Agenda – Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

Lleoliad:
Ystafell Bwyllgora 3 – Y Senedd
Dyddiad: Dydd Iau, 23 Ionawr 2020
Amser: 09.00

I gael rhagor o wybodaeth cysylltwch a:
Naomi Stocks
Clerc y Pwyllgor
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Yn ei gyfarfod ar 15 Ionawr, penderfynodd y Pwyllgor wahardd y cyhoedd ar gyfer eitem 1 o gyfarfod heddiw.

1 **Cyllideb Ddrafft Llywodraeth Cymru ar gyfer 2020-21: trafod yr adroddiad drafft**
(09.00-09.30) (Tudalennau 1 – 19)

2 **Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau**
(09.30)

3 **Bil Llywodraeth Leol ac Etholiadau (Cymru): sesiwn dystiolaeth 12**
09.30-12.00) (Tudalennau 20 – 61)
Cyng Huw Thomas, Arweinydd Cyngor Caerdydd, Grŵp Llafur CLlLC a Llefarydd CLlLC ar gyfer Diwylliant, Twristiaeth a Digwyddiadau Mawr
Cyng Emlyn Dole, Arweinydd Cyngor Sir Caerfyrddin, Arweinydd Grŵp Plaid Cymru CLlLC
Cyng Peter Fox, Arweinydd Cyngor Sir Fynwy, Arweinydd Grŵp Ceidwadwyr CLlLC
Cyng Ray Quant, Dirprwy Arweinydd Cyngor Sir Ceredigion, Dirprwy Lywydd CLlLC
Chris Llewelyn, Prif Weithredwr, Cymdeithas Llywodraeth Leol Cymru
Daniel Hurford, Pennaeth Polisi, Cymdeithas Llywodraeth Leol Cymru

Egwyl

(12.00-12.45)

4 Bil Llywodraeth Leol ac Etholiadau (Cymru): sesiwn dystiolaeth 13

(12.45-13.45) (Tudalennau 62 - 76)

Rob Thomas, Cadeirydd, SOLACE Cymru

Michelle Morris, Is-gadeirydd ac Arweinydd Portffolio'r Gweithlu, SOLACE Cymru

5 Bil Llywodraeth Leol ac Etholiadau (Cymru): sesiwn dystiolaeth 14

(13.45-14.45) (Tudalennau 77 - 90)

Davina Fiore, Cyfreithwyr mewn Llywodraeth Leol

Cynrychiolydd i'w gadarnhau

6 Papurau i'w nodi

(14.45-14.50) (Tudalen 91)

6.1 Gohebiaeth gan y Cymdeithas Llywodraeth Leol ynghylch y Bil Llywodraeth Leol ac Etholiadau (Cymru) - 6 Ionawr 2020

(Tudalennau 92 - 96)

6.2 Gohebiaeth gan Chris Highcock ynghylch y Bil Llywodraeth Leol ac Etholiadau (Cymru) - 14 Ionawr 2020

(Tudalennau 97 - 101)

6.3 Gohebiaeth gan Arfon Jones, Comisiynydd Heddlu a Throsedd Gogledd Cymru ynghylch adroddiad y Pwyllgor ar wasanaethau iechyd meddwl a chamddefnyddio sylweddau ar gyfer pobl sy'n cysgu ar y stryd - 13 Ionawr 2020

(Tudalennau 102 - 103)

6.4 Gohebiaeth gan y Dirprwy Weinidog Tai a Llywodraeth Leol ynghylch ymateb i'r adroddiad ar fudd-daliadau yng Nghymru - 13 Ionawr 2020

(Tudalennau 104 - 106)

6.5 Adroddiad Canolfan Polisi Cyhoeddus Cymru - Gweinyddu nawdd cymdeithasol yng Nghymru: Tystiolaeth o ddiwygiadau posib - 14 Ionawr 2020

(Tudalennau 107 - 134)

6.6 Gohebiaeth gan y Gweinidog Tai a Llywodraeth Leol ynghylch diogelwch tân mewn tyrau o fflatiau - 13 Ionawr 2020

(Tudalennau 135 - 150)

7 Cynnig o dan Reol Sefydlog 17.42(vi) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

(14.50)

8 Bil Llywodraeth Leol ac Etholiadau (Cymru): trafod y dystiolaeth

(14.50-15.00)

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Cynulliad Cenedlaethol Cymru
Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

Bil Llywodraeth Leol ac Etholiadau (Cymru): crynodeb o'r arolwg

Ionawr 2019

Papur 1 Dadansoddiad o'r arolwg
Paper 1 Survey analysis

Mae'r Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau wrthi'n craffu ar y Bil Llywodraeth Leol (Cymru) cyntaf. Fel rhan o'i waith craffu yng Nghyfnod 1, cynhaliodd y Pwyllgor arolwg a oedd yn canolbwyntio ar Ran 3 o'r Bil - Hybu mynediad at Lywodraeth Leol.

Hyrwyddo'r arolwg a'i ddadansoddi

Nod yr arolwg oedd clywed gan ystod mor amrywiol o ddinasyddion Cymru â phosibl. Hyrwyddwyd yr arolwg yn helaeth drwy amrywiaeth o gyfryngau: -

- Drwy rwydweithiau rhanddeiliaid allweddol;
- Ar wefan Cynulliad Cenedlaethol Cymru a llwyfannau cyfryngau cymdeithasol; Roedd hyn yn cynnwys hysbysebion â ffocws a oedd yn ein galluogi ni i dargedu cynulleidfaoedd mewn ardaloedd lle mae'r gyfradd ymateb yn dueddol o fod yn llai.
- Anogwyd ymwelwyr â'r Senedd a'r Pierhead i lenwi'r arolwg;
- Pobl a oedd yn cymryd rhan yn ymweliadau Addysg ac Ymgysylltu â Phobl Ifanc y Cynulliad a sesiynau allgymorth. Drwy wneud hyn, sicrhawyd nad sampl hunan-ddewisol pur oedd yr ymatebion a gafwyd.

Er mwyn llunio'r crynodeb hwn, cynhaliwyd dadansoddiad o'r gyfres ddata gyflawn; gellir priodoli'r holl ddata i ymatebion unigol, a gellir dadansoddi ymhellach ar gais. Ymdrinnir â phob cwestiwn yn yr arolwg yn ei dro.

Caiff y canlyniadau eu cyfrifo yn ôl nifer y bobl a ymatebodd i'r cwestiwn penodol, nid nifer y bobl a ymatebodd i'r arolwg yn gyffredinol. Cafwyd cyfanswm o **511 o ymatebion**.

1. A wnaethoch bleidleisio yn yr etholiadau llywodraeth leol diwethaf yng Nghymru ym mis Mai 2017?

O'r rhai a atebodd y cwestiwn hwn, pleidleisiodd **82.5 y cant** ohonynt yn yr etholiadau llywodraeth leol diwethaf, atebodd **16.3 y cant** 'naddo', a dywedodd **1.2 y cant** nad oeddent yn gwybod.

2. Wrth feddwl am sut mae llywodraeth leol yn gweithredu, i ba raddau ydych chi'n cytuno neu'n anghytuno â'r datganiad canlynol:

> *"Rwy'n deall sut mae fy nghyngor yn gwneud penderfyniadau ac yn craffu arnynt."*

Atebodd **42.7 y cant** eu bod yn cytuno neu'n cytuno'n gryf â'r datganiad hwn; roedd **34.8 y cant** yn anghytuno neu'n anghytuno'n gryf, a dywedodd **22.6 y cant** nad oeddent yn cytuno nac yn anghytuno â'r datganiad hwn.

3. Wrth feddwl am eich gallu i ddylanwadu ar y penderfyniadau a wneir gan eich cyngor, i ba raddau ydych chi'n cytuno neu'n anghytuno â'r datganiad canlynol:

> *"Rwy'n teimlo fy mod yn gallu dylanwadu ar benderfyniadau a wneir gan fy nghyngor"*

Atebodd **70.1 y cant** eu bod yn cytuno neu'n cytuno'n gryf â'r datganiad hwn; roedd **14.2 y cant** yn anghytuno neu'n anghytuno'n gryf, a dywedodd **15.8 y cant** nad oeddent yn cytuno nac yn anghytuno â'r datganiad hwn.

4. A ydych erioed wedi rhoi eich barn i'r cyngor/wedi cyfrannu at ymgynghoriad cyngor?

Atebodd **60.4 y cant** eu bod wedi rhannu eu barn â'r cyngor a/neu wedi cyfrannu at ymgynghoriad cyngor, a nododd **36.8 y cant** nad oeddent erioed wedi gwneud hynny; gyda **2.8 y cant** yn nodi nad oeddent yn gwybod a oeddent wedi gwneud hynny.

5. Beth oedd y maes y gwnaethoch roi eich barn arno gyda'r cyngor/pwnc ymgynghoriad(au) y cyngor y gwnaethoch chi gyfrannu ato? (Cafodd ymatebwyr ddewis mwy nag un opsiwn)

Rheoli gwastraff (**43.5 y cant**) a phriffyrdd a thrafnidiaeth (**42.8 y cant**) yw'r pynciau a gafodd y nifer fwyaf o ymatebion i'r cwestiwn hwn. Yn dilyn y rhain y daeth addysg (**33.6 y cant**), gwasanaethau hamdden a diwylliannol (**31.9 y cant**), tai (**23.3 y cant**) ac yna gwasanaethau cymdeithasol (**23 y cant**). O ran y **28.1 y cant** a ddewisodd '*Arall (rhowch fanylion)*', dyma isod rai o'r atebion mwyaf cyffredin (noder bod y rhain yn sampl o'r holl ymatebion a gafwyd. Mae'r holl ymatebion ar gael ar gais.):-

- *Cynllunio.*
- *Cyllideb.*
- *Yr amgylchedd a newid hinsawdd.*

6. Sut gwnaethoch chi roi eich barn i'ch cyngor/cyfrannu at ymgynghoriad(au) y cyngor? (Cafodd ymatebwyr ddewis mwy nag un opsiwn)

Yr opsiynau mwyaf poblogaidd o'r rhai a ddewiswyd oedd *'Ar-lein - er enghraifft, drwy e-bost neu fwrdd trafod ar-lein'* (**47.6 y cant**), *'Arolwg neu holiadur'* (**41.4 y cant**) a *'Cyfarfod - er enghraifft, cyfarfod cyhoeddus neu gyfarfod â chynghorydd'*(**40.4 y cant**).

Dewisodd **30.8 y cant** o'r ymatebwyr *'Yn ysgrifenedig - er enghraifft, llythyr'*, gydag **16.1 y cant** yn dewis *'Deiseb'*, a **15.8 y cant** yn dewis *'Ar y ffôn'* a **9.9 y cant** yn dewis *'Grŵp ffocws neu drafodaeth bord gron'*.

Dewisodd **0.3 y cant** '*Wn i ddim*' a nododd **6.5 y cant** '*Arall (rhowch fanylion)*'. O'r rhai a ddewisodd *'Arall'*, cafwyd yr ymatebion a ganlyn: -

- *Apiau (ap Fixmystreet, ap yr awdurdod lleol).*
- *Drwy'r wasg leol.*
- *Drwy broses ymgynghori cyhoeddus y Cyngor.*

7. Beth fyddai'n eich annog i roi eich barn i'ch cyngor/cyfrannu at ymgynghoriad y cyngor? (Cafodd ymatebwyr ddewis mwy nag un opsiwn)

'Canllawiau ar sut y gallaf roi fy marn' (**60.9 y cant**) a *'Rhagor o wybodaeth am sut mae fy nghyngor yn gwneud penderfyniadau'* (**57.7 y cant**) oedd yr atebion mwyaf cyffredin i'r cwestiwn hwn.

Dewisodd **52.4 y cant** o'r ymatebwyr *'Sicrwydd/tystiolaeth y bydd fy marn yn cael ei hystyried'*, gyda **45.5 y cant** yn dewis *'Y gallu i ddewis sut rydw i'n rhoi fy marn (er enghraifft, yn ysgrifenedig, grŵp ffocws, deiseb, ac ati),* a **43.9 y cant** yn dewis *'Pe bawn i'n teimlo'n arbennig o gryf am y pwnc'*. Dewisodd **39.7 y cant** yr ymateb *'Rhagor o fynediad i gyfarfodydd y cyngor i ddeall sut mae penderfyniadau'n cael eu gwneud.'*

Dewisodd **3.2 y cant** yr ymateb *'Dim byd - does gen i ddim diddordeb mewn rhoi fy marn'* a nododd **2.7 y cant** *'Wn i ddim'*. O ran y **2.7 y cant** a ddewisodd *'Arall (rhowch fanylion)'*:

"More marketing when it's possible to contribute to decision-making. Better explanation on how to contact my local member."

"Your Wales is a great way to give feedback."

8. Yn eich barn chi, beth yw'r rhwystrau i chi ymgysylltu â'ch cyngor? (Cafodd ymatebwyr ddewis mwy nag un opsiwn)

'Nid wyf yn credu y bydd fy marn yn gwneud unrhyw wahaniaeth' (**56.6 y cant**) a *'Diffyg gwybodaeth am sut mae'r cyngor yn gweithredu ac yn gwneud penderfyniadau'* (**53.1 y cant**) oedd yr atebion mwyaf cyffredin i'r cwestiwn hwn.

Dewisodd **31 y cant** yr ymateb '*Rwy'n ansicr sut y gallaf roi fy marn i'r cyngor* ', a dewisodd **15.9 y cant** *'Nid wyf yn gallu gweld cyfarfodydd y cyngor'*.

Atebodd **2.6 y cant** *'Wn i ddim', gydag* **8.4 y cant** yn nodi nad oeddent yn credu bod rhwystrau iddynt ymgysylltu â'u cyngor. I'r rhai a ddewisodd '*Arall (rhowch fanylion)*', (**13.8 y cant**), dyma isod rhai o'r atebion mwyaf cyffredin a roddwyd. Mae pob ymateb ar gael ar gais: -

Cyfathrebu

"The council will listen carefully then do whatever it likes."

"Council members don't listen"

"Just feel they don't listen, they ignore emails or reply about something completely different."

Llythrennedd digidol

"As a former Council employee I have knowledge of how the local authority functions and the technology to be able to go looking for consultations/surveys. Others may not be part of the same networks. While everything is advertised online, if not digitally literate or proactive then you wouldn't see these opportunities to get involved."

Ymgysylltu

"Lack of evening and weekend engagement – so constantly not geared to those who are working, or only one event is held on one evening – very limiting, to reflect the number of people who are working – more events/engagement/consultation needs to be held out of the working week"

"I don't think they make it easy to engage – technical documents, vague proposals, lack of action from councillors to really engage etc."

9. Beth fyddai'ch hoff ddull o roi eich barn i'r cyngor?

'Ar-lein - er enghraifft, trwy e-bost neu fwrdd trafod ar-lein' (**43.3 y cant**) oedd yr ateb mwyaf cyffredin i'r cwestiwn hwn.

Dewisodd **20.8 y cant** yr ymateb *'Arolwg neu holiadur '*, gyda *'Cyfarfod - er enghraifft, cyfarfod cyhoeddus neu gyfarfod â chynghorydd '* (**10.7 y cant**) a *'Grŵp ffocws neu drafodaeth bord gron'* (**10.5 y cant**) fel yr atebion mwyaf cyffredin nesaf.

