance as judged by the Leader and Council respectively. It would appear counterproductive to set artificial limits preventing able Leaders or Cabinet Members from continuing to serve in these roles.

Electoral Qualifications

It would appear sensible that Members of Local Authorities should not be able to serve as Assembly Members and continue in their position in the Local Authority. It

is difficult to see how they would have sufficient time to perform both roles effectively. There would also be considerable potential conflicts of interest.

The Council has no strong opinion on allowing officers to stand for election without resigning unless elected. There are potential difficulties if officers are standing against incumbent Councillors and return to their posts following defeat. Officers are obliged to act with political neutrality. The above scenario could cause a perception that this is not the case.

Roles and Responsibilities of Chief Executive

The Council concurs that there should be generic duties for all Chief Executives to improve consistency across Wales and that this should include the role of Head of Paid Service and a responsibility for performance and improvement.

Electoral Registration is not a devolved matter, neither is the role of Returning Officer in elections other than to the Welsh Assembly or Local Government.

With regard to the proposed Chief Executive's Corporate Plan, the Council refers to the comments made earlier in this response.

The Council welcomes statutory recognition of the importance of self-assessment of both corporate and service performance. This Council operates a system of 'Service Challenges' whereby each service must prepare its own self-assessment and a performance report is prepared by the Council's Improvement Service. The Chief Executive, Corporate Director, Lead Members, Finance and Improvement Officers, Scrutiny Members and representatives of Welsh Audit Office, and where relevant, CSSIW and Estyn prepare lines of enquiry and pursue these with the relevant Head of Service at a Service Challenge Meeting which produces actions for the service to improve. This is regarded as an essential process for corporate understanding and oversight of performance and improvement.

The Council agrees with the principle of peer review as a constructive process for improvement and dissemination of good practice. The suggested frequency of these reviews may need to be reconsidered. The Paper proposes annual self-assessment together with, in each year, either a peer review or a corporate assessment by external inspectors and regulators. Consideration should be given to a system of annual self-assessment, a minimum of a peer review and corporate assessment in each Council term, with additional peer reviews and corporate assessments on a more frequent basis depending on the findings of the initial external reviews and assessments.

The Council agrees with the requirement for a performance management system for all employees. This Council operates such a system.

Term Limits of Chief Executive

The Council does not agree that artificial term limits should be imposed on the service of a Chief Executive whether with or without review. Term limits can result in short term approaches and, perversely, almost create a sense of entitlement, such that the term becomes a minimum. A Council may perceive that it is easier to wait

for a poorly performing Chief Executive to reach the end of his/her term than to take action to remedy the situation.

The Council believes that the focus should be on the quality of leadership not the amount of time that a leader remains in post.

The Chief Executive is an employee and should be able to lead and advise on the basis of the long term benefit of the Local Authority and not on the basis of seeking 're-election' at the end of a term.

The Council believes that there should be a consistent framework for the evaluation and grading of senior officer posts in the reformed Local Authorities. The Council considers that Local Authorities should retain discretion as to the number of senior officers that they employ and that they should determine the composition of these senior roles.

A consistent framework for the evaluation and grading of such roles would obviate the need for Local Authorities to consult any independent advisory body.

Senior Officer Appointments

The Council believes that Local Authorities should retain the responsibility for the appointment of senior staff but agrees that a common assessment framework of appropriate skills and competencies would assist in establishing a consistent approach.

Connecting with Communities

Member Led Community Governance

The Council agrees with the principle that local communities should have a voice in the identification of local issues and the proposed solutions to them. The Council also agrees with the principle of a partnership approach, led by Elected Members and including community bodies, the third sector and other public services. The Council also welcomes the proposal that any form of local community governance should be designed by Local Authorities. The Council agrees that the number of partnership arrangements should be rationalised although it is not entirely clear how this would work in practice.

The concept of Area Boards is interesting but a number of questions arise from the description set out in the Paper and comments made at a recent engagement event. There would need to be clarity as to the exact roles of Area Boards and how they fit with Public Service Boards and existing Local Authority structures. There should be a minimum of duplication of reporting to, and seeking of approval from these various bodies by officers and others.

