

Report To: **Democratic Services Committee**

Date of Meeting: **22 January 2015**

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

Report Author: **Democratic Services Manager**

Title: **The Local Government (Wales) Bill**

1. What is the report about?

The Welsh Government has been reviewing how the Welsh local government should operate and making proposals and new legislation including the *Power to Local People* White Paper, the new Local Government (Wales) Act 2015 and the draft consultation Local Government (Wales) Bill. This report summarises some of the key issues from these reforms.

2. What is the reason for making this report?

To review and comment on the changes and proposals to reform Welsh local government's legislative framework.

3. What are the Recommendations?

That the Democratic Services Committee reviews and comments on the proposals for local government reform.

4. Report details

Local Government (Wales) Act 2015

The provisions of a new Local Government (Wales) Act 2015, which was passed on the 25 November 2015, allow for preparatory work to enable a programme of local government mergers and reform and include provisions for the voluntary early merger of two or more county or county borough councils by April 2018. The Act also amends the Local Government (Wales) Measure 2011 in relation to the Independent Remuneration Panel for Wales (which sets allowance payments for members) and the survey of councillors and unsuccessful candidates (these provisions are not yet in force), as well as the Local Government (Democracy) (Wales) Act 2013 in respect of electoral reviews.

The 2015 Act can be viewed here:

<http://www.legislation.gov.uk/anaw/2015/6/contents/enacted>

Local Government (Wales) Bill

The Welsh Government is currently consulting on a draft Local Government (Wales) Bill, with comments to be returned by the 15 February 2016. The objective of the draft Bill is to complete the programme of local authority mergers and set out a new and reformed legislative framework for local authority democracy, accountability, performance and elements of finance. It would also establish a statutory Public Services Staff Commission.

Naturally, there has been a great deal of interest in the proposed mergers of county and county borough councils and these are set out in Part 1 of the Bill. Even without those proposals, Parts 2 to 8 of the Bill alone would see the most significant reform of Welsh local government since the Local Government Act 2000 which introduced the executive/scrutiny model of governance. A summary of the some of the main points is included in Appendix 1 to this report.

The full consultation documents and instructions on how to respond to the Welsh Government's proposals can be found here:

[http://gov.wales/consultations/localgovernment/draft-local-government-\(wales\)-bill-consultation/?lang=en](http://gov.wales/consultations/localgovernment/draft-local-government-(wales)-bill-consultation/?lang=en)

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

No decision is required as this report is to communicate with members of the Committee on the draft Bill's proposals.

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

There are no costs associated with the communication of the issues raised in the report.

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

This report does not require an Equality Impact Assessment.

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

The issues being discussed here are part of a national consultation exercise being undertaken by the Welsh Government. The Democratic Services Committee is being consulted on these issues.

9. Chief Finance Officer Statement

Not required for this report.

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

The draft Bill and local government reform present very significant risks and challenges to local government in Wales. Understanding the proposals and communicating areas of concern will help contain areas of risks.

11. Power to make the Decision

No decision is required.

The following summary has been adapted from an original produced by the Welsh Local Government Association.

A Summary of the Draft Local Government (Wales) Bill

Part 1 – Local Government Areas and County Councils

Part 1 of, and Schedules 1 to 5 to, the Draft Bill contain provisions for the reorganisation of county and county borough councils in Wales into 8 or 9 authorities as per the Ministers' map and the establishment of new counties and councils from 1 April 2020.

The accompanying documents (in particular the 'Consultation Document' which includes proposals that are not included in the draft Bill) provides a rationale for the proposed merger options, including the options of having 2 or 3 councils in North Wales. It is proposed that the new councils' names will be determined by the Shadow Authorities.

The Regulatory Impact Assessment Part 1 and Appendix A outlines costs and benefits of the proposed options.

Part 2 – General Power of Competence

The Draft Bill introduces a general power of competence for county councils and 'community councils with competence', setting out the boundaries of the power and degree to which it may be used for commercial purposes. The general power of competence gives a council the same power to act that an individual generally has and would mean that an authority would not need to rely on specific powers in legislation to do something, so long as what they intend to do was not otherwise illegal.

Part 3 – Promoting Access to Local Government

Chapter 2 places a duty on councils to promote access to, and public participation in, local government. This duty also means that councils would have to promote access to and public participation in 'connected authorities' including community councils, fire and rescue authorities and national park authorities.

In exercising this duty councils would have to produce a statutory 'public participation strategy' (which also covers the connected authorities). Councils would also have to take 'reasonable steps' to consult the public over budget proposals.

Chapter 3 would require the establishment by county councils of community area committees (CACs) with the 'community area' being defined by the Public Service Board (the Boards are being established from April 2016 under the Wellbeing of Future Generations Act 2015). Membership of the CAC would include all ward members within the area; representatives of each community council in the area;

representatives from other bodies exercising functions of a public nature and representatives from third sector bodies.

CACs would have to prepare and consult on a statement of priorities and objectives annually. Councils could delegate functions to CACs and ministers could also direct or restrict the delegation of functions to CACs.