Yr atebion a ddewiswyd leiaf aml oedd *'Yn ysgrifenedig - er enghraifft, drwy lythyr'* (**5.1 y cant**), *'Deiseb'* (**2.1 y cant)** a *'Ar y ffôn '* (**1.9 y cant**). Dewisodd **1.3 y cant** yr ymateb *'Wn i ddim'*.

O'r **4.3 y cant** o bobl a ddewisodd *'Arall (rhowch fanylion)'*, dyma isod gipolwg ar yr atebion a roddwyd.

"Submission of views at Hwbs, community centres, churches, mosques, youth clubs, schools. This would need a good communication system regularly updated with feedback."

"Facebook page so it's open for all to see and comment on or add to"

"There needs to be a complete review of planning regulations and procedures. Presently they seem designed to actively prevent any normal citizen and even councillors from having any influence over far reaching local decisions."

Demograffeg ymatebwyr yr arolwg

Lleoliad

Nododd **49.1 y cant** o ymatebwyr yr arolwg eu bod o Dde Cymru, nododd **19.6 y cant** eu bod o Ganolbarth a Gorllewin Cymru a nododd **31.1 y cant** eu bod o Ogledd Cymru.

Oedran

Roedd **12.2 y cant** o'r ymatebwyr yn 25 oed neu'n iau, roedd **59.3 y cant** rhwng 26 a 64 oed, ac roedd **27.7 y cant yn** 65 oed neu'n hŷn. Dewisodd **0.9 y cant** yr ymateb *'Mae'n well gen i beidio â dweud'.*

Rhyw

Dewisodd **53.4 y cant** o'r ymatebwyr yr opsiwn 'Benyw', a dewisodd **42.7 y cant** yr opsiwn 'Gwryw'. Nododd **3.5 y cant** ei bod yn well ganddynt beidio â dweud, a nododd **0.4 y cant** eu term eu hunain.

Pobl drawsryweddol

Nododd **0.9 y cant** o'r ymatebwyr eu bod yn ystyried eu hunain yn drawsryweddol, a nododd **4 y cant** ei bod yn well ganddynt beidio â dweud. Nid oedd y **95.1 y cant** sy'n weddill yn ystyried eu hunain yn bobl drawsryweddol.

Rhywioldeb

Nododd **74.2 y cant** o'r ymatebwyr eu bod yn heterorywiol.

Dewisodd **4.4 y cant** yr opsiwn '*Deurywiol*' a dewisodd **3 y cant** yr opsiwn '*Hoyw/lesbiaidd (neu "Cyfunrywiol").*

Roedd yn well gan **14.8 y cant** beidio â dweud, a dewisodd **3.7 y cant** o'r ymatebwyr eu term eu hunain.

Ethnigrwydd

Dewisodd **90.8 y cant** o'r ymatebwyr y categori *'Gwyn' i ddisgrifio eu hunain.*

Nododd **1.3 y cant** o'r ymatebwyr *'Grwpiau ethnig cymysg/aml-ethnigrwydd'*, gyda **0.4 y cant** yn disgrifio'u hunain yn *'Asiaidd'* a **0.2 y cant** yn dewis *'Du/Affricanaidd/Caribïaidd'.* Dewisodd **0.9 y cant** yr opsiwn *'Grŵp ethnig arall'*, gyda **6.4 y cant** yn dewis peidio â dweud.

Anabledd

O'r rhai a atebodd y cwestiwn hwn, nododd **66.4 y cant** nad oedd ganddynt gyflwr neu anabledd iechyd corfforol neu feddyliol hirsefydlog. Dewisodd **8.1 y cant** beidio ag ateb y cwestiwn hwn.

O'r **25.6 y cant** o ymatebwyr ag anableddau, dewisodd **50.4 y cant** *'Corfforol '* a dewisodd **44.4 y cant** *'Iechyd meddwl'*. Nododd **35.9 y cant** fod ganddynt gyflwr meddygol (e.e. canser, MS). Dewisodd **9.4 y cant** o'r ymatebwyr *'Nam ar y synhwyrau'*, gyda **0.9 y cant** yn nodi *'Anabledd dysgu'*. Roedd yn well gan **2.6 y cant** beidio â dweud.

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three national park authorities and the three fire and rescue authorities are associate members.

2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

3. It seeks to provide representation to local authorities within an emerging policy framework that satisfies priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

4. The Local Government and Elections (Wales) Bill [the Bill] is a significant and substantial piece of legislation covering a broad range of democratic, governance, organisational and structural reforms and is the culmination of several years of policy consultation, including a Draft Bill and successive Green and White Papers.

5. The WLGA welcomes the opportunity to provide evidence to the Equality, Local Government and Communities Committee National Assembly for Wales's Stage 1 consideration of the Bill.

6. The WLGA has particularly welcomed the constructive dialogue and engagement with the Minister for Housing and Local Government. Local government reform has been discussed with leaders during the past 18 months initially through the Local Government Working Group chaired by Derek Vaughan and subsequently via the Local Government Sub-Group of Partnership Council.

7. Under the auspices of these groups, there has also been constructive engagement between officials from Welsh Government and local government to consider the implications of some of the anticipated reforms and what future statutory guidance or regulations might need to include.

8. The Regulatory Impact Assessment [RIA] estimates that the total cost of the Bill to local government over 10 years would be £16.3m (including transitional costs of £2.95m and recurrent costs of £13.35m). The WLGA considers some of the estimated costs in more detail in the response below. The WLGA's core stance is that the Welsh Government should fully fund any new national initiatives or the implications of any legislation on local authorities.

Part 1: Elections

9. The proposals for electoral reform include several that were included in the Welsh Government's Consultation on Electoral Reform in 2017 and align with many of the wider electoral reforms to be introduced through the Senedd and Elections (Wales) Bill.

10. These are some of the most fundamental reforms included in the Bill, and will have a significant impact on local democracy, local authorities and, in particular, electoral services administration.

Extending the franchise to 16-17 year olds (Section 2)

11. The WLGA supports this proposal as a key part of widening democratic engagement and participation.

Extending the local government franchise to citizens from any country (Section 2)

12. The WLGA agrees that citizens from any country citizens who have moved and settled in Wales should have the right to vote in local elections.

13. The Welsh Government recognises that the extension of the franchise to 16-17 year olds and foreign citizens will have an impact on local electoral administration. The WLGA welcomes the Minister for Housing and Local Government's commitment (in her letter to the Committee on 19th December) to provide an £1m additional funding for 2020-21 and will 'consider the need for financial support'.

14. The Regulatory Impact Assessment (RIA) however estimates an additional cost of extending/promoting the franchise of £912,000 in both 2020-21 and 2021-22, as well as an extra £267,000 in any election year. The RIA also notes that the Welsh Government had estimated that the Senedd and Elections (Wales) Bill would incur £636,000 cost to local government for the changes to the EMS software.

Two voting systems (Section 5)

15. The WLGA does not support the proposal to allow authorities to choose their own voting system as it believes there should be a clear and consistent voting system across all local authorities to avoid complexity and risk of voter confusion.

16. When this was previously considered as part of the Consultation on Electoral Reform, the WLGA was supportive of the Electoral Commission's response in 2017 stated:

> "…we would note that allowing councils to decide which electoral system to use in their own area could create significant risks and challenges, particularly in relation to voter understanding of how to cast their vote…The question of public awareness around two different electoral systems for one set of elections is likely to be a major challenge and one where there is a very real risk of confusion to electors if this type of change is implemented."

17. Furthermore, it would be administratively complex and confusing if an STV election was held on the same day as 'first past the post' community and town council elections and

that larger electoral wards would need to be created which may undermine the local links between a councillor and his/her community.

Change of electoral cycle for principal councils from four years to five years (Section 14)

18. The WLGA supports the proposed extension from 4 year terms to 5 years.

Qualification and Disqualification for election and being a member of a local authority (Sections 24-26)

19. The WLGA supports approaches to make it easier for people to stand for election and encourage a broader cross-section of the community to consider standing.

20. The WLGA therefore supports proposed changes to the eligibility criteria allow a citizen of any country to stand for election.

21. The WLGA however does not support the proposal to allow council staff to stand for election in their own authority. Lifting such a restriction is unlikely to have a significant impact in encouraging more candidates to stand but would disproportionately impact on good governance and employment relations. There would be a risk of increased employer-employee tensions, potential conflicts of interest and team and managerial relationships being undermined. Staff at all levels have to demonstrate impartiality and a responsibility to serve the council as a whole; this risks being compromised should an employee stand or serve as a councillor. There is a risk that where an individual is unsuccessful, he or she may have implicitly or explicitly publicly criticised colleagues, councillors or council policies during campaigning, which may affect their ability to continue in their employed role following the elections.

22. The WLGA supports proposed amendments to disqualify individuals, from standing for election, or holding office as a member of a principal council or community council in Wales, if they are subject to a the notification requirements of, or an order under, the Sexual Offences Act 2003.

Meeting expenditure of returning officers (Section 28)

23. The Bill clarifies that Returning Officers can only claim expenses properly incurred in the running of a local government elections. Personal fees in respect of services rendered during the conduct of a local government elections could not in future be claimed as they would not be deemed as “expenses”.

24. The Welsh Government has opted not to proceed with the previously consulted upon proposal to incorporate the Returning Officer role within that of the Chief Executive. The WLGA did not support this proposal on grounds of local discretion, as not all Chief Executives acted as Returning Officers; the Welsh Government’s position is therefore welcome.

25. When the Welsh Government previously consulted on the removal of Returning Officer fees, the WLGA’s view was that an option would be for any remuneration for the

oversight of local elections to be included within a single consolidated salary for the position (of whichever senior officer fulfilled the Returning Officer role).

26. Such an approach, and the removal of a specific Returning Officer fee, would require a proper re-evaluation of the post which had incorporated the substantial Returning Officer role, as noted in ALACE's submission to the Committee. The additional demands, responsibilities and personal risks of being a Returning Officer are significant and should not be dismissed. A form of this arrangement is already operated by several employing councils in Wales, where the Chief Executive is also contracted to be the Returning Officer but for no additional fee beyond their evaluated salary.

Part 2: General Power of Competence

27. The WLGA welcomes the proposed introduction of the power of general competence in Wales and has long called for the introduction of the power.

28. Whilst this new power is welcomed as it provides confidence and reinforces local government's core community leadership role. The LGA's submission notes that the power's introduction in England

    '…has assisted in providing councils greater confidence in some areas of activity and led to less legal resource being spent on considering whether an action is vires (within their authority), it has not made a radical change for councils to date.

29. The power, as drafted, is however constrained by pre-commencement limitations. As noted in the Lawyers in Local Government Wales (LLG) submission to the Committee, there are 42 UK wide and 3 Wales-only Measures/Acts with 'Local Government' in the title and wider local government-related legislation may have pre-commencement limitations on Welsh authorities. The interplay between the power and a range of other legislation creates complexity and multiple possible risks. These limitations are likely to constrain creative use of the power, which may instead be used as a power of last rather than first resort.

30. This is further expanded in the LGA and LLG submissions to the Committee and the LLG Wales submission outlines some potential improvements to the proposed power.

Part 3: Promoting Access to Local Government

Duty to encourage local people to participate in local government (Section 46)
Strategy on encouraging participation (Section 47)

31. The WLGA is supportive of the spirit of the Welsh Government's ambitions as councils are committed to promoting democratic engagement, public participation and openness and transparency.

32. There is already a requirement on local authorities to 'involve' the public through the Wellbeing of Future Generations (Wales) Act 2015 and it is therefore not clear what additional value a new 'public participation duty' on local authorities would achieve.

33. The Bill proposes a duty on local authorities to encourage 'local people to participate in the making of decisions by the council' and lists several areas to be covered in a participation strategy (S47 (2) a-f). Authorities promote and publish much of this information currently, have engagement strategies and involve the public, through various consultation and engagement processes around budget-setting, service design and development of strategies.

34. Councils are also increasingly involving the public in service delivery through through alternative delivery models or asset transfers to community and town councils and community groups. Many councils already provide for public involvement in formal council decision-making processes, for example, through questions to cabinet, committees or councils and some already provide for submission of public petitions.

35. The WLGA however recognises that there is always potential for improvement, innovation and sharing of good practice; the latest National Survey for Wales show that only 19% of people agreed that they could influence local area decisions. There are some paradoxes in terms of public perception and public engagement in decision-making and public services generally[1], however, councils are committed to improve their approaches to public participation. This will be a core theme within the WLGA's future improvement support programme for local government, which the Minister for Housing and Local Government has agreed to resource.

36. The WLGA does not support that the proposed participation duty or strategy duty (to be placed on councils) should extend to cover other 'connected authorities' such as community and town councils and national park authorities (S46 (2&3). Although local authorities work in partnership with those bodies, such a proposed 'hierarchical' relationship undermines their own status, accountability and sovereignty as separate bodies. Furthermore, this will inevitably have resource implications for councils and, critically, clouds accountability and responsibility for delivering on any public participation duties. A local authority cannot be responsible for the participation in other levels of government as the responsibility (and risk of non-compliance) should rest with them as separately accountable bodies.

37. If such participation duties are to be introduced, they should apply separately to each of the specified bodies. As noted by the South Wales Fire and Rescue Authority's response, this duty was to apply to Fire and Rescue Authorities when first proposed in the 2016 Draft Bill, however, these bodies have not been included in this Bill.

[1]For example Hansard's annual Audit of Political Engagement typically reveals mixed levels of public involvement in participative activity (such as consultations or petitions) and a Welsh Government survey of public engagement in 2015 showed that 59% of those surveyed said they would not participate in local consultation (33% were too busy and 26% were not interested) and only 45% were interested in having a say in local government activity or how local government is run in Wales https://gov.wales/docs/caecd/research/2015/150612-public-views-opinions-community-engagement-local-government-final-en.pdf

Duty to make petition scheme (Section 49)

38. The WLGA supports the replacement of community polls with a duty to make a petition scheme; this reform will reduce burden and costs for local authorities, as well as encouraging a more accessible and immediate mechanism for communities to express their views.

Duty on principal councils to publish official addresses (Section 50)

39. The proposed duty is supported as permits councils to provide a general council contact address for councillors, rather than councillors' personal addresses. This is an approach several councils have already adopted and is a reform which the WLGA has called for, given some members' concerns about privacy in the current environment where intimidation and harassment is a risk.

Electronic broadcasts of meetings of certain local authorities (Section 53)

40. Most councils already webcast many of their meetings and are committed to openness and transparency. Most authorities are concerned about the potential increase in cost, and the balance of this additional cost with public interest, particularly for some committee meetings.

41. Public viewing figures and engagement with council webcasts however varies and tends to be limited. Viewing figures vary from authority to authority and from meeting to meeting, with full council meetings and planning meetings tend to be most popular, but only receiving between 100-350 views (depending on the size of the council). Other committees tend to have low viewing figures and local authorities therefore question the added value of additional costs and administrative burdens of broadcasting all meetings.

42. Webcasting can be costly, in terms of broadcast equipment, server and/or streaming costs and additional staff for administration and technical support. A duty to broadcast all public meetings is likely to require (based on a typical council experience) an increase from broadcasting 7 committees (Full Council, Cabinet, 4 Scrutiny committees and 1 planning committee) to an additional 13 committees, although some of these may meet less frequently, plus any joint meetings that the authority hosts.