The Paper suggests that there should be an equal playing field for community bodies, the third sector and other public services. Does this mean they are entitled to vote on issues relating to the exercise of Local Authority functions? If they are to be Member led, will there be an inbuilt majority of votes for Elected Members?

At a recent engagement event it was suggested by officials that such Boards would not use voting to make decisions, but rather, they would attempt to achieve consensus. If budgets and functions are delegated to such bodies then they will need to have some form of accountability for decision making. How will this be done if no voting is recorded? Who will scrutinise these Boards?

The Paper suggests that 'Communities' identified by Ministers under the Well-being of Future Generations (Wales) Bill should form the basis of Area Boards and Public Service Boards. Whilst it is sensible, that if Area Boards are to work together with Public Service Boards, they cover the same area, it suggests that Ministers and not Local Authorities will design the community governance referred to in the Paper.

There is no suggestion in the Paper as to the size of these Communities or their number, other than they will be larger than Community Councils which will themselves increase in size. Detail as to the size of these Communities will determine the extent to which they are effective in engaging local communities as we currently understand them and will surely influence any review of Community Councils.

Area Boards will only be truly effective if they are empowered to make decisions and hold budgets. Without such powers they may turn into discussion groups. It is suggested in the Paper that they are 'operational' whereas Public Service Boards are strategic. Will Area Boards have responsibility for delivering the Council's priorities as well as the well-being objectives of the Public Services Boards? Roles and responsibilities will need to be clear and unambiguous to prevent confusion arising between Boards, Local Authorities and the public as to the roles and responsibilities of each.

There is no suggestion in the Paper as to who will provide secretarial, administrative, legal or financial support and advice to these Boards. This has the potential to provide a significant extra resource burden on the provider.

Review of Community Councils

There is a case for smaller Community Councils to amalgamate and become more effective and proactive in order that they may be able to take on some functions that Local Authorities are no longer able to deliver.

If Local Authorities are to be responsible for this review, there need to be clear guidelines as to size etc. in order to achieve consistency across Wales. Will these new Community Councils be expected to form the Communities envisaged by the proposals regarding Area Boards, either as single bodies or as clusters?

It appears ambitious to complete a review of all Community Councils by 2022. Given that there are to be mergers of principal authorities, these newly merged authorities should, if Local Authorities are to conduct the review, consider the arrangements for Community Councils in their area and not the existing Local Authorities. These new Local Authorities do not take effect until 2020. It is difficult to see how the Community Councils can be reviewed properly in 2 years. There are many sensitive geographic, logistical, linguistic and political implications to consider. These new Local Authorities will also be in their infancy and, it is suggested that in their first

term, their energies and resources should be applied to ensuring that they are performing effectively themselves, before embarking on the reviews of other bodies. Another option would be for the Local Democracy and Boundary Commission to conduct such reviews since they will have completed the review of electoral arrangements for the new Local Authorities, and should have acquired knowledge of the communities contained within them as part of that process.

Competent Community Councils

The Council agrees that there should be greater consistency in the governance arrangements of Community Councils and greater capacity in order that they may participate more effectively in service delivery. The word 'competent' may be seen as patronising and, if such tests are to be introduced, then a 'Corporate Governance' test or threshold would be a more palatable expression.

It would seem a little illogical for Community Councils that were not deemed 'competent' to be granted a general power of competence. If a general power of competence is to be granted, there should be no further constraints other than those already provided by the law.

Some form of democracy test may be appropriate as there is a feeling in some communities that some Community Councils adopt a complacent and 'closed door' approach to vacancies by co-opting like-minded individuals rather than widely advertising vacancies.

Many Community Councils have experienced difficulty in filling council clerk vacancies. A 'capability' test requiring professional qualifications may exacerbate the situation and cost more. The ability to attract and retain such staff will undoubtedly depend on the size of the Council and the level of salary on offer.