Chapter 4 would place county councils under duties in respect of 'improvement requests', which would require a county council to enter into discussions with certain community bodies for the purpose of improving local outcomes

- Any community group or community council could make written 'improvement requests' to the council over how it believes outcomes could be improved. This would appear to include proposals for services to be delegated and delivered by or with the community group or community council.
- Unless there were 'reasonable grounds to refuse' or a similar request has been previously considered, the council would have a duty to decide to agree to an improvement request, inform the interested body and report publically and produce an annual report of improvement requests.
- A complaints process relating to improvement requests must also be set-up.

Chapters 5 and 6 make provisions for improving public access to local authority meetings whereby councils would have to electronically broadcast all public council meetings. Currently Denbighshire CC webcasts full Council and Planning Committee meetings amounting to around 20 meetings per year. Including all the public committee meetings would take this to around 70 webcasts per year under the present committee structure.

Ministers might also allow the public filming of meetings and there would be a duty to produce a user friendly summary of the constitution.

Part 4 – Functions of County Councils and their Members

This part sets out the 'Performance Duties' for councillors, which include the requirement (unless there is 'a good reason') to:

- Attend at all committee/council meetings of which the councillor is a member
- Hold 4 surgeries each year
- Respond to correspondence within 14 days
- Undertake training deemed mandatory by the council
- Publish an annual report

Councillors could be reported for a breach of any of the above which would be deemed equivalent to a breach of the code of conduct and similar sanctions (including suspension) could be applied by the Standards Committee.

Chapter 4 would place duties on group leaders to take 'reasonable steps to promote and maintain high conduct of standards by members of the group'.

Chapter 5 would require the leader (or elected mayor) to set objectives for the executive (e.g. Cabinet), and require candidates who wished to stand for elected

mayor or executive leader to prepare a written manifesto. It would also enable the appointment of members as assistants to the executive.

Chapter 6 would require councils to replace the term and role of 'head of paid service' with that of 'chief executive'. Council leaders would be required to set and review objectives for the chief executive and then prepare and publish a report on those objectives and share it with all members.

Chapter 7 would allow voting rights for co-opted members of scrutiny committees, such rights would be determined by councils. It would also require the Standards Committee to prepare an annual report on the exercise of its functions and other matters.

Part 5 – County Councils: Improvement of Governance

Part 5 sets out arrangements for a new regime to improve the governance of county councils; it largely retracts much of the Local Government (Wales) Measure 2009 as it applies to councils. The new measures would include a general duty to ensure good governance arrangements were in place; publication of a corporate plan; the undertaking and publication of an annual self-assessment of good governance compliance; and the commissioning of a peer assessment once every term.

The WAO, Estyn and CSSIW 'at intervals as they see fit' would have to carry out a combined assessment of each council and coordinate their functions.

Audit Committees would be renamed 'Corporate Governance and Audit Committees' and a third of the membership would be lay members including the the chair of the committee. The Committee's role in considering regulatory and assessment reports would be strengthened.

Part 6 – Community Councils

Chapter 1 requires the Local Democracy and Boundary Commission for Wales to undertake a review of community council arrangements. That is, a review of the communities within the new counties to be established under the Draft Bill on 1 April 2020, for the purpose of recommending changes to the community councils and their electoral arrangements. The White Paper previously proposed that this review would be undertaken by the county council.

Chapter 2 would place a duty on county councils to consider the training needs of community councillors and to make arrangements to meet those needs.

Part 7 – Workforce Matters

This section relates to issues such as the establishment of a statutory Public Services Staff Commission, workforce planning, training, development, retention and recruitment of staff etc.

Part 8 – General

This section contains general provisions regarding the interpretation and commencement times of the provisions following Royal Assent of the new Act in 2017.

Other proposals included in the Consultation Document

The Welsh Government is further seeking views on a number of other proposals that are not included in the draft Bill, building on the White Paper consultation. Proposals include:

- Right of Recall of councillors: Provisions for where a councillor is suspended from office following a breach of the code of conduct; local people could raise a petition calling for a by-election. If a petition was signed by at least twenty percent of the electorate in that ward, a by-election would have to be called.
- Simplification of remote attendance provisions
- Roles and responsibilities of Chief Executives - WG ‘...will seek a further appropriate legislative opportunity to provide that the Returning Officer role in each Principal Authority should form an intrinsic duty of the Chief Executive, for which no additional personal fee would be payable’.
- Power to dismiss statutory officers on the vote of the council (rather than following the Designated Independent Person process).

Clarification of council functions and responsibilities:

- quasi-judicial functions would not be for the Executive. This would include decisions in relation to planning and licensing;
- approval of the Council’s budget and financial planning, including the amount of Council Tax required, should fall to full Council;
- appointments of senior staff should be reserved to full Council;
- appointment of the Electoral Registration Officer and electoral matters more generally should fall to full Council;
- remuneration of Members of the Authority should be reserved for full Council;
- functions related to the provision of services by the Council should be the responsibility of the Executive;
- allocation of functions would require the agreement of both full Council and the Executive; and
- Council’s scheme of delegation should be published and be accessible through the Council’s website.
- Repeal of community polls duties, replaced by duties to set up petitions and an e-petitions process. This would enable communities to express their views on matters of concern, without the restrictions and costs which currently apply to community polls as well as the incorrect expectations that community polls are, in effect, binding referendums.