43. Webcasting all public meetings may reduce councils' ability to hold formal meetings in communities, as mobile equipment is more expensive, requires additional technical support and broadband/data availability may be problematic. This would particularly impact scrutiny meetings where good practice for community engagement includes holding meetings in community venues. There is also a risk that a requirement to broadcast all public meetings could result in a reduction in the quality. navigability and retention of broadcasts for the viewer if this is to be met within available funding.

44. The Regulatory Impact Assessment indicates that the additional costs of broadcasting all council meetings would be in the region of £12,000 per authority per annum, based on a single contract for Wales. It remains unclear whether such a single, all Wales contract is

feasible or whether an all-Wales solution could be developed by local government in the future.

45. The RIA is likely therefore to be a significant underestimate, although it is difficult to provide an accurate estimate. Most councils' broadcasting services are provided by one company, although other suppliers are used and one council uses YouTube to broadcast meetings. The navigability of the webcasts and access to meeting documents and archives varies depending on supplier. Councils also broadcast a different number of meetings and different hours of broadcast per year and have different arrangements for archiving broadcasts so that they can be viewed retrospectively.

46. Some councils do not anticipate a significant additional cost (depending on their current coverage or provision), but the average increase of those authorities who have provided estimates is an additional c£24,000 annual costs (with one projecting up to £70,000).

47. Some councils also estimate significant investment in additional equipment with one estimating an initial investment of £250,000 to equip all committee rooms with necessary equipment (should all public meetings are to be broadcast, authorities report the need to equip additional rooms as meetings some meetings will inevitably run simultaneously.) The RIA does not take account of the additional administrative burdens and implications of broadcasting all council meetings; generally broadcasting meetings requires additional staffing resources, including committee and technical staff.

48. LLG Wales' submission notes that there may be implications between this duty and other existing legislative responsibilities such as the Public Sector Equality Duty. When webcasting meetings councils will need to consider possible detriment to those with audio/visual impairments (see S51(1)(a) as well as providing translation via the webcast even where this is not provided within the meeting itself.

Conditions for remote attendance of members of local authorities (Section 54)

49. The WLGA supports the proposed amendments.

50. The WLGA supported the concept of remote attendance when first proposed as it supported access and flexibility for members, but expressed concern during the passage of the Local Government (Wales) Measure 2011 as the legislation made the provisions restrictive and effectively unworkable.

51. The WLGA therefore supports proposals to streamline the remote attendance arrangements in order to promote accessibility and support flexibility for members to attend meetings remotely, reflecting advancements and availability of modern technology.

52. As noted by LLG Wales, a saving provision was not included within the 2011 Measure's proposals for remote attendance but one has been included to ensure the validity of proceedings in the event of broadcasting failing during a meeting (S53(6). Modern technology is not infallible and data and WIFI services can be variable and remote attendance could be subject to disruption, therefore an equivalent provision ensuring

the validity of proceedings where remote attendance is not available should also be included in the Bill.

Part 4: Local Authority Executives, Members, Officers and Committees

53. This WLGA supports most reforms outlined in Part 4 of the Bill, including:

- Appointment of Chief executives (rather than a head of paid service);
- appointment of assistants to cabinets and allowing job-sharing leaders or cabinet members;
- updating family absence provisions in line with those available to employees; and
- requiring leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.

54. The WLGA particularly welcomes the proposals to extend family absence provisions, which is in response to a WLGA request.

55. The WLGA also supports the focus on promoting high standards of members' conduct; although standards are generally good and formal complaints to the Public Services Ombudsman are low, the WLGA has committed to championing high standards and challenging poor political discourse through the recently launched Civility in Public Life campaign, working with the LGA, COSLA and NILGA[2].

56. The WLGA agrees that chief executives should be subject to robust and effective performance management and local authorities already implement a range of performance management arrangements for their chief executives and senior officers.

57. The WLGA shares a number of ALACE's concerns about some of the provisions of S60 regarding the process for performance management:
    - the Bill should be less prescriptive and allow local flexibility for authorities to determine who should conduct a performance review (the Bill suggests the 'senior executive member', however, councils may also wish to involve other members or external peers as appropriate);
    - Clause 60(3), which provides for the possibility of publication of performance reviews of chief executives, should be removed. No public employee should have their performance review published. The review should be confidential to members of the council and the chief executive;
    - In order to protect personal information, the Bill needs to reference that a report about the review (shared with members) shall be exempt from publication under paragraph 12 of Schedule 12A to the Local Government Act 1972 as such a report contains "information relating to a particular individual"; and
    - The WLGA has previously expressed concern regarding Ministerial Guidance making powers with regards the performance management of Chief Executives as there are potential risks of Welsh Ministerial intervention in local relations and arrangements between a local authority or leader and a chief executive.

[2] https://www.local.gov.uk/civility-public-life

Part 5 Collaborative Working by Principal Councils

58. Local authorities are committed to working collaboratively with each other and other public services to deliver improved outcomes and has a track record of collaboration and of sharing services.

59. Councils are already delivering radical responses to the challenges faced. The city deals and growth bids, for example, are some of the most ambitious, strategic regional regeneration programmes in a generation - these have come from local leadership, collective investment, risk and reward.

60. Such a commitment to collaboration is underpinned by the fundamental principle that collaboration is a 'means to an end not an end to itself'. The WLGA has therefore set out a framework of guiding principles to ensure that any collaborative reforms are rooted in clear and viable business cases and subject to local democratic decision-making.

Collaboration Principles

Collaboration, shared services or voluntary mergers should:

- *Be locally-driven and subject to local democratic direction.*
- *Be underpinned by a locally agreed business case that:*
    - *Outlines mutual benefit and a clear understanding of shared costs*
    - *focuses on outcomes and whether, on balance, it is likely to lead to better public service outcomes - a service collaboration or shared services is not an outcome, but a means to an end.be centred on the delivery of clear outcomes/benefits for the citizens and communities. and ensuring accessible and seamless delivery of services to stakeholders and customers.*
- *Where appropriate, take account of existing collaborative arrangements e.g. City deals, Growth Deals and or shared services.*
- *Be shaped by appropriate engagement with service users and stakeholders*
- *Seek to strengthen strategic and operational collaboration and improve the integration of front line services across public service providers.*
- *Maintain transparent and flexible governance with clear local democratic accountability and appropriate scrutiny arrangements established from the start*
- *Be developed with due consideration of "Prosperity for All" and the Wellbeing of Future Generations Act and, in particular, the '5 ways of working'.*

In addition, collaborative arrangements or shared services:

- *Will be treated like all services and will be subject to scrutiny and will be reviewed periodically; if an established collaborative arrangement or shared service is underperforming or is not providing value for money for one or more local authorities, it may be appropriate to review, reform or even withdraw from such arrangements. Such decisions will not be made lightly and withdrawal from an established collaborative arrangement should not be viewed as a rejection of the*

concept of collaboration or a lack of a commitment to reform, but a business decision based on performance, delivery of outcomes or value for money.

61. The WLGA has also produced a Collaboration Compendium[3] which lists over 300 local, regional or national collaborative arrangements or shared services ranging from coordination or delivery of technical services to large-scale, strategic services. The WLGA Council has agreed that the Compendium will be updated and reported annually to encourage a review of existing and consider new potential new collaborations.

62. Authorities already work together collaboratively through various governance mechanisms, including joint appointments, lead local authority models, shared services, local authority owned companies or joint committees (established under the Local Government Act 1972).

63. The WLGA and authorities are therefore supportive of the introduction of *voluntary* Corporate Joint Committees (described in S75 'Application by principal councils to establish a corporate joint committee') as it would provide an additional collaborative model for authorities to choose where appropriate.

64. Several leaders have expressed concern about a Ministerial power to 'mandate' regional structures or services, as this would undermine local democracy and accountability. Furthermore, some authorities are concerned about risks to local accountability, increased complexity and administrative burden of alternative regional governance arrangements.

65. Some leaders however regard Corporate Joint Committees as an evolution from existing regional arrangements such as City Deal, school improvement consortia and regional planning and transport arrangements.

66. The WLGA Council has therefore passed a resolution noting that it:

    '…has fundamental concerns over the principle of mandation which is seen as undermining local democracy but will continue to engage and seek to co-produce the Corporate Joint Committee proposals.'

67. Much of the detail around how Corporate Joint Committees will be established and how they will operate will be determined through Regulations. This detail includes which specific areas of the listed functions would be delivered through Corporate Joint Committees, which services would be delivered locally or concurrently as well as the governance arrangements of the committees themselves.

68. The proposed Corporate Joint Committees have been the subject of extensive dialogue between the Minister for Housing and Local Government and leaders and has been considered at several WLGA meetings.

[3] https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&fileid=2408&mid=665

69. The Minister has been keen to involve local government in the co-production of any guidance or regulations that might be required following the Bill and the WLGA has committed to engaging with the Minister and officials in developing the concept further. WLGA officials and Monitoring Officers are therefore involved in ongoing discussions to consider the governance arrangements and implications of other relevant statutory requirements should Corporate Joint Committees be introduced in the future.

Part 6: Performance and Governance of Principal Councils

70. The Bill proposes a new performance framework for local government, repealing the Wales Programme for Improvement and performance provisions of the Local Government (Wales) Measure 2009.

71. It is widely recognised that the Wales Programme for Improvement as introduced by the 2009 Measure is no longer fit for purpose; it imposed a range of duties and features that were administratively bureaucratic which has promoted a regulatory burdensome output-oriented rather than outcome-oriented performance framework.

72. Furthermore, many of the objective-setting, planning and reporting aspects of the 2009 Measure have been superseded by the Wellbeing of Future Generations (Wales) Act 2015, which has caused additional complexity (see joint WLGA, WAO and Future Generations Commissioner guidance note[4]).

73. The Bill outlines a new performance duty based on self assessment and peer (or panel) assessment. Both concepts are well-established and are existing features of the Wales Programme for Improvement currently, but the streamlined performance duties will allow councils to better shape the assessments for organisational self-awareness and self-improvement rather than to meet external regulatory expectations.

74. The WLGA has previously provided extensive support around developing and strengthening self assessment approaches (through the Improvement Grant until 2015), which included guidance, local support and challenge and the development of a set of core characteristics[5] to ensure that a self assessment was robust. Further self assessment guidance and frameworks have been developed since, for example, the Future Generations Commissioner's Self Reflection Tool[6].

75. Self assessment is an established and core feature of both the English and Scottish local government improvement regimes, for example, the Scottish Improvement Service promotes and supports the roll-out of self-assessment through the Public Service Improvement Framework[7].

[4] https://www.wlga.wales/future-generations-and-improvement
[5] https://www.wlga.wales/self-assessment
[6] https://futuregenerations.wales/resources_posts/self-reflection-tool-2019/
[7] http://www.improvementservice.org.uk/psif.html

76. Councils are committed to improving services and delivering better outcomes for their communities; the WLGA is confident therefore that councils' self assessments will be rounded, robust and used to drive improvements in governance and service provision.

77. There will remain several 'checks and balances' in the system to ensure self assessments are robust; scrutiny and the new governance and audit committees will play a key role, as will informal and formal peer challenge as well as the proposed statutory Panel Assessments. It should also be noted that the Wales Audit Office will retain an audit role through the Public Audit (Wales) Act 2004 and can undertake 'sustainable development' examinations through the Wellbeing of Future Generations (Wales) Act 2015.

78. The Minister for Housing and Local Government has confirmed that she intends to provide improvement grant funding to the WLGA to re-establish a sector-led improvement support resource for Welsh local government. This development is very welcome and will allow the WLGA to provide guidance, promote good practice as well as coordinate peer support and challenge to authorities. The WLGA is currently discussing the scope of the funding and remit with the Welsh Government and intends to work closely with the LGA in developing and coordinating peer challenge arrangements in Wales.

79. The WLGA has previously not supported the introduction of statutory Panel Assessments. The WLGA does not believe these corporate peer assessments should be made statutory as councils would undertake them on a voluntary basis. Making them statutory could turn an existing effective self-improvement process into a quasi-regulatory arrangement, which could stifle engagement, openness and ownership and undermine their value. The WLGA and local government professionals are however engaged in constructive discussions with Welsh Government officials to explore how Panel Assessments may be coordinated and delivered as effectively as possible and the WLGA's view is that any guidance should allow local flexibility in terms of panel make-up and focus, to ensure an authority can tailor it to its own needs and priorities.

80. Corporate peer challenges are credible, effective and well regarded. Peer challenges are independent and can provide some challenging messages to an authority, therefore concerns about any future Panel Assessment's objectivity are unfounded. The effectiveness and value of corporate peer reviews has been endorsed by an independent evaluation by Cardiff Business School in 2017[8].

81. Prior to changes in the WLGA's previous improvement role, the WLGA Council had agreed that every council would receive a corporate peer review once during a rolling four year period (as is the case in England) and the WLGA had coordinated 8 peer reviews between 2013-15. Pembrokeshire County Council has commissioned the LGA (supported by the WLGA) to deliver a Corporate Peer Review in February 2020.

82. The proposed Ministerial powers to provide support and assistance and direction (as a last resort) are broadly supported as they largely reflect existing powers. The WLGA however does not support S102 which proposes a Ministerial power to direct a council

[8] https://www.local.gov.uk/sites/default/files/documents/Rising%20to%20the%20Challenge%20February%202017%20-%20FINAL.PDF

to provide support and assistance to another council. This should be amended to a Ministerial power to 'request' support from another authority. Councils are committed to providing mutual improvement support and already share expertise and peer support where appropriate; such powers to direct are therefore unnecessary and undermine local democracy. Should an authority decide that it was unable to provide particular support to another authority, such a decision would not be taken lightly and is likely to be due to capacity or resource constraints which may have negative consequences on the performance of the authority itself.

Governance and Audit Committees

83. The WLGA supports the proposed role of new Corporate Governance and Audit Committees. The relationship with and role of councils' overview and scrutiny committees will however need to be reviewed in the new constitutional arrangements to avoid confusion and duplication of roles.

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

Part 7 Mergers and Restructuring of Principle Areas

85. The WLGA and local government are supportive of the concept of voluntary mergers as such reforms are a matter for local discretion and if individual councils jointly develop a business case and agree a merger locally, then they should be supported in their local reforms.

86. A draft 'Prospectus for Voluntary Mergers' outlining guidance and support for authorities has been co-developed through the Local Government Working Group, which was chaired by Derek Vaughan.

Parts 8 and 9: Finance and Miscellaneous Reforms

87. The WLGA supports the provisions to allow PSBs to demerge.

88. The proposed changes to the performance arrangements of Fire and Rescue Authorities have been generally welcomed by Fire and Rescue Authorities. The move away from the current performance management arrangements under the 2009 Measure are supported, as the arrangements are no longer suitable. Whilst there is support for a new performance management system grounded in the National Framework for Fire and Rescue Services, the Bill does not include significant detail and the new performance

management system should reflect the differences in risk within communities and across the authority areas, as noted in the submissions from the Mid and West Wales and South Wales Fire Authorities.

89. The WLGA shares the concerns outlined by the Fire Authority submissions regarding the proposal to amend the public inquiry criteria where changes are proposed to any of the elements of the Combination Scheme Order that establishes the Fire and Rescue Authority and Fire and Rescue Service. The public inquiry provisions were introduced in 2004 to ensure due regard was given to the safety of firefighters or the community before significant reforms could be introduced. The proposed amendment would mean that a public inquiry would no longer be held for several areas of significant reform of Fire and Rescue Authorities including changes to the funding mechanisms, governance structures and systems and appointment of officers.