Only 2 of the 37 City, Town and Community Councils in Denbighshire have a budget of £200k or more. Community Councils would need to be much larger than they currently are to reach such a budget level. There is a danger that new enlarged Community Councils are created just in order to achieve a larger budget rather than represent a cohesive community. The requirement to employ a professionally qualified clerk may impose a financial burden representing a significant proportion of a Council's budget if it is on or about £200k.

The Council would like to know how the £200k figure has been arrived at. The reference to the £200k threshold in respect of the Well-being of Future Generations (Wales) Bill in paragraph 4.8 of the Paper is to turnover and not to budget. It would appear logical that the threshold is the same for both purposes.

The Council agrees that there should be sound financial and internal control in line with statutory requirements. If these are statutorily required there seems little point in an extra test.

It would appear simpler to create bodies of an appropriate size, set statutory minimum governance requirements and grant the same rights and responsibilities to all of them.

Community Councils could be assessed against these requirements by inspection and sanctioned if they fail to comply. Allowing Community Councils to declare themselves to be competent, and requiring Local Authorities to continually assess their competence, appears to impose a significant additional burden on Local Authorities. If Local Authorities were to revoke a Council's status as "competent", what would be the appeal mechanism? What compensation would Community Councils be able to claim as a result of a wrongful revocation? What would be the impact on service delivery of functions delegated to a Community Council that ceased to be competent? If the Community Council ceased to be competent would it relinquish its place on an Area Board? There seems to be a level of complexity introduced by the test which will inevitably impose a significant resource burden on the Local Authority.

Community Councils should be subject to governance and transparency arrangements. The public already have a right to attend. Allowing the public the right to speak and record meetings may be problematic for some Community Councils who may not have sufficient staff resources to manage these. There are some Community Councils where individuals within the community would monopolise and cause difficulties at such meetings.

The Council agrees that the Chair of a Community Council should publish an annual report.

The setting of performance objectives for the Clerk should be a matter for the Community Council. The Chair changes every year and this could cause difficulties in maintaining a consistent approach to the setting of objectives and their appraisal.

The law relating to community polls is cumbersome and would benefit from a review.

Electoral Qualifications

There is a potential for a conflict of interest where a County Councillor is also a Community Councillor. This can place the individual in a difficult position. Twin hatted Councillors on Community Councils may be perceived as having an advantage over non County Councillors as they have access to information not otherwise in the public domain.

The new merged authorities with fewer Councillors and larger Community Councils may lead to the twin hatted role becoming even more difficult for one person to fulfil. An increase in the size of Community Councils may make it difficult for one Councillor to be a member of more than one Community Council.

Chapter 5 - Power to Local Communities

Community Bodies

It certainly seems sensible that if democratically elected bodies such as Community Councils are subject to competency tests, that unelected bodies should be required to demonstrate a level of competence before they are able to influence the spending of public money or the deployment or management of public resources and assets.

They should be obliged to demonstrate these matters set out in survey questions 5.2 to 5.5. It is not clear who would judge whether a body qualified as a community body. What rights of appeal would a body have against a judgement that it was not competent?

Community Participation

Local Authorities will increasingly be seeking the participation of community bodies as defined in the paper to assist in more innovative ways of delivering services. The Council would be pleased to receive serious requests from serious bodies in respect of the development and delivery of services. It is important that while Local Authorities should be required to respond there should be no presumption that Local Authorities are expected to agree to such requests. There will need to be a robust business case for any such request to be approved. Local Authorities may have equally or more valid proposals for delivering services without that particular community body. There should be safeguards against Local Authorities expending time and money in responding to frivolous or vexatious requests.

Asset Transfer

Many of the points made in respect of community participation are equally relevant to the proposals relating to Asset Transfer. This Council has transferred assets to other bodies. However, the Local Authority must be able to retain the right to make the final decision over whether or not to transfer an asset.

The right of first refusal is an interesting concept likely to be of greater concern to private property owners than Local Authorities. There would need to be careful consideration of the legal safeguards required, especially for the rights of natural persons who own property.

It is not clear why Local Authorities in Wales should be required to establish and maintain a Register of Community Interest, when, in Scotland, it is the Keeper of the Registers of Scotland, a non-ministerial government department that maintains the Register. Would it not be more appropriate to seek the assistance of the Land Registry, a central repository of information relating to interests in land, used by all prospective purchasers of land, rather than impose a further bureaucratic burden on Local Authorities?