90. There is general support for the proposals which relate to supply of information and power to inspect. The power to give Billing Authorities the right to inspect properties will potentially incur additional costs and the recognition of this is welcomed. The proposal linking the NDR multiplier increase to the Consumer Price Index in line with England is also welcomed.

91. The Bill also modifies the Local Government Finance Act 1992 to abolish the power for local authorities to apply to consign an individual to imprisonment for non-payment of council tax. This power has already been taken away by regulation and this further change is to place it in primary legislation. Although there may be a slight deterioration in the collection rate as a result, we will continue to work with Welsh Government to consider whether any future amendments to legislation are needed to prevent loss of income through falling collection rates.

INTRODUCTION

SOLACE is the leading members' network for local government and public sector professionals throughout the UK. At the UK level, SOLACE policy leads influence debate around the future of public services to ensure that policy and legislation are informed by the experience and expertise of its members.

SOLACE Wales is the Welsh Branch of the Society of Local Authority Chief Executives and Senior Managers (UK). While being an important component of the UK framework, the Branch operates largely independently as the representative body for senior managers working within local government in Wales. The Society's members are drawn from a variety of backgrounds, and while engaging with all major players in Welsh governance at both local and national level, SOLACE Wales has a unique role to play in offering a corporate view of local government from an apolitical perspective.

SOLACE welcomes the opportunity to be able to offer its views and opinions on the Local Government and Elections (Wales) Bill and is pleased to be able to offer evidence directly to the Equality, Local Government and Communities Committee National Assembly for Wales's Stage 1 consideration of the Bill, particularly given the significance of many of elements of the Bill and given that it follows several years of work and consultation, including a Draft Bill as well as successive Green and White Papers.

SOLACE is aware that the WLGA and ALACE (Association of Local Authority Chief Executives & Senior Managers) has or will be submitting a response to the consultation and / or will give evidence to the Committee. This submission, will where relevant reference those responses as well as focussing on key areas which, in SOLACE's view require further consideration.

The Committee's terms of reference when scrutinising the Bill are to consider:

- the general principles of the Local Government and Elections (Wales) Bill and the need for legislation to deliver the stated policy intention. In coming to a view on this you may wish to consider addressing the individual Parts of the Bill:

o Part 1 – Elections
o Part 2 – General Power of Competence
o Part 3 – Promoting Access to Local Government
o Part 4 – Local Authority Executives, Members, Officers and Committees
o Part 5 – Collaborative Working by Principal Councils
o Part 6 – Performance and Governance of Principal Councils
o Part 7 – Mergers and Restructuring of Principal Areas

- Part 8 – Local Government Finance
- Part 9 – Miscellaneous
    - any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them,
    - the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum).
    - whether there are any unintended consequences arising from the Bill, and
    - the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum).

As stated above this submission does not seek to comment on all aspects of the Bill, but instead focusses on areas that are most relevant to SOLACE.

Part 1: Elections

Two voting systems (Section 5)

SOLACE is of the view that the proposal to allow authorities to choose their own voting system is unnecessary and undesirable. Wales is a small nation, with only 22 local authorities, and as such there is no reason as to why there should not be a single uniform approach to local authority elections across Wales. This avoids unnecessary complexity and confusion.

Furthermore, such an approach could have the potential to disenfranchise voters with the worst-case scenario being an impact on turnout – clearly an unintended consequence. Another unintended consequence is that any changes may bring forward a need to introduce more multi-member wards than currently in existence and that would trigger the need (potentially) for further boundary review activity.

Qualification and Disqualification for election and being a member of a local authority (Sections 24-26)

SOLACE is aware of the submission of ALACE on this matter and supports the comments and observations made by ALACE. SOLACE has contributed to the formulation of that response. In summary:

- We welcome that the Bill preserves the position that an individual cannot be an employee and elected member of the same council.
- The provision made by clauses 24 and 25 is inappropriate as it could give rise to potential internal tensions between an employee standing and a current councillor re-standing or a prospective new councillor, both during the election itself and later.
- The benefits in promoting accessibility in standing for office and achieving a more diverse membership base are outweighed by the risks as it could potentially

impact negatively on employment relations, calling into question potential conflicts of interest, employee – member relations as well as tensions between employees.

Meeting expenditure of returning officers (Section 28)

Again, as in the case above, SOLACE is aware of the submission of ALACE on this matter and supports the comments and observations made by ALACE. SOLACE has contributed to the formulation of that response. In summary:

- The Bill does not make provision to require the chief executive to be the returning officer, thereby retaining local flexibility - this is welcomed.
- The role of returning officer carries significant personal responsibilities and liabilities. This needs to be recognised by Welsh Government.
- The independence and impartiality of returning officers is crucial to the fair running of elections; they must not be subject to any undue influence from those seeking election or re-election. This is particularly pertinent to local elections, which can test the relationship between the returning officer and members. Separation of remuneration is an important aspect of establishing the independence of the role. With particular reference to the question of independence, SOLACE has also seen the response of the Electoral Commission on this aspect of the Bill. The Commission is clear that Returning Officers play a central role in the democratic process and that they should be independent from both local and national governments when delivering statutory electoral administration duties. The Commission make the point that Returning officers are not employed by councils when they deliver official election or referendum duties but are independent. Removing personal fees may in practice risk reduce their independence, as well as there being the potential for impartiality to be questioned if payment for election duties is through their contract of employment by the local authority in which elections are being held.
- The rate of remuneration for principal authority and community council elections should rightly be a matter for each principal authority to decide. In the same way, and irrespective of the advice and views of the Electoral Commission, it should be a decision for each principal authority as to whether that remuneration should be separate from or be incorporated within the base salary of the individual's post.
- We do not support the purported intention of the clause which (according to paragraph 3.78 of the explanatory memorandum) seeks to remove the payment of fees to returning officers for local elections.
- If separate fees for local elections are to be removed, then it follows that there must be proper re-evaluation of salaries.
- This could clearly result in additional financial implications through potential increases in salaries as well as employer's national insurance and pension contributions.
- There is also concern at the proposal in paragraph 3.78 of the memorandum to remove the personal fee for returning officers at Assembly elections.
- This in effect requires local authorities to provide a free returning officer service to a third party, without having recourse to cover its costs. In effect, it

is suggested that a council employee would have to spend significant amounts of his or her employer's time running an election that was nothing to do with that council's services and responsibilities.

- At the very least, if the Welsh Government proceeds with this aspect, the Assembly should recompense councils for the time that staff spend on returning officer duties for Assembly elections. This would in effect be an administrative charge.
- We also consider that there are grave objections to expecting an individual – for no fee – to take on all the personal responsibilities associated with running an Assembly election, including responsibility for employing staff for the election.

Part 2: General Power of Competence

SOLACE welcomes the general power of competence. Potentially this will increase the ability of local authorities to innovate and transform key services, the aim being to retain and support vital public services. SOLACE refers to the fact that there already exists good examples of innovative work, and anything that makes innovation and transformation mainstreamed is welcomed.

SOLACE does however refer to the submission of Lawyers in Local Government Wales (LLG) on the interplay between the power and a range of other legislation which creates complexity and multiple possible risks. This is likely to constrain use of the power, resulting in it being used as a power of last resort, which would constitute a missed opportunity.

Part 3: Promoting Access to Local Government

Duty to encourage local people to participate in local government (Section 46)

Strategy on encouraging participation (Section 47)

SOLACE is generally supportive of the principles within this Part of the Bill. However, there is a concern that the Bill mandates much work that is already undertaken by local authorities. If local authorities are being required, through legislation to encourage 'local people to participate in the making of decisions by the council' and produce a detailed participation strategy (S47 (2) a-f), then the same should apply to other public authorities across Wales. The alternative would be to single out local government and create the perception that there are problems that need addressing within local government, which is not the case.

Electronic broadcasts of meetings of certain local authorities (Section 53)

SOLACE refers to the submission of the WLGA on this aspect of the Bill and endorses the comments made by the WLGA. In considering this aspect, there needs to be a consideration of the value of electronic broadcasting of all meetings against the cost of doing so and the wider benefits of such. By way of example, webcasting can prevent meetings being held out in communities, which would, potentially have a far greater benefit. This may therefore be an unintended consequence of this element of the Bill, as drafted.

Furthermore, and as indicated by the WLGA, the Regulatory Impact Assessment indicates that the additional costs of broadcasting all council meetings would be in the region of £12,000 per authority per annum, which is likely to be a significant underestimate.

Part 4: Local Authority Executives, Members, Officers and Committees

SOLACE refers to the submission made by ALACE in relation to the appointment of Chief Executives and supports this element of the Bill (Clause 59).

On the subject of performance management, local authorities already have in place a range of performance management arrangements for their chief executives and senior officers. ALACE has made strong representations on this issue, and these are summarised below, as they are supported by SOLACE (and indeed SOLACE was in discussion with ALACE on this particular issue and assisted with drafting the ALACE response)

- The Bill should be less prescriptive. There should be an allowance for local flexibility for authorities to determine who should conduct a performance review (the Bill suggests the 'senior executive member'). It is worth noting that some Councils involve other members or external peers. The prescription can have unintended consequences, as it potentially limits the value and robustness of the performance review process.
- Restricting the performance review to a single individual is likely to result in a loss of objectivity and could cause considerable unfairness to the Chief Executive if there is clash of personalities with the Leader; or, alternatively, could result in a review that is insufficiently robust if the relationship is a close one.
- Clause 60(3) provides for the possibility of publication of performance reviews of chief executives. This should be removed. No public employee should have their performance review published. The review should be confidential to members of the council and the chief executive. SOLACE is not aware that this is the stance adopted within the Assembly or in any other public bodies. There is no case that indicates that this should be introduced for local authority Chief Executives. It suggests a targeted approach being applied, when no case exists for such a targeted approach. The vilification of senior public figures by certain elements of social media are likely to make any such publication a target for online abuse of the Chief Executive as an individual.
- In order to protect personal information, the Bill needs to reference that a report about the review (shared with members) shall be exempt from

publication under paragraph 12 of Schedule 12A to the Local Government Act 1972 as such a report contains “information relating to a particular individual”.

- The WLGA has previously expressed concern regarding Ministerial Guidance making powers with regards the performance management of Chief Executives as there are potential risks of Welsh Ministerial intervention in local relations and arrangements between a local authority or leader and a chief executive.

Part 5 Collaborative Working by Principal Councils

There are excellent examples of collaborative work already being undertaken across Wales, ranging from City Deals to shared services. There are also various models in place, ranging from Joint committees to shared posts to lead or host authorities.

SOLACE is aware that the WLGA will be making submissions on this particular aspect of the Bill and in particular the issue of mandatory Corporate Joint Committees (Section 79). It is critical that there continues to be regular and frequent dialogue on this particular aspect and that lessons are learnt from much of the collaborative work that has been undertaken to date. This is one area in particular where what matters is what works, and a single uniform approach would be undesirable.

Part 6: Performance and Governance of Principal Councils

SOLACE supports the general thrust of this Part of the Bill. The move to self assessment and peer review is welcomed. The streamlined performance duties will allow councils to better manage the assessments for organisational self-evaluation and improvement rather than to meet external regulatory expectations.

There are however concerns that there may well be duplication with the introduction of statutory panel assessments (which will have a cost) and the role of Wales Audit office and other Inspection bodies (which come at a cost). The WLGA has also submitted evidence on the statutory nature of the panel assessments as well as the need for local flexibility when establishing a ‘panel’.

It is important that the legislation takes effect within the context of the Review of Strategic Partnerships, and that joint committees are not seen as a panacea to a sub-optimal and overly complex partnership structure across public bodies.

CONCLUSION

SOLACE is grateful for the opportunity to provide evidence to the Committee. As an organisation, its members already engage with Welsh Government and will continue to do so where appropriate. SOLACE would also welcome the opportunity to continue to engage on those aspects of the Bill highlighted above.

LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL

Consultation response from the Association of Local Authority Chief Executives and Senior Managers

About ALACE

1.1 The Association of Local Authority Chief Executives and Senior Managers (ALACE) is a union that represents only the most senior managers in local government. We have over 300 members at director and chief executive level, across Great Britain, and many who work in councils in Wales. Most of our members are chief executives or senior managers who report to chief executives. However any officer who holds the statutory roles of chief finance officer (section151 officer), monitoring officer or head of democratic services is eligible for membership, regardless of their location in a council's structure.

1.2 ALACE welcomes the opportunity to provide the Equality, Local Government and Communities Committee with a response on those provisions of the Bill that affect the union's members. We would be pleased to supplement this with oral evidence if invited to do so.

Summary

ALACE has significant concerns about clause 28 which seeks to remove separate fees for returning officers at local elections, and the proposal to end such fees for Assembly elections. Salaries of relevant officers will need to be re-evaluated upwards if the current arrangements for fees are ended.

ALACE warmly welcomes clause 59, to require the appointment of a chief executive by each principal council.

We believe that consideration should be given to legislating so that the same officer cannot be the chief executive and chief finance officer (Schedule 5).

We strongly oppose clause 60(3), which provides for the possibility of publication of performance reviews of chief executives. No public employee should have his or her performance review published. The review should be confidential to members of the council and the chief executive.

We also call for the power of guidance in clause 60(5) not to extend to standards of performance.

In respect of creation of corporate joint committees, mergers and restructuring, we call for stronger provisions for consultation with unions that have members in the

relevant councils and stronger provisions to transfer staff. In particular, clause 127 should provide for all employees of merging councils immediately prior to the transfer date to be transferred to the new council.

Our detailed comments on these and other parts of the Bill are set out below.

Clauses 24 and 25

2.1 ALACE does not support the changes proposed in these clauses. They would avoid the jeopardy of an individual resigning employment when there is no guarantee that he or she will be successful in seeking election. ALACE recognises that the structure of unitary councils means that a significant percentage of local residents can be deterred from standing for election because councils are major employers in all areas of Wales. We welcome that the Bill preserves the position that an individual cannot be an employee and elected member of the same council. However we are not convinced that the provision made by clauses 24 and 25 is appropriate as it could give rise to potential internal tensions between an employee standing and a current councillor re-standing or a prospective new councillor, both during the election itself and later. We support the objection from the Welsh Local Government Association to the proposal. In our view, the benefits in promoting accessibility to office and a more diverse membership base are outweighed by the risks. Moreover when member allowances are set at half of the UK average salary and there is a guarantee of five years' remuneration only, standing as a councillor is unlikely to be an attractive career choice for the majority.

Clause 28

2.2 ALACE's position is that the role of returning officer is a weighty one, with significant personal responsibilities and liabilities that are faced (including personally defending any election petition). We welcome that the Bill does not make provision to require the chief executive to be the returning officer, retaining local flexibility.

2.3 The rate of remuneration for principal authority and community council elections should rightly be a matter for each principal authority to decide, as is the question of whether that remuneration should be separate from or be incorporated within the base salary of the individual's post. We do not support the purported intention of this clause which (according to paragraph 3.78 of the explanatory memorandum) seeks to remove the payment of fees to returning officers for local elections.

2.4 Leaving to one side that the clause might not have the intended effect, ALACE must register very strong concerns about the implications. If separate fees for local elections are to be removed, then it follows that there must be proper re-evaluation of salaries if the returning officer role at local elections is to be performed for nothing. Otherwise the impact would be that individuals would be paid less than they are now even though their work and responsibilities had not changed. This provision could therefore have additional financial implications because, following the re-evaluation of salaries, any increase in base salary could also attract employer's national insurance and pension contributions.

2.5 While it does not form part of the Bill, we note with even greater concern the proposal in paragraph 3.78 of the memorandum to remove the personal fee for returning officers at Assembly elections. ALACE and SOLACE members have made forceful representations to Welsh Government officials on more than one occasion in the past.

2.6 No council should be expected to provide a free returning officer service to a third party. It is a novel proposal that one body should require another body to conduct elections on its behalf and that the second body should not be able to recover its costs in doing so. In effect, it is suggested that a council employee would have to spend significant amounts of his or her employer's time running an election that was nothing to do with that council's services and responsibilities. At the very least, if the Welsh Government proceeds with this ill-considered proposal, it would have to accept that the Assembly should recompense councils for the time that their staff spend on returning officer duties for Assembly elections. This would in effect be an administrative charge.

2.7 We also consider that there are grave objections to expecting an individual – for no fee – to take on all the personal responsibilities associated with running an Assembly election, including responsibility for employing staff for the election. We believe that, if the personal fee is to be removed for Assembly elections, legislation should be changed so that many of these responsibilities become instead the duties of the Assembly or councils instead, so that the personal liabilities of a returning officer are scaled back to reflect the fact that they would no longer be reimbursed for the current range of personal responsibilities and risks**.**

Clause 59

2.8 ALACE warmly welcomes the provision made by this Clause. We believe that every council should have a chief executive who discharges the role of head of paid service currently provided by section 1 of the 1989 Act. We recognise that the Bill retains the functions of the head of paid service within a wider range of reporting duties set out in clause 59(3) and we support this approach.

Schedule 5

2.9 ALACE generally supports the amendments made by this Schedule. However we are concerned that paragraph 6 potentially widens the effect of the disqualification in section 1 of the 1989 Act. It uses the wording "*any* local authority" in the new subsection (1A) when at present the disqualification in subsection (1) relates to "a local authority". The definition of "local authority" in section 21(1) of the 1989 Act does not include community councils and therefore an individual in a politically restricted post may seek election to and be a member of a community council. We appreciate that paragraph 11 does not amend the definition of "local authority" in section 21, but feel that to avoid creating any doubt it would be preferable if subsection (1A) referred to "a local authority".

2.10 Paragraph 9(b) preserves the status quo in respect of preventing a chief executive from also being the monitoring officer. Section 5(1) of the 1989 Act prevents the chief finance officer from being the monitoring officer. However the Bill

still permits the chief executive to be the chief finance officer. ALACE's policy position is set out in the full statement that can be seen at this link:

https://alace.org.uk/wp-content/uploads/HoPS-S151-policy-position-2019-02.pdf

2.11 In summary ALACE contends, for good reason, that combining the two roles dilutes capacity and governance. For example, it would negate the consultation requirements in section 114 of the Local Government Finance Act 1988 (amended by paragraphs 3 and 4 of this Schedule), as the chief finance officer could not consult himself or herself if also holding the role of chief executive. Therefore we would invite consideration of whether the Bill should prevent an individual being both the chief executive and the chief finance officer.

Clause 60

2.12 We have significant concerns about this clause. The Welsh Government has not discussed the contents of the clause with ALACE even though it is the sole relevant trade union, as it provides the staff side of the Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities. There has never been any proactive and meaningful discussion with ALACE by Welsh Government officials at any stage on these or other proposals which affect the contracts and remuneration arrangements for chief executives and other senior officers. For example, no contact was made with ALACE following publication of the Bill even though it directly (and, we would suggest, adversely) affects our members. We do not feel that this treatment conforms with the espoused Welsh Government position on trade union recognition and engagement. Chief executives are the core of the ALACE membership and our members feel that they are not being given equal treatment to other public sector employees – indeed the impression is that they are being singled out in this Bill and past legislation.

2.13 ALACE supports the need for all chief executives to have appropriate arrangements to review their performance on at least an annual basis. There are excellent examples across Wales where this currently happens, which involve robust appraisal arrangements, often with external and independent facilitation.

2.14 Our first concern is that, as drafted, it removes the flexibility for the review to be undertaken by anyone other than the senior executive member. Some councils choose to have the review undertaken by a small panel of members which can be drawn from more than one political group. This is particularly valuable in authorities which are in no overall control or which may experience frequent changes of control, as it ensures that politicians other than the senior executive member are involved in the reviews. Our members have reported examples in one council where the review is undertaken by the leader and deputy leader, but in the past was undertaken by four group leaders when there was a coalition. In another council, the review panel comprises the leader, deputy leader and leaders of opposition groups. Therefore ALACE seeks provision to allow the arrangements to specify that the review is undertaken by the senior executive member *or* by the senior executive member and such other members as are set out in the arrangements under subsection (1).

2.15 Second, while we have no concern about the report being shared with all members of a council under subsection (2)(d), there needs to be explicit provision that the report about the review shall be exempt from publication under paragraph 12 of Schedule 12A to the Local Government Act 1972. The report of the review plainly contains “information relating to a particular individual”.

2.16 ALACE therefore strongly opposes subsection (3) of this Clause. We are aware of no other provision that requires the performance review of a public sector employee in Wales to be capable of being published. No case has been made to single out chief executives of councils in this way, when performance reviews of chief executives of Assembly Sponsored Public Bodies and Health Boards, the Permanent Secretary of the Welsh Government or the Chief Executive and Clerk of the National Assembly for Wales are not also subject to a statutory provision that allows their publication. The solution is simple: subsection (3) should be removed, so that councils and their senior officers are not singled out for differential treatment. It would constitute an invasion of privacy between employer and employee if this provision remains on the face of the Bill.

2.17 ALACE is also concerned about the power for Ministers to give guidance under subsection (5). The concern arises from the statement on page 13 of the statement of policy intent that “The guidance may cover more detailed information *about the standards of performance required*, the monitoring process and areas where councils consider further clarity is required”. This would interpose Ministers for the first time in the performance management arrangements for an individual member of a council’s staff. However important the role of chief executive may be in a council, it seems to ALACE that the power to give guidance in such a way undermines the independence of local government in managing its staff and setting performance standards for them. We are not aware that any similar legislative provision applies to chief executives of Assembly Sponsored Public Bodies and Health Boards, the Permanent Secretary of the Welsh Government or the Chief Executive and Clerk of the National Assembly for Wales, and therefore ALACE cannot support subsection (5) as drafted. We note, for instance, that Clause 159 of this Bill does not amend section 8 of the Local Democracy (Wales) Act 2013 to provide Ministers with a power to give guidance about the standards of performance of the chief executive of the Local Democracy and Boundary Commission. We would urge consideration either that subsection (5) should be removed or that it should be restricted purely to guidance about process or other matters that are <u>not</u> about standards of performance.

Clause 61

2.18 We believe that chief executives in Welsh councils are subject to much wider transparency and statutory controls over their salaries than any other public servant in the United Kingdom. Clause 61 extends this further to embrace all aspects of remuneration. We are not convinced that this additional provision is necessary, when remuneration is already subject to disclosure and scrutiny through mechanisms such as pay policy statements under section 38 of the Localism Act 2011 and the annual accounts.

Clause 62

2.19 ALACE supports the changes made by this Clause, to require that decisions are taken by full council in the event that the Minister gives a direction. It is not appropriate that decisions about terms and conditions should be taken by an executive when section 112 of the Local Government Act 1972 is not an executive function.

Clauses 78(3) and 80(2)

2.20 We welcome the requirement in clauses 76, 78 and 80 for consultation with recognised trade unions about corporate joint committees. ALACE does not hold such status with any council. There may be other small unions that have members in principal councils but are not recognised. It would be helpful if Ministers would confirm that they would include all trade unions that have members in a relevant principal council as “appropriate persons” under clauses 78(3)(f) and 80(2)(f).

Clause 83

2.21 We welcome the provision made in respect of staff and the potential impact on them including the important application of TUPE by subsection (6). However provision under this clause is discretionary i.e. Ministers do not have to transfer staff to corporate joint committees and do not have to provide for compensation etc. We believe that it is unlikely that the creation of corporate joint committees would not be accompanied by the transfer of at least some staff. Therefore we would suggest that the legislation should be strengthened to require that, if staff are transferred by joint committee regulations, then the regulations *must* make provision about “other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office)” – in other words subsection (5)(e) should be mandatory in the same way as subsection (6).

Clause 123

2.22 We do not understand why there is no requirement on Ministers to consult when making merger regulations following voluntary decisions to merge by two or more principal councils. There is such a requirement in clauses 78 and 80 before making the much less significant joint committee regulations. If a consultation requirement similar to clause 78(3) is not included, then we would seek confirmation from Ministers that guidance under clause 122 would strongly encourage councils to include all trade unions that have members in a relevant principal council as “appropriate persons” in the consultation to be undertaken under clause 121(1)(i).

Clause 127(1)(b)

2.23 We are concerned that this generally worded provision about transfer of staff gives less of a guarantee about transfer of employment than exists in clause 83 in respect of joint committee regulations, notwithstanding the supplementary powers conferred in clause 145(5)(d) and (8). As with clause 83, the powers in clause 145 are discretionary and the point we have made about the need for mandatory provision is also relevant to merger and restructuring regulations.

2.24 However of the first importance is that, in a merger, the entire economic and other activities of a council are being transferred to a new council and therefore, in our view, the TUPE Regulations must apply to all staff employed by the abolished council immediately before the merger takes effect. We believe that it is appropriate to make such provision on the face of the Bill i.e. that merger regulations under clause 123 *must* provide for the transfer of all staff employed by a merging council immediately before the transfer date to the new principal council; and that the regulations must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart from regulations 4(6) and 10, to those transfers (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).

2.25 Making such provision would not guarantee ongoing employment for all staff. We recognise that the processes of creating and filling new structures in a merger mean that some staff will be displaced, either through redundancy or being placed into different roles. Guaranteeing that all staff employed immediately before the transfer date would be transferred does not mean that they would be shielded from such processes. However it means that no one would be inappropriately omitted from transfer where such processes have not been completed before the transfer date. We therefore strongly urge reconsideration of the provision for transfer of staff in merger regulations.

Clause 128

2.26 We are concerned that the provisions about consultation with recognised trade unions found in respect of joint committee regulations and merger applications (e.g. clause 78(3) and clause 121(1)) do not appear in respect of restructuring regulations. We appreciate that this could be covered by consultation with “such other persons as the Welsh Ministers consider appropriate” under subsection (4) but believe that there should be explicit provision. As noted earlier, we would in any case ask Ministers to confirm that they would include all trade unions that have members in a relevant principal council as “appropriate persons” under clause 128(4).

Clause 133(2)

2.27 We recognise that the range of possible changes in restructuring regulations means that the situation in respect of transfer of staff may be “messy” compared to a “simple” merger of two or more councils. This was the position under the Local Government (Wales) Act 1994 where there were many cases of council areas that were split. We therefore support the possibility of creating a committee or other body to provide advice on transfer of staff under this subsection, a concept similar to the Staff Commission for Wales that existed for the purposes of the 1996 reorganisation.

2.28 However the provision made in clause 134(2) and (3) seems to us to fall short of the provision that could be made where the whole of a restructuring council is to form part of a new principal area, under clause 130(b)(ii). In that scenario, the point we have made above about clause 127 is also relevant i.e. that the Bill should provide for the transfer of all staff employed by a restructuring council immediately before the transfer date.

Schedule 11

2.29 We recognise that, where mergers or restructuring are taking place, it is appropriate to provide for controls over the decisions of councils that are being abolished, in order to prevent any inappropriate or unwanted impacts for the new or successor council(s). However we feel that the provisions in respect of staffing go wider than necessary.

2.30 In particular we are concerned about paragraph 1(3) and the power for Ministers to "direct a merging council or restructuring council seeking to appoint or designate a person to a restricted post (including from among its existing officers) to comply *with specified requirements* about the appointment or designation" (emphasis added). This seems to go wider than simple matters of process or the provisions in the 2011 Measure about chief executive pay. Indeed paragraph 1(7) explicitly provides for Ministers to override recommendations from the Independent Remuneration Panel for Wales on remuneration. "different" is not defined and therefore this power could perhaps be used to set a lower rate of pay for a chief executive than was paid by a predecessor council, even though the new council covers a wider area, has a bigger budget etc.

2.31 We seek the following changes:

- Limiting "specified requirements" in paragraph 1(3) to matters of process and remuneration only. It should not be a device (for example) to specify qualifications that officers must hold;
- Amending paragraph 1(7) to substitute "higher than that" for the words "different to that".

Clause 157(1)(a)

2.32 ALACE supports the designation of the head of democratic services as a chief officer in subsection (2), and the separation of duties that generally exists between the statutory officers under the 1989 Act and the 2011 Measure. As noted above, we believe consideration should be given in this Bill to preventing the same person from being the chief executive and chief finance officer.

2.33 Based on the same principle we do not therefore support the removal of the restriction that the head of democratic services should not be the monitoring officer. We would take the same stance if any of the other restrictions was proposed for removal. In our view it potentially undermines and weakens the purpose of the head of democratic services that was created by the 2011 Measure.

Other matters

2.34 Ministers have commissioned a review by Peter Oldham QC of the arrangements for dealing with alleged misconduct of senior officers, in the wake of the situation at Caerphilly County Borough Council. If there is any proposal to add provisions to the Bill arising from the recommendations of the review, there must be prior consultation with ALACE and other relevant trade unions that represent senior officers before any amendments are tabled, such consultation to give a meaningful opportunity to influence whether provision is required and how it might be framed.

Gareth Owens LL.B Barrister/Bargyfreithiwr
Chief Officer (Governance)
Prif Swyddog (Llywodraethu)

CYNGOR Sir y Fflint Flintshire COUNTY COUNCIL

Your Ref/Eich Cyf

Our Ref/Ein Cyf GO/TC

Date/Dyddiad 13th January 2020

Ask for/Gofynner am Gareth Owens

Dear Catherine

Many thanks for inviting the Wales Branch of Lawyers in Local Government (LLG) to submit evidence to the Committee on the Local Government and Elections (Wales) Bill ("the Bill").

I can confirm that I will attend the Committee to give evidence on behalf of LLG. I may also be accompanied by Davina Fiore, Monitoring Officer at Cardiff City Council.

Clearly the provisions within the Bill cover a wide range of issues and include proposals that have been suggested and developed over a number of years and, in some cases, iterations. It is welcome to see that some suggestions, e.g. re-organisation, have been amended to reflect concerns expressed by the local government community though important provisions, such as those relating to the general power of competence remain unchanged.

Inevitably, the Bill contains some provisions that execute substantial policy change and others that are more practical or technical corrections. In considering the Committee's terms of reference on the need for the legislation, potential barriers and potential unintended consequences I have therefore addressed both the issues of principal and some of the practical issues within the current drafting.

I have addressed each part of the Bill in numerical order.