Chapter 6 – Corporate Governance and Improvement

Corporate Governance

The Council notes that the options put forward in the consultation survey regarding the proportion of independent members on the Audit Committee do not suggest that independent members should form the majority of the Committee. The Council welcomes this. If Local Authorities are to take greater responsibility for their governance and improvement Elected Members should be in the majority on such a Committee. The Council agrees that independent members can bring a fresh perspective and challenge to the work of an Audit Committee and does not oppose an increase in their number provided they remain in the minority. There should perhaps be a minimum and maximum which an authority can appoint if there are

sufficient well suited candidates and should not just be required to fill seats on a committee for the sake of it.

The Council does not agree that the Chair must be an independent member, but does not either believe that an independent member should be precluded from chairing. The Chair should be selected on merit by the Committee.

Self-Assessment and Peer Review

The Council agrees that responsibility for effective performance and delivery rests with the Local Authority as do responsibility for service or corporate failure.

The Council welcomes the focus placed in the Paper on the importance of self-assessment. The Council agrees that this is an appropriate mechanism for organisations to consider their current capacity and capability.

The Council operates a form of self-assessment in that it combines the former improvement report with its annual governance statement which is considered by the Council's Corporate Governance Committee each year. In addition the Council operates a system of Service Challenges as described earlier.

Peer review would appear to be an appropriate mechanism to challenge the self-assessment.

The list of areas that are to be considered seems comprehensive. The detail of what should and should not be included could be worked on with local government to assemble a sufficiently comprehensive package without necessarily including all of them.

Self-assessment should be undertaken each year. The Council does this and finds it useful to understand the health of the organisation and the areas which require attention.

Peer review should be done perhaps as a minimum of once each term with a greater frequency determined by the results of the latest peer review and any issues raised in subsequent annual self-assessments or by external assessments.

The Chief Executive should be required to report annually on matters of concern to the Leader and Full Council. These reports should also be considered by the Corporate Governance and Audit Committee. These reports should be public subject to the existing legislative requirements regarding exempt information.

In order to ensure that self-assessment and peer assessment can be implemented most appropriately, it is suggested that Government seeks examples of good practice which exist in Wales and other parts of the UK and works with Local Authorities to find methods that are best suited to their circumstances.

Local Authorities should be supported in training and developing their members and officers to understand the benefits of these processes and the importance of robust but constructive challenge. There should be a recognition that the process will need

to develop and adapt over time as the organisation develops and members and officers have greater confidence in their ability to make the process work effectively.

Power to Intervene

There should be a reserve power for Ministers to intervene where a Local Authority is showing signs of failure.

It is important that this is very much a power of last resort.

Robust self-assessment, peer review and joint assessment by external regulators and inspectors should raise any concerns or issues to be addressed before the need for intervention arises.

The Council would suggest that a sustained lowering of performance in key areas may be an appropriate trigger. However, key areas should be defined. Performance may be lower in some areas by choice through the application of resources to other areas determined locally to be of higher priority.

The Council agrees that the Local Authority could self-refer the matter to Government. The Council agrees that external review bodies should be able to refer concerns where these have already been raised with the Local Authority and no satisfactory response has been received.

The Council accepts that concerns may be raised through Whistleblowing. Local Authorities have Whistleblowing procedures in place to enable concerns to be raised and investigated. It would seem sensible to use concerns that have been substantiated to be a trigger rather than just the raising of them.

The Council suggests that there be a better definition of “significant public concern” before this is used as a trigger.

The findings of an independent review should inform rather than prompt Ministerial support and intervention.

The Local Government Support and Intervention Protocol should be redrafted to reflect the legislative reality that exists after the legislation to enact the proposals in the Paper is introduced. The current protocol refers often to the 2009 Measure much of which is to be repealed.

Local Government (Wales) Measure 2009

The Measure contains a general duty to improve. This appears to be an important value to retain. This Council has embraced this duty through an outcome focused Corporate Plan that directs the Council’s efforts towards achieving priority objectives developed following extensive stakeholder engagement.