Part 1 Elections

1) LLG is aware of and broadly supports the representations by the WLGA in relation to the proposals to allow Councils to adopt different voting systems, namely that it will create inconsistency across Wales. In addition, that variation may itself give rise to perceptions that the system is being changed for perceived electoral advantage.
2) Of more concern and importance is the proposal that local authority employees can stand for election. LLG supports the position of ALACE whose representations clearly encapsulate the issues. The principle of enabling more people to stand for election is to be welcomed but this proposal

has potentially grave practical implications. Every local government employee agrees to a code of conduct that requires them to be politically impartial and to serve the council as a whole. Were an employee to stand as a candidate and lose then this could rightly call into question

a. his/her impartiality in the eyes of their manager, all councillors and the successful candiate in particular; and
b. his/her commitment to Council policies that s/he opposed whilst campaigning.

There is, thus, also real potential for political campaigning to damage the relationship between an employee, the successful candidate and their employer.

Part 2 – General Power of Competence ("GPOC")

LLG welcomes the introduction of a power of general competence, and the inherent desire to move away from a default position of ultra vires to a starting point of vires being assumed. That said LLG has previously commented on how the currently drafted legislation failed to achieve its stated aims in England and proffered suggestion on how it might be improved to better achieve its intentions.

The proposed legislation mirrors the English drafting of this legislative power. LLG held a round table event in 2017 consisting of local authority representatives, representatives from national firms of solicitors working in the local government field (Anthony Collins, Bevan Brittan, Browne Jacobson and Eversheds Sutherland) who brought their experience of advising clients in England on the use of the legislation.

I have attached the detailed note and representations that were made following the round table session. In summary, the GPOC may only be used where no pre-commencement limitation exists. There are 42 UK wide acts with Local Government in the title, and a further 3 measures/acts applying only in Wales, each of which may contain a pre-commencement limitation. The complex interplay between the GPOC and so many other Acts creates multiple possible risks. Unless it is possible to satisfactorily mitigate or resolve those risks this has 2 principal consequences:

1) it would not be prudent for councils to proceed however valid the proposal under consideration might be. In short, possibly valid solutions might be lost as a result of concerns over vires; and
2) when dealing with the private sector/private funding those risks add both delay and cost if they do not preclude a project altogether.

The experience from the private practice solicitors was, therefore, that their clients did not turn to the GPOC as a first resort. Instead, if it was relied on at all, the power was typically cited as a belt and braces addition or last resort. This demonstrates the lack of confidence in the power that might not be readily visible but is the real life experience of those practising in the field who, it must be remembered, are likely to be engaged in some of the more complex or high profile matters where reassurance about vires is being sought from acknowledged experts in the field.

LLG made representations at the time about how the power might be remodelled to be of greater utility to local authorities, and indeed the private practice solicitors were willing to lend their aid in that endeavour. Initially, civil servants were receptive but subsequently rejected the offer. LLG was disappointed with the response at the time and remains disappointed to see that the English model is again being proposed. The offer remains open to work together to create a genuinely useful general power of competence (GPOC) with the assistance of leading, national firms of solicitors who operate in the local government sector.

Should WG wish to proceed with the currently proposed text then there are still improvements that could be achieved in terms of saving provisions as described towards the end of the attached note.

Part 3 – Promoting Access to Local Government

1) The duty under Clause 46(3) (a) to develop a scheme for increased participation within community councils and national park authorities appears to be an interference with the sovereignty of those bodies. It is also a duty that the principal authority would have no means to enforce because there is no corresponding responsibility on those bodies to undertake such a task or even co-operate. The clause should either be amended to make principal councils set out how their responsibilities sit alongside those of connected authorities or there should be a clear legislative duty on those connected authorities to co-operate.
2) LLG has drafted a bi-lingual model constitution that is clearer and more transparent than the model originally prepared when the duty to publish a constitution came in to effect. That bi-lingual model has been adopted by a high proportion of Councils within Wales. Clearly the model will need to be updated in parts to reflect those proposals within the Bill which become law. LLG, in conjunction with the WLGA, would be willing to help prepare a national bi-lingual plain language guide to the Constitution should clause 52 be enacted.
3) The proposal to require every meeting to be webcast would introduce significant extra cost for purchase/hire of equipment and in the accessibility of the transmissions.
    a. At my own authority it would require the installation of cameras in all of the meeting rooms (where currently they are only in the council chamber) and would result in an expected cost increase of £44,600 per year (from £16,000 to £60,600) not to mention the cost of employees to operate/oversee the equipment. In addition to this there would be the as yet uncalculated cost of providing mobile cameras for meetings that take place away from County Council offices;
    b. The interplay between this duty and other existing legislative responsibilities such as the Public Sector Equality Duty needs to be carefully considered. When webcasting meetings councils will need to consider possible detriment to those with audio/visual impairments as well as providing translation via the webcast even where this is not provided within the meeting itself.
4) The potential problems outlined above might have the unintended consequence of reducing attempts by local authorities to make themselves

more accessible, if every meeting must be webcast then this will disincentivise calling meetings at buildings other than council offices with established webcasting provision, and would place a barrier to area committees, peripatetic meetings at schools or other venues etc. The duty should therefore be expressed as an obligation to webcast meetings where "reasonably practical".

5) Clause 50 is a welcome relaxation of the obligation to publish members' home address, which is increasingly a cause for concern around personal security whilst at the same time becoming increasingly irrelevant in an age of electronic communication. The aim of this clause, however, could be undermined by the requirement to publish details of any interest in land, which is typically only a councillor's home address, as part of the member's register of interests. Although it is open to a monitoring officer to agree to redact personal data on the register in the event that it creates, or is likely to create, a risk that the member (or a person living with them) may be subjected to violence or intimidation, the starting point is that such information will be routinely published, thereby revealing the data which Clause 50 is seeking to protect. The relaxation should therefore be extended to the obligation under the Councillors' Code of Conduct as well, which could be achieved by amending the duty under the code to register interests in land other than the Councillor's home address.
6) It is welcome to see that local authority attendance and voting at meetings is to be modernised. However, doing so simply through the mechanism of electronic remote attendance seems to artificially narrow the range of options. It has long been possible for company directors to meet virtually using both telephone and email, and it should be possible, subject to the imposition of some simple safeguards, to draft legislation that would permit councillors to do the same
7) Clause 53(6) contains a "saving" provision to ensure the validity of proceedings in the event of web casting failing during a meeting. For some reason, a saving provision was not included within the 2011 Measure's proposals for remote attendance. Given that remote attendance will probably depend on the very same technology as webcasting, and in any event could be subject to disruption, an equivalent provision ensuring the validity of proceedings where remote attendance is not available should also be inserted.
8) The duty on group leaders to help promote good ethical behaviour is welcome and reflects current practice in many authorities. The drafting leaves sufficient flexibility for local authorities to make the duty work in harmony with their existing culture and democratic structures

Part 5 – Collaborative Working by Principal Councils

Lawyers in Local Government supports in principle the introduction of CJCs, which would be welcome as an additional collaborative vehicle that authorities could choose to adopt as a local solution. There is an acknowledged need for local government to be able to work with stakeholders as equal partners, and for it to be able to establish arrangements where, for example, non local authority bodies can have equal voting rights. Some form of new legal vehicle appears to be required in order to achieve that though,as always, finding the right model is the key.

As currently drafted the proposals do raise a lot of complexity that will need to be resolved before they can be satisfactorily implemented. One of the issues that has been identified is what general local government legislation will apply and which parts. For example, will the 6 month rule (s.85 Local Government Act 1972) or the power to trade (s.95 Local Government Act 2003) or the GPOC apply?

In addition, there are other issues that need to be resolved such as whether these bodies will work alongside or supplant existing regional bodies such as the regional school improvement bodies or regional economic growth partnerships. If those bodies become sub-committees of a Corporate Joint Committee then the constituent councils will need to look at the impact of the new arrangements on the existing inter-authority agreements.

Such issues are not insurmountable but do need to be identified and the necessary time and effort devoted to making sure that they are resolved.

LLG is a member of the Local Government Reform – Officer Task and Finish Group, and is appreciative of its involvement in the early stages of formulation and drafting of the legislation. It is also appreciative of civil servant attendance at meetings of the LLG Monitoring Officers Group to discuss formulation of the legislation. Both of which would be suitable mechanisms for the resolution of these issues.

I look forward to being able to expand upon these points at the Committee.

Yours sincerely

Gareth Owens
Chair of the Wales LLG Monitoring Officers Group
For and on behalf of LLG Wales

Friday, 2 June 2017

NOTES AND OUTCOME

Those present were:

Welsh Government: Frank Cuthbert

LLG Corporate Partners: Alex Lawrence (Anthony Collins), Bethan Evans (Bevan Brittan), Laura Hughes (Browne Jacobson), Sean Jamieson (Eversheds Sutherland)

LLG Members: Andrew Jolley (Bridgend County Borough Council), Linda Rees-Jones (Carmarthenshire County Council), Delyth Jones (Conwy County Borough Council), Gareth Owens (Flintshire County Council), Trevor Coxon (Wrexham County Borough Council)

Discussion

Frank Cuthbert opened the discussion by outlining Welsh Government's intention to work collaboratively with local government and to give councils the powers to deliver for their residents. Over many years councils had requested that the general power of competence should be introduced and the Cabinet Secretary had agreed that it should be included within the forthcoming Local Government Bill as a means of enabling councils to innovate in service delivery, income generation and the realisation of efficiencies.

The local authority representatives then spoke about their experiences of managing vires without the general power of competence, their hopes and aspirations for the power and their concerns about how it might work in practice. In summary, it was agreed that

- Authorities were generally good at finding powers amongst existing legislation and they were equally adept at adapting proposals to ensure that they were authorised by existing powers
- That there were few examples of proposals that had stalled for want of a lack of vires/the general power of competence (though it was accepted that ideas dismissed are generally more difficult to remember)
- The general power of competence may give greater confidence to councils that they had the power to act and that the power would reduce the risk of successful legal challenge
- There was concern that some court cases had resulted in the power being interpreted as a duty on councils to act in cases where but for the general power of competence they would have had no specific power or duty to act
- The general power of competence might, by boosting confidence, help to change the culture of councils making them bolder and more innovative (again accepting that there are some things under the principles of public law that councils rightly could not and should not do such as acting irrationally or unfairly etc)
- There was concern about the limits on the general power of competence referred to in the legislation as “pre commencement limitations”, and how it could be more difficult to prove that no such limitation existed than to find a power that was broad enough to cover a proposed course of action. It was suggested that some degree of indemnity might be considered in the legislation if after reasonable investigation a power could not be found even if later it was proved to exist.

The Corporate Partners, as firms of solicitors operating in the local government field, then shared their experience of operating the general power of competence in England. In summary the following points were made:

- The general power of competence was not as extensively used as might have been expected and the cases where it had been relied on exclusively tended to be limited in nature, usually around income generation or giving of financial assistance
- Whilst the general power of competence had been intended to form a power of first resort it had in practice turned into a power of last resort where no other specific power could be found or as additional validation
- The drafting on pre commencement limitations created a barrier to it being more widely used or being used as a power of first choice

As a group we then considered options for improving on the flaws that had been noted in the English legislation. The following were agreed:

1. That local government was rightly subject to the following limitations which were are derived from public law principles or other legislation:
    a. That councils must act reasonably e.g. acting on the basis of evidence, considering only relevant matters and dismissing the irrelevant
    b. The rules of natural justice such as procedural fairness, treating like cases alike, consulting those affected by decisions etc
    c. The public sector equality and consultation duties and public procurement regulations
    d. The Human Rights Act

2. That any general power of competence should be limited by constitutional law/conventions including the following:
    a. The power should not be used to raise taxes (tax raising powers needing to be expressly conferred by legislation)
    b. The power should not authorise charging for the fulfilment of mandatory duties or the provision of mandatory services
    c. The power should not be used to make by-laws, orders or other regulations
    d. The power should not be used to change governance arrangements or the delegation of powers under the 1972 and 2000 Local Government Acts
3. A general power of competence subject only to the limitations set out in paragraphs 1 and 2 above would be a preferred and mature option. Despite this, it was contended that a power drafted in this way might be a step too far for Welsh Minsters
4. Hence, a general power of competence subject to the limitations set out in paragraphs 1 and 2 above PLUS a discretion on the part of Welsh Government to “call in uses” of the general power that would be akin to the process of calling in planning decisions might be an acceptable alternative;
5. A general power of competence subject to the limitations set out in paragraphs 1 and 2 above PLUS a requirement that it must be exercised having regard to, and was thus subject to, limitations contained within statutory guidance issued by Welsh Government

Option 5 was also examined in more detail to explore how to increase confidence on the parts of law makers, practitioners and judges in such statutory guidance. The following were agreed:

1. There would need to be wide consultation with groups such as LLG, WLGA and SOLACE (who are all agreeable to the idea) on the wording of the statutory guidance to generate support amongst practitioners
2. The guidance could (as the general disposal consent does now for the sale of land) specify limits above which the express prior consent of Welsh Government would need to be obtained
3. the statutory guidance could be subject to the affirmative approval process in the Senedd so that it possessed highest possible level of democratic legitimacy

There was also discussion about how to ensure that certainty existed for any third parties who might be entering into commercial or contractual arrangements with local councils where the council was relying upon the general power of competence. The Local Government (Contracts) Act 1997 is a legislative precedent for how third parties can be protected against any want of vires on the part of a council entering into a contract. Similar protection could be given to third parties so that they would have the confidence to enter into arrangements with councils based on the general power of competence.

If the current English drafting of the legislation were to be preferred then local authorities seeking to rely upon the general power of competence would also benefit from certainty if, having used the general power of competence in good faith, a pre commencement limitation were subsequently found to apply. Legislative precedents exist where

councils are protected from findings of ultra vires notwithstanding a failure to comply with legislation. See for example:

- Paragraph 4(4) Schedule 12 Local Government Act 1972 (want of service of a summons to a meeting does not invalidate that meeting); and
- s.16(3) Local Government and Housing Act 1989 (a defect in the application of the political balance rules to a body would not invalidate meetings of that body)

Lawyers in Local Government

October 2017

PUBLIC GENERAL ACTS WITH LOCAL GOVERNMENT IN THE TITLE

	Title	Years and Numbers
1.	Cities and Local Government Devolution Act 2016	2016 c. 1
2.	Local Government (Religious etc. Observances) Act 2015	2015 c. 27
3.	Local Government (Review of Decisions) Act 2015	2015 c. 22
4.	Local Government Finance Act 2012	2012 c. 17
5.	Local Government Act 2010	2010 c. 35
6.	Local Government and Public Involvement in Health Act 2007	2007 c. 28
7.	Local Government Act 2003	2003 c. 26
8.	Local Government Act 2000	2000 c. 22
9.	Local Government Act 1999	1999 c. 27
10.	Local Government (Contracts) Act 1997	1997 c. 65
	Local Government and Rating Act 1997	1997 c. 29
11.	Local Government (Wales) Act 1994	1994 c. 19
12.	Local Government (Amendment) Act 1993	1993 c. 27
13.	Local Government (Overseas Assistance) Act 1993	1993 c. 25
14.	Local Government Act 1992	1992 c. 19

	Title	Years and Numbers
15.	Local Government Finance Act 1992	1992 c. 14
16.	Local Government and Housing Act 1989	1989 c. 42
17.	Local Government Finance Act 1988	1988 c. 41
18.	Local Government Act 1988	1988 c. 9
19.	Local Government Act 1986	1986 c. 10
20.	Local Government Act 1985	1985 c. 51
21.	Local Government (Access to Information) Act 1985	1985 c. 43
22.	Local Government Finance Act 1982	1982 c. 32
23.	Local Government (Miscellaneous Provisions) Act 1982	1982 c. 30
24.	Local Government and Planning (Amendment) Act 1981	1981 c. 41
25.	Local Government, Planning and Land Act 1980	1980 c. 65
26.	Local Government Act 1978	1978 c. 39
27.	Local Government (Miscellaneous Provisions) Act 1976	1976 c. 57
28.	Local Government Act 1974	1974 c. 7
29.	Local Government Act 1972	1972 c. 70
30.	Local Government Grants (Social Need) Act 1969	1969 c. 2
31.	Local Government Act 1966	1966 c. 42
32.	Local Government (Financial Provisions) Act 1963	1963 c. 46

	Title	Years and Numbers
33.	Local Government (Records) Act 1962	1962 c. 56
34.	Local Government Act 1958	1958 c. 55
35.	Local Government (Miscellaneous Provisions) Act 1953	1953 c. 26
36.	Local Government Superannuation Act 1953	1953 c. 25
37.	Local Government Act 1948	1948 c. 26
38.	Local Government Act 1929	1929 c. 17
39.	Local Government (Emergency Provisions) Act 1916	1916 c. 12
40.	Local Government (Stock Transfer) Act 1895	1895 c. 32
41.	Local Government Act 1894	1894 c. 73
42.	Local Government Act 1888	1888 c. 41

Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

23 Ionawr 2020 – tudalen flaen papurau i'w nodi

Papur rhif:	Mater o dan sylw	Oddi wrth	Cam gweithredu
ELGC(5)-03-20 Papur 6	Bil Llywodraeth Leol ac Etholiadau (Cymru)	Cymdeithas Llywodraeth Leol	I'w nodi
ELGC(5)-03-20 Papur 7	Bil Llywodraeth Leol ac Etholiadau (Cymru)	Chris Highcock	I'w nodi
ELGC(5)-03-20 Papur 8	Ymchwiliad i gysgu ar y stryd yng Nghymru	Arfon Jones, Comisiynydd Heddlu a Throsedd Gogledd Cymru	I'w nodi
ELGC(5)-03-20 Papur 9	Budd-daliadau yng Nghymru: opsiynau i'w cyflawni'n well	Hannah Blythyn AC, y Dirprwy Weinidog Tai a Llywodraeth Leol	I'w nodi
ELGC(5)-03-20 Papur 10	Budd-daliadau yng Nghymru: opsiynau i'w cyflawni'n well	Canolfan Polisi Cyhoeddus Cymru	I'w nodi
ELGC(5)-03-20 Papur 11	Ymchwiliad i ddiogelwch tân mewn adeiladau uchel iawn	Julie James AC, y Gweinidog Tai a Llywodraeth Leol	I'w nodi

Local Government Association submission to the Equality, Local Government and Communities Committee inquiry into the General Power of Competence

10 January 2020

1. About the Local Government Association

1.1. The Local Government Association (LGA) works with councils to support, promote and improve local government. We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government.

1.2. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

1.3. We welcome the opportunity to submit evidence to the Equality, Local Government and Communities Committee on the General Power of Competence (GPC). This submission has been informed by a written statement provided to the LGA by Lawyers in Local Government.[i]

2. What have been the benefits and impact of the GPC to councils and communities in England? Has the power instigated change/innovation/risk aversion? Has the introduction of GPC had the intended impact?

2.1. The GPC was introduced as part of the Localism Act 2011 and came into force for principal authorities in England in February 2012. An objective of the GPC is to give councils increased confidence to undertake creative and innovative measures to support their communities and build local economies. Through this legislation, a council is able to lend or invest money, set up a company or co-operative society to trade and engage in commercial activity (in line with conditions set by the Local Government Act 2003), or run a community shop or post office.

2.2. The GPC replaced the well-being powers conferred on councils by the Local Government Act (2000) and removed the need to link the exercise of the power to the social, economic or environmental wellbeing of the area. This link had been interpreted restrictively by the courts as evidenced by the London Authorities Mutual Ltd (LAML) case in 2009, in which the courts took a narrow view of the scope of wellbeing and found that these powers did not enable councils to enter into a mutual insurance company arrangement across several councils.[ii]

2.3. The GPC was also available to parish and town councils and the National Association of Local Councils and Society of Council Clerks will have insight into its effectiveness.

2.4. The LGA supported the introduction of the GPC and was instrumental in its development. At the time, we outlined that legislating to create a power of general competence for local government would contribute to councils' confidence in using their powers in new ways to tackle the challenges that their communities faced. It recognises local government's unique position

as locally elected organisations and leaders of their communities, their track record of delivering efficiencies, innovation and providing value for money.

2.5. A review conducted by the LGA two years after the implementation of the GPC found that a number of councils were using the power as a legal foundation for doing things differently.[iii]

2.6. Examples cited at the time were:

- **Better services for residents**. Several councils used the GPC to promote energy switching schemes, taking advantage of the buying power presented by bringing together residents from within their area.

- **Delivering greater value for money**. Several councils cited the broad definition of the GPC as providing a legal basis for entering new arrangements such as shared services.

- **Other innovative uses** include developing a local authority holding company for a green energy company and introducing a living wage for council contractors.

2.7. The LGA later undertook another, more limited, review of the GPC which demonstrated that whilst it has assisted in providing councils greater confidence in some areas of activity and led to less legal resource being spent on considering whether an action is vires (within their authority), it has not made a radical change for councils to date.

2.8. This is owing to specific constraints within the legislation and the reductions in local government's core funding. The constraints within the Act itself are significant. Where there are relevant restrictions in other pieces of legislation, they also restrict the GPC. The GPC therefore cannot be used to override any existing restriction or limitation on the use of another power.

2.9. The Act places restrictions on charging, particularly through the requirement that income does not exceed costs, and this limits councils' ability to raise money. Commercial purposes are also restricted and where they are allowed, they must be exercised through a company. In the case of trading there are specific requirements as to what delivery vehicle can be used and only reasonable costs can be recovered when charging for discretionary services.

2.10. The constraints appear to be driven by two purposes: the first is to ensure that local authorities do not charge for services which they have a duty to provide; the second is to stop local authorities competing commercially with the private sector.

2.11. It should also be noted that councils have faced funding reduction since the Localism Act came into force and have therefore often focused their priorities on meeting core, statutory duties. Local government has had less resource and, as a consequence, fewer opportunities to use the GPC as fully as they might have in different financial conditions. This financial environment is further complicated by the restrictions within the Localism Act on raising money.

2.12. In future, as councils increasingly adopt a more commercial and risk aware approach in order to generate income, it may be that there will be an increased take up of the GPC which provides a layer of reassurance to those attempting to adopt a more commercial approach.

3. **Has an evaluation of the GPC been conducted?**

3.1. The LGA conducted an evaluation of the GPC published in 2013.[iv] We are not aware of an evaluation being conducted by national government or another organisation.

Appendix B

4. Statement by Lawyers in Local Government on the General Power of Competence

4.1. This statement has been prepared by Lawyers in Local Government (LLG) in consultation with its membership as credited below. It does not constitute legal advice and should not be relied upon in that capacity. This note sets out the position of LLG on the impact of introducing a General Power of Competence for local authorities in England.

Background

4.2. LLG is a membership organisation representing local authority legal departments and governance officers. We have over 350 individual local authority members with thousands of lawyers employed within them across England and Wales.

4.3. The LLG Monitoring Officers and Governance Group were contacted to seek views to inform this statement.

Statement

4.4. The general power of competence was introduced in February 2012 under provisions contained within the Localism Act 2011. In simple terms, it provides that a council (including eligible parish councils as so defined) can do anything an individual can do, provided that it is not prohibited by other legislation.

4.5. LLG are aware that the LGA has produced a useful paper on the use of the powers by local authorities but acknowledges that its use has been limited and that the powers are not the panacea they were initially hailed as being.

4.6. The powers replace the wellbeing powers and give more certainty as there is no longer the need to link the exercise of the power to the social, economic or environmental wellbeing of the area (which had been interpreted quite restrictively by the courts). Moreover, in the case of eligible parishes, they remove the section 137 restrictions on expenditure (s137 Local Government Act 1972). LLG do not know how many parish councils fall within the definition of an eligible parish but we suspect it is relatively few. LLG considers it would be prudent to seek a view from NALC or SLCC on the use of the GPC and its limitations within parish councils.

4.7. Overall the perception is that the GPC is a helpful addition to the powers of local authorities through such mechanisms as alternative service delivery vehicles for example. It certainly overcame the hurdle faced by the London Authorities Mutual Limited before the GPC came into effect (which the Court of Appeal found unlawful back in 2009); but it has not made a radical change to date. The GPC has assisted in providing confidence in some areas of activity but the limitations on the use of the power still make the process of establishing a correct and lawful power quite longwinded. It is not quite what it claims to be.

4.8. We consider there are three main reasons for this:

- The overall framework of rules which govern decision making and financial stewardship
- The constraints on the use of the power within the Localism Act itself

- The austerity period during the last decade

4.9. The overall framework means that local authorities have to demonstrate that their decisions are soundly based and financially prudent. This is a necessary constraint on the GPC

4.10. The constraints within the Localism Act are significant. Where there are relevant restrictions in other pieces of legislation, they restrict the GPC. It cannot be used to override any existing restriction or limitation on the use of another power.

4.11. The restrictions on charging limit the ability to raise money especially the requirement that income does not exceed costs. Commercial purposes are also restricted and where they are allowed, they must be exercised through a company. In the case of trading there are specific requirements as to what delivery vehicle can be used and only reasonable costs can be recovered when charging for discretionary services.

4.12. The constraints appear to be driven by two purposes; the first is to ensure that local authorities do not charge for services which they have a duty to provide anyway; the second is to stop local authorities competing commercially with the private sector.

4.13. Since the legislation came into force, local authorities have been operating within the context of a period of austerity. They have tended to be focussed on meeting their core duties. Arguably, they have not had the resources to use the GPC as fully as they might in other financial conditions particularly in view of the restrictions in the Localism Act on raising money under the GPC. Certainly, there is anecdotal evidence that smaller authorities have not relied upon the GPC.

4.14. That said, as councils increasingly adopt a more commercial and risk aware approach in order to generate income it may be that there will be an increased take up of the power. It certainly does provide a layer of reassurance to those attempting to adopt a more commercial approach.

4.15. LLG are unaware of any recent evaluation on the effect of the GPC although this would be welcomed.

Deborah Evans
CEO, LLG

[i] The statement is appended to this submission. Please note that Lawyers in Local Government outline that the statement does not constitute legal advice and should not be relied upon in that capacity.

[ii] Brent LBC v Risk Management Partners Ltd and London Authorities Mutual Ltd and Harrow LBC as interested parties, Court of Appeal 2009 (which took a narrow view of the scope of wellbeing).

[iii] https://www.local.gov.uk/sites/default/files/documents/general-power-competence--0ac.pdf

[iv] https://www.local.gov.uk/sites/default/files/documents/general-power-competence--0ac.pdf

THE ELECTORAL MANAGEMENT BOARD FOR SCOTLAND (EMB)

Comments regarding issues in the Local Government and Elections (Wales) Bill

Elections Scotland

14 January 2020

Malcolm Burr
Convener of the Electoral Management Board for Scotland
c/o City of Edinburgh Council Elections Office,
249 High Street, Edinburgh EH1 1YJ

BACKGROUND

The Electoral Management Board for Scotland

The Electoral Management Board for Scotland (EMB) was created by the Local Electoral Administration (Scotland) Act 2011, which gave the Board "the general function of co-ordinating the administration of Local Government elections in Scotland." The EMB's prime focus is ensuring that the interests of the voter are kept at the centre of all electoral planning and administration. It operates through the close community of electoral professionals in Scotland and seeks to work by consensus rather than the issue of formal directions, wherever possible. Leading and supporting Returning Officer (RO) and Electoral Registration Officer (ERO) colleagues the EMB coordinates elections and referendums to produce results in which the voter can have full confidence.

While the EMB has a specific remit for local government elections, over recent years it has provided extensive guidance and recommendations to the electoral community in Scotland for UK Parliamentary Elections and other events. The former Convener of the EMB was the Chief Counting Officer (CCO) for the Scottish Independence Referendum in 2014 delivering that event with the support of the Board and its officers. That Convener also led Scotland's delivery of the European Parliamentary Elections in 2009 and 2014 as Regional Returning Officer, the AV Referendum in 2011 and the EU Referendum in 2016 as Regional Counting Officer (RCO) for both events.

Governments, politicians, the Electoral Commission, Returning Officers and Electoral Registration Officers now recognise the EMB as the expert body delivering electoral events while leading, supporting and advising ROs and EROs,

The Local Government and Elections (Wales) Bill

The Equality, Local Government and Communities Committee in the National Assembly for Wales is currently scrutinising the Local Government and Elections (Wales) Bill.

As part of its evidence gathering, the Committee contacted the EMB as the Committee is interested in exploring how some of the provisions in the Bill are used elsewhere. In particular, as the Bill includes provisions to enable each local authority in Wales to decide which voting system to use to elect its members, whether first past the post or STV, the Committee would like to understand the impact of changing to a system of STV on Scottish elections. The Bill would also extend the franchise to enable 16 and 17 year olds to vote in local government elections in Wales.

The Committee contacted the EMB with an invitation to give evidence but as this was in the immediate lead up to the UK Parliamentary General Election on 12 December there was no capacity for this to be completed at that time. This paper identifies some issues that may be of interest to the Committee in their scrutiny and highlights sources that would be of interest in providing useful background. However this paper is not formal evidence submitted by the EMB as there has not been time to draft such a paper or for it to have been reviewed and approved by the EMB. These are therefore general comments rather than developed formal evidence.

Members of the Board or its Secretary would be happy to meet with Welsh Government officials or Ministers to discuss any of the points in this response more fully and to engage in broader discussions around the practical delivery of electoral activity in Scotland.

As is usual in such submissions, the EMB primarily addresses practical issues with respect to the delivery of elections, rather than issues of policy which would be outwith its remit.

Issues identified as of interest by the Committee

Voting by 16 an 17 year olds in local government elections

Section 2 of the Local Government and Elections (Wales) Bill proposes to extend the right to vote in local government elections to 16 and 17 year-olds, and eligible foreign citizens. Has any analysis been undertaken on the initial and longer term impact on voter turnout of extending the vote to 16 and 17 year olds in Scotland? What work has been undertaken to promote the franchise extension in Scotland, and what have been the cost implications of this?

With respect to the extension of the franchise to foreign citizens this is dealt with in the Scottish Elections (Franchise and Representation) Bill – see below.

With respect to 16- and 17-years olds, the expansion of the franchise to include 16 and 17 year olds happened for the first time in Scotland for the 2014 Scottish Independence Referendum. In the months leading up to that event there was significant work around the compiling of the Register of Young Voters and an extensive programme of public awareness and political literacy initiatives, both at the national and local level. According to the Electoral Commission's research 109,593 16 and 17 year olds were included on the registers by the registration deadline and 75% of those spoken to claimed to have voted. 97% of those 16-17 year olds who reported having voted said that they would vote again in future elections and referendums. This is dealt with extensively in the Electoral Commission report on the Referendum at https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Scottish-independence-referendum-report.pdf

With respect to research on the impact on turnout of the extension of the franchise this is primarily an academic issue. I understand that some work has been completed on by academics for example Jan Eichhorn has done significant research in this area. There is a paper at https://academic.oup.com/pa/advance-article-abstract/doi/10.1093/pa/gsx037/4316143?redirectedFrom=fulltext which is discussed in a blog at

https://blogs.lse.ac.uk/politicsandpolicy/votes-at-16-new-evidence-from-scotland/

Scottish Elections (Franchise and Representation) Bill - Consultation

We are aware that the Scottish Elections (Franchise and Representation) Bill is currently progressing through the Scottish Parliament, are you aware of what level of consultation and debate has taken place about including foreign citizens on the register?