The repeal of Part 1 creates uncertainty over the future of National Strategic Indicators, Public Accountability Measure and Service Improvement Datasets. The Council agrees that there is a need for fewer, more meaningful measures but

suggests that Local Authorities are involved in their identification and the writing of the guidance to accompany them.

Chapter 7 – Performance in Local Government

Corporate Planning

The Council agrees that Local Authorities should be required to produce a Corporate Plan. The Council has commented earlier in this response about the concerns it has about the Leader's manifesto being regarded as a set of priorities for the Council. There is also concern that the Corporate Plan is not proposed to be approved by Council and would be a document of the Chief Executive.

There is also a concern about having a Corporate Plan that is too large and complex to understand and implement. The Council has worked to simplify the current Corporate Plan and engage with the public over its priorities. It is feared that over-complicating the Plan would disengage stakeholders.

The Paper proposes that, as well as including the Local Authority's priorities for action in response to the local well-being plan, and the Leader's priorities, it must also include priorities for service delivery and improvement (also risk based improvement), including Welsh language standards, financial management plans (medium term financial planning, corporate procurement strategies and asset management plans), workforce plans including the Strategic Equality Plan, the risk register, existing service performance benchmarking data and planned performance levels for the short, medium and long term, public engagement strategy (including in relation to the setting of annual budgets and council tax), and finally an annual report on performance. This suggests that the Corporate Plan would need to be managed on a more formal footing as a programme in its own right. There are, however, some elements that require further explanation:

It is unclear why an annual report on performance for the previous year would be included in a plan which sets priorities for the year ahead. The former is currently published in October, while the latter tends to be in May. Are there proposals to change reporting/publication deadlines? It is assumed that this was included on the list as part of the requirement for managing the Corporate Plan and not that it should be included in the Plan itself.

There is no mention of the need for annual delivery documents for the Corporate Plan. This is how Local Authorities currently meet their duty to secure continuous improvement. It is assumed that these are still a requirement in order to map supporting service activities from one year to the next and report on them annually. It is understood that the priorities themselves would remain for the duration of the Wellbeing Plan and the Leader's term of office.

It is unclear what is meant by "long term". This means different things to different people and would benefit from definition to put the proposals into context. Does long term mean five, ten or twenty years etc?

Is the risk register referred to, the Local Authority's own Corporate Risk Register (which does cover risks to priorities), the risk register for each service delivery area, or a specific Corporate Plan risk register which would complement running the Corporate Plan as its own programme?

Would a separate Strategic Equality Plan still be a requirement?

Single Information Portal

The Council agrees that the information produced by Local Authorities on performance levels should use the same data definitions, use a consistent format and be produced at the same time to allow for a comparison. It is unclear who would maintain this, how the information would be collected and how it would be funded. It is hoped that this will not be a duplication of our own internal performance systems. There is a concern regarding the practical implementation of the proposed portal given previous failure to bring a performance management solution for the whole of Wales into fruition.

Minimum Performance Outcomes

The setting of minimum standards for performance raises a number of questions. What is a valued standard in one authority may not be valued in another. As an example, SCA002a, the rate of older people (aged 65 or over) supported in the community per 1000 population aged 65 or over at 31 March. By Welsh Government's standards, Denbighshire is one of the worst performing authorities. The Council believes, however, that people should be re-enabled to live independently. Any minimum standards that are set should be agreed with the local authority, especially if financial penalties for non-compliance are to be introduced. On an authority by authority basis, and much akin to the current Outcome Agreements (which are not effective), this will be a hugely time consuming process that may ultimately deny funds where they may be most beneficial to improve performance

Digital Council

Local Authorities are increasingly making greater use of digital channels and social media, although the Council agrees that there is much more to do in this area.

The Council agrees that Local Authorities should decide whether members of the public can record Council meetings. The Council's view is that there is no need for such recordings to be made where meetings are webcast. It is also a matter of concern that a member of the public can edit their own recordings and post misleading and misrepresentative versions of meetings online.