The Scottish Elections (Franchise and Representation) Bill has been the subject of extensive consultation and debate. This is detailed fully in the Policy Memorandum that accompanies the Bill and is published at https://www.parliament.scot/S5_Bills/Scottish%20Elections%20(Franchise%20and%20Representation)%20(Scotland)%20Bill/SPBill51PMS052019.pdf

For ease of reference I have copied the relevant material below

Following the enactment of the Scotland Act 2016, the Scottish Government has held two separate public consultation exercises on electoral reform and prisoner voting in relation to Scottish Parliament and local government elections. The consultation on Electoral Reform was undertaken between December 2017 and March 2018 and sought views on a number of issues, including:

- *term lengths;*
- *extending the franchise in relation to foreign nationals;*
- *extending the role of the Electoral Management Board for Scotland;*
- *access to voting and elected office;*
- *electronic voting;*
- *the role and remuneration of Returning Officers; and*
- *boundary reviews.*

This consultation paper was the first step towards electoral reform. It included a number of suggestions as to how the new powers could be used to bring about improvements in the administration of devolved elections. Over 900 responses were received from organisations and individuals. The consultation was independently analysed and the analysis report as well as individual responses published in line with Scottish Government guidance.

As well as the online consultation, a range of roundtable discussions were held with a range of accessibility and equality organisations. The consultation on Electoral Reform revealed that there was general support amongst organisations and individuals for extending the electoral franchise for devolved elections to everyone who is legally resident in Scotland, with 78% of those who responded agreeing to this proposition. A further consultation exercise, on Prisoner Voting, took place from 14 December 2018 to 8 March 2019. Over 260 responses were received from organisations and individuals. The consultation responses and analysis report have been published. Further details are set out at paragraphs 36 to 39.

Ongoing consultation with electoral organisations, including the Electoral Commission, Electoral Management Board and Electoral Registration Committee of the Scottish Assessors Association as well as the Scottish Prison Service continued during the consultation period and the development of the draft legislation, and their views were taken at various stages. Consultation with these groups will continue during the implementation period in order to ensure a smooth introduction of the proposed changes, including updated forms and guidance.

The EMB made written submissions to each of these formal consultations that could be shared if required and were published on the Scottish Government website.

Voting Systems and the Impact of STV

Sections 5 -10 of the Welsh Bill would enable each local authority to decide on its own voting system (first past the post or STV). Are you able to provide information on the impact of STV being mandated for Scottish local government elections? What has been the impact of

electronic counting? Has there been a review of electoral arrangements since the voting system changed to STV? Has this raised any issues?

This is a very detailed question and it is not possible to provide a full answer in this short paper. The issues have been addressed in a number of documents and reports but primarily I was point to the Electoral Commission's published reviews of the Scottish Local Government Elections which include comments regarding the STV system, the degree to which voters understand the system and the approach to eCounting.

The most recent such report reviewed the 2017 Scottish Local government elections. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Scottish-Council-elections-2017.pdf

Practically there are a number of observations with respect to eCounting that may be made from the perspective of the electoral administrator:

- A consistent national system allows economies of scale in contracting for the system;
- A consistent national system prevents voter confusion and supports public awareness activity;
- Manual STV elections are possible – some councils do count by-elections manually - but for multiple vacancies across several wards such an approach would be time consuming and introduce potential for human error;
- The transparency of elections is in some ways enhanced by electronic counting as the data generated allows a deeper understanding of voting patterns than is available manually;
- The procurement of an eCounting system us a major procurement exercise that takes around two years from tender to deployment;
- IT security needs to be addressed.
- There is a need to communication to candidates and agents so they have confidence in the system and understand its approach.

The tender documents relating to the eCounting Contracts for 2017 and the current procurement for 2022 would be good sources of information on all these issues.

SWYDDFA COMISIYNYDD HEDDLU A THROSEDD GOGLEDD CYMRU
OFFICE OF THE POLICE & CRIME COMMISSIONER NORTH WALES

John Griffiths AM
Committee Chair
Equality, Local Government and Communities Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Ein Cyf/Our Ref: AJ/HE/1955

13 Ionawr/ January 2020

Dear John,

I am writing to thank you for the work of the Equality, Local Government and Communities Committee in researching and writing the report "Rough sleeping follow up- Mental Health and Substance Misuse Services." It is enlightening to see such a forward thinking report which identifies the benefits that Enhanced Harm Reduction Centres have on rough sleepers and those who live chaotic lifestyles.

The level of drug related deaths have increased in recent years and as demonstrated within the report two out of five deaths of rough sleepers were drug related in 2018. An Enhanced Harm Reduction Centre would give rough sleepers a safe and clean environment to take substances but also to have access to health services, drug testing services and housing services. Despite the current legislation around Enhanced Harm Reduction Centres their success in countries around to reduce drug related deaths far outweigh the legal concerns.

On the 5th December 2019 I presented at the All Wales Policing Partnership Board alongside the Deputy Chief Constable Jeremy Vaughn focussing on harm reduction and drug related deaths. During our presentation I spoke about the benefits of Heroin Assisted Treatment, Enhanced Harm Reduction Centres and police officers carrying Naloxone. The Deputy Minister Jane Hutt AM and her colleagues all responded positively to the presentation and have shared their support for Heroin Assisted Treatment in Wales.

I would welcome future engagement with your committee the board to progress the agenda of reducing drug related deaths and homelessness in Wales and I support all of the recommendations especially the first and third recommendations. I have been a supporter of Enhanced Harm Reduction Centres for many years and I am happy to assist in producing an evidence based approach to piloting a centre Wales.

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I would be interested in receiving a copy of the Welsh Government response to your report.

Yours Sincerely

Arfon Jones
North Wales Police and Crime Commissioner

Copy to:

Committee Clerk: Naomi Stocks

All Members of the Committee

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Eitem 6.4

Ein cyf/Our ref: HB 72 19

John Griffiths AC
Cadeirydd
Y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau

13 Ionawr 2020

Annwyl John,

Diolch am eich llythyr dyddiedig 16 Rhagfyr ynghylch fy ymateb i adroddiad y Pwyllgor Cydraddoldeb, Llywodraeth Leol a Chymunedau (y Pwyllgor), *Budd-daliadau yng Nghymru*.

Ar 14 Ionawr, rydw i'n rhagweld y bydd Canolfan Polisi Cyhoeddus Cymru (y Ganolfan) yn cyhoeddi ei hadolygiad cyflym o'r dystiolaeth ynghylch diwygiadau posibl i'r ffordd y gweinyddir nawdd cymdeithasol yng Nghymru. Byddaf yn ystyried canfyddiadau'r Ganolfan yn fanwl, ochr yn ochr ag adroddiad defnyddiol iawn y Pwyllgor, *Budd-daliadau yng Nghymru.* Byddaf yn darparu ymateb mwy manwl i argymhellion 10-17 y Pwyllgor cyn cychwyn toriad y Pasg 2020.

Lle'r ydym wedi dechrau amlinellu rhai egwyddorion craidd, sy'n cynnwys trugaredd, tegwch, urddas a dealltwriaeth, mae'r rhain yn parhau i fod yn egwyddorion i Lywodraeth Cymru wrth ddatblygu pob polisi a gellir gweld hynny'n gyson yn ein dull gweithredu. Y dull gweithredu hwn a'r egwyddorion hyn yw'r hyn yr ydym yn gofyn i Lywodraeth y DU eu defnyddio o fewn y setliad datganoli presennol, a'r rhain hefyd y byddem yn bwriadu'u rhoi ar waith petai unrhyw ddatganoli pellach unrhyw bryd yn y dyfodol.

Rwyf wedi nodi isod rai o'ch cwestiynau penodol mewn cysylltiad â fy ymateb.

Argymhelliad 1

Bydd yr adolygiad traws-lywodraethol o'n rhaglenni a'n gwasanaethau presennol yn adrodd yn ôl yng Ngwanwyn 2020. Mae'r adolygiad yn edrych ar ein rhaglenni a'n gwasanaethau er mwyn sicrhau eu bod yn cael yr effaith fwyaf bosibl ar fywydau plant, pobl ifanc a theuluoedd sy'n byw mewn tlodi. Bydd yr adolygiad yn ceisio darganfod y polisïau a'r rhaglenni hynny sy'n gweithio'n dda, a'r meysydd lle y dylem fod yn gwneud mwy. Mae cwmpas eang i'r adolygiad, sy'n adlewyrchu'r amrywiaeth o raglenni a gwasanaethau a ariennir sydd o bosibl yn cyfrannu at fynd i'r afael â thlodi plant. Bydd yn edrych ar draws

themâu ac yn casglu sylwadau ynghylch meysydd lle mae buddsoddiad yn gwneud y gwahaniaeth mwyaf, neu ym mhle y gallai wneud y gwahaniaeth mwyaf. Mae plant, pobl ifanc a theuluoedd mewn angen yn parhau i fod yn flaenoriaeth uchel i'r Llywodraeth hon a byddwn yn parhau i ganolbwyntio ar beth yn rhagor y gellir ei wneud dros y gyfran sylweddol hon o bobl Cymru.

Argymhelliad 2

Ar hyn o bryd, mae swyddogion yn diweddaru'r un wefan sy'n darparu gwybodaeth ynghylch cymhwysedd ar gyfer rhaglenni a chynlluniau Llywodraeth Cymru. Gallaf gadarnhau y byddwn yn ymchwilio i sut y gallwn gynnwys gwybodaeth am fudd-daliadau datganoledig yn y fan honno, lle mae'n bosibl ac yn ymarferol gwneud hynny.

Argymhelliad 3

Mewn perthynas â'r Gronfa Cymorth Dewisol, rydym yn diweddaru'r canllawiau ar gyfer y Taliad Cymorth mewn Argyfwng i sicrhau ymhellach bod hawlwyr, neu asiantaethau cymorth, yn ymwybodol ei fod yn grant i helpu â chostau hanfodol yn sgil argyfwng, neu drychineb fel llifogydd neu dân yn y cartref, neu galedi ariannol enbyd, a all gynnwys oedi cyn talu budd-daliadau. Byddaf yn darparu dolenni at y canllawiau diwygiedig cyn gynted ag y byddant wedi'u cwblhau.

Argymhelliad 4

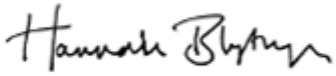
Mae'r Gronfa Cyngor Sengl yn parhau i fod yn ddull gweithredu sylweddol, Cymru-gyfan, ar gyfer hybu a chynyddu'r defnydd o bob budd-dal, boed wedi'i ddatganoli neu heb ei ddatganoli. Yn gefnogaeth i hyn, mae gennym hanes cryf o roi grantiau i ddarparwyr cyngor ac o gynyddu'r cyllid i ateb y galw. Mae amrywiaeth o bartneriaid yn gweithio'n ddiffwdan mewn consortiwm, gan sicrhau bod gwasanaethau cynghori yn treiddio'n ddwfn i gymunedau a'u bod yn cael eu cynnig yn y lleoedd y mae'r bobl yn yr angen mwyaf yn mynd iddynt.

Yn cyd-fynd â'r gwaith a gefnogir gan y Gronfa Cyngor Sengl, mae cynlluniau unigol hefyd yn hybu defnydd ohonynt drwy eu rhwydweithiau pwrpasol a'u rhanddeiliaid. Er enghraifft, mae ymgyrch genedlaethol i gynyddu ymwybyddiaeth o Gynllun Gostyngiadau'r Dreth Gyngor ac rydym wedi comisiynu gwaith ymchwil gan Policy in Practice i ymchwilio i'r cysylltiad rhwng Credyd Cynhwysol a Chynllun Gostyngiadau'r Dreth Gyngor, gan fod y Cynllun yn math o gymorth 'basbort'. Cyhoeddwyd adroddiad interim Policy in Practice ar 9 Ionawr 2020.

https://llyw.cymru/credyd-cynhwysol-cynllun-gostyngiadaur-dreth-gyngor-ac-ol-ddyledion-rhent-yng-nghymru-adroddiad

Mae swyddogion hefyd yn gweithio gydag Adran Gwaith a Phensiynau Llywodraeth y DU i weld beth y gellir ei wneud yn benodol i hybu defnydd o'r Credyd Pensiwn, o ystyried y newidiadau y bydd Llywodraeth y DU yn eu gwneud eleni o ran hawl pobl dros 75 oed i gael trwydded teledu am ddim.

Yn gywir,



Hannah Blythyn AC/AM
Y Dirprwy Weinidog Tai a Llywodraeth Leol
Deputy Minister for Housing and Local Government

Papur 10 Canolfan Polisi Cyhoeddus Cymru
Paper 10 Wales Centre for Public Policy

Wales Centre for Public Policy
Canolfan Polisi Cyhoeddus Cymru

Gweinyddu nawdd cymdeithasol yng Nghymru

Tystiolaeth o ddiwygiadau posibl

Emma Taylor-Collins a Dan Bristow
Canolfan Polisi Cyhoeddus Cymru
Ionawr 2020

Ein Cenhadaeth

Mae Canolfan Polisi Cyhoeddus Cymru yn helpu i wella'r broses o lunio polisïau a gwasanaethau cyhoeddus drwy gynorthwyo gweinidogion ac arweinwyr gwasanaethau cyhoeddus i gael a defnyddio tystiolaeth annibynnol gadarn ynghylch yr hyn sy'n gweithio. Mae'n gweithio mewn partneriaeth ag ymchwilwyr blaenllaw ac arbenigwyr polisi i syntheseiddio a chrynhoi tystiolaeth sy'n bodoli eisoes a chanfod bylchau lle mae angen cynhyrchu gwybodaeth newydd.

Mae'r Ganolfan yn annibynnol ar y llywodraeth ond mae'n gweithio'n agos gyda llunwyr polisi ac ymarferwyr i ddatblygu syniadaeth o'r newydd ynglŷn â sut i fynd i'r afael â heriau strategol ym meysydd iechyd a gofal cymdeithasol, addysg, tai, yr economi a chyfrifoldebau datganoledig eraill. Mae'n gwneud y canlynol:

- Helpu Gweinidogion Llywodraeth Cymru i nodi tystiolaeth awdurdodol ac arbenigedd annibynnol a all helpu i lywio a gwella polisi, yn ogystal â chael gafael ar dystiolaeth ac arbenigedd o'r fath a'i defnyddio;
- Gweithio gyda gwasanaethau cyhoeddus i gael gafael ar dystiolaeth o'r hyn sy'n gweithio wrth fynd i'r afael â heriau economaidd a chymdeithasol allweddol, yn ogystal â chynhyrchu, gwerthuso a defnyddio tystiolaeth o'r fath; a
- Defnyddio'i waith gyda Gweinidogion a gwasanaethau cyhoeddus i