The Council does not prevent members of the public or the media from using social/electronic media at Council meetings provided that they do not cause a nuisance or disturbance at the meeting.

The Council publishes the reports and agendas of all meetings in advance. Members of the public can lobby their Councillors and contact the Council direct by other means.

Complaints

The Council already has an online complaints as well as a paper based complaints system. The Council has no objection to reporting on all complaints. The Council already reports annually to the Council's Corporate Governance (Audit) Committee and more frequently to the Council's Performance Scrutiny Committee.

Chapter 8 – Strengthening the Role of Review

Democratic Services

The Council agrees that the Head of Democratic Services should be a Chief Officer and that the restriction regarding the Monitoring Officer undertaking the role be removed.

The Democratic Services functions as set out in the Local Government (Wales) Measure 2011 require support and advice to be given to all members of the Local Authority. The Democratic Services function of the Council is independent from the leadership of the Council in that there are clear structures and processes by which Elected Members and officers can refer matters to Scrutiny. A Chairs and Vice Chairs of Scrutiny Group (which includes the Chair and Vice Chair of the Corporate Governance (Audit) Committee and Chair of the Democratic Services Committee, as well as the Scrutiny Chairs) determines which of those referred matters should be placed on an Agenda, and which is the most appropriate Committee to consider the matter.

The Council believes that introducing what would effectively be separate bureaucracies for Scrutiny and the Executive with separate funding streams would lead to a much increased resource burden and could lead to duplication and divisiveness which would be counter-productive to effective pre-decision scrutiny..

The Council agrees that there is great value in pre-decision scrutiny and is concerned that an artificial separation of support could impair the effectiveness of that process.

Planning for Scrutiny

The Council does not object in principle to a system of “key decisions” in Wales. The Council is concerned that there should be a clear definition of a key decision and that the system should not be so prescriptive or unwieldy that a Cabinet would be prevented from being able to react swiftly to changing circumstances or to make an urgent decision promptly.

Regulations in England regarding key decisions require all reports and background papers to be available and published at least 28 days in advance of the decision. This will cause us to have to change the way we work as we would have to add translation time to this before publication.

In addition, the regulations in England require 28 days' notice of a meeting which will be held in private. We take this to mean that meetings where just one item would be

discussed in Part 2 would have to have the same period of notice. Would this notice requirement relate only to decision making meetings or would it relate to Scrutiny meetings which may have Part 2 items for consideration?

The Council believes that three months' notice of key decisions should be sufficient.

The Council does not object to the publication of Scrutiny plans as this will help to focus Scrutiny on key themes and priorities and discourage ad hoc referrals to Scrutiny. The Council would need more information as to the meaning of short, medium and long term in respect of scrutiny plans.

The Council agrees that Scrutiny plans should set out how they will engage with stakeholders.

The Council does not believe that co-opted members should be allowed to vote other than those who already have that right (e.g. Education).

The need for co-optees should be considered on an issue by issue basis. The Council operates a Scrutiny system which has themed committees. It may be difficult to identify appropriate co-optees to be attached permanently to these committees. The Council would prefer that Scrutiny be required to engage with appropriate stakeholders in order to receive their evidence and benefit from their expertise. This may include, but does not necessarily require, co-option or voting rights. It should be for local determination as to whether or not to co-opt in this way.

Local Public Account Committees

There is insufficient detail to enable the Council to properly consider this proposal. Whilst there may be a benefit to this type of overview there is a danger of duplication of public bodies' own audit and financial management processes.

The further detail required to properly consider the benefit of this proposal would include the following:

What powers would such committees have?

What would 'local' mean?

Who would support these committees?

Will they be organised by Welsh Government or will Local Authorities or other public sector bodies be expected to resource them?

Who will appoint the membership?

Giving Communities a Voice in Scrutiny

The Council already has in place processes for members of the public including representative bodies to refer matters to Scrutiny. This is not well used and more should be done to encourage the public to engage with Scrutiny. The Scrutiny Committee should be able to determine whether or not to take up the referral and should give reasons for any refusal to take it forward.

Regional Scrutiny Arrangements

The Council agrees that regional service delivery mechanisms should be scrutinised regionally to avoid duplication.

There must however be a mechanism whereby issues that Elected Members consider should be scrutinised are fed into the process to ensure that the regional Scrutiny vehicle does not miss issues of local importance. Local scrutiny should be able to require the regional scrutiny body to consider issues of concern identified locally.

Strengthening Links between External and Internal Review

The Council agrees that audit, inspection and regulation bodies should be required to share their reports with Audit or Scrutiny Committees. All external regulatory and audit reports are presented to the Council's Corporate Governance Committee. A representative of Welsh Audit Office attends every meeting of the Corporate Governance Committee. The Corporate Governance Committee will consider the findings of such reports, and if relevant, refer pertinent issues to Scrutiny.

Strengthening Links between External Review

The Council agrees with the statement at 8.24 of the consultation survey. A joint timetable may reduce duplication but also assist Local Authorities in planning the resource required to facilitate the work of these bodies in their organisation.

The Council agrees that a whole system assessment of each authority should be conducted jointly. No service of the Council exists in isolation and a whole service assessment in conjunction with self-assessment and peer review can help identify issues which may require corporate or systemic solutions.

The Council has no objection to the assessment of the health of Local Government in Wales, provided it results in meaningful outcomes and assists improvement locally.

The Council believes that the whole system assessment of a Local Authority should be conducted at least once per term, with the frequency of subsequent assessments determined on a risk based approach taking into account the results of the first assessment.

External Review Framework

The Council agrees with the statements set out in the consultation response as to the purpose, function and attributes of external review.

The Council welcomes a focus on outcomes rather than process and the recognition that the arrangements which each Local Authority puts in place to deliver services should be a matter for it to determine.

Chapter 9 – Finance

Our Vision

It would appear sensible that fundamental reforms to the funding system of Local Authorities are considered in the longer term in order that the newly merged Local Authorities may concentrate on establishing themselves and the delivery of services in the newly merged areas without the added distraction or complication of a new funding system being introduced at the same time.

The Paper states that the Welsh Government's role is to create a framework within which Local Government can operate to best effect. The Council is of the view that Local Authorities are best placed to determine how money should be spent in their areas and would like to see a reduction in the number of hypothecated grants. These grants are subject to detailed rules on how they may be spent and have their own audit and reporting requirements. These rules and requirements often result in money having to be spent in ways that a Local Authority would not prioritise as the best use of it to address needs identified in their area. There is also an additional financial administration and accounting burden placed upon Local Authorities, and the Welsh Government, in administering the rules and audit requirements attached to the individual grant. If Local Authorities are to be more responsible and accountable as suggested in the Paper, they should have greater freedom in how they allocate spending in their areas.

Financial Governance

The proposal in the Paper that a Leader's manifesto should set out the Council's priorities will not assist Local Authorities in engaging effectively before determining spending priorities. The Council's priorities inform decisions on spending. The Council currently consults and engages with the public on the formulation of these priorities before approving the Corporate Plan. This engagement does not feature in the Paper's proposals regarding the Leader's manifesto and the Chief Executive's Corporate Plan.

Local Authorities can engage more effectively by concentrating on understanding the impact of decisions regarding spending priorities and cuts. Given the reduction in funding and the raft of statutory duties and national policy requirements there is often little real choice for Local Authorities in determining budget decisions. It is important that they properly understand the potential impact of decisions in order to best mitigate adverse impacts. Online methods of engagement in addition to more traditional methods will ensure the widest coverage of any such exercise.

The results of engagement can be made available online on Council websites and by reports to public meetings of the Council and its committees which are published.

Financial plans are more likely to be robust and sustainable if they are based on timely and reliable information from Welsh Government. Local Authorities can find that financial plans are adversely affected by in year cuts and late revisions to financial forecasts from Welsh Government. In addition, grants which are offered late in the financial year, and are required to be spent in year, can lead to last

minute, short term decision making, whereas the release of such monies to Local Authorities as part of their general funding would enable them to use the money in a more planned and sustainable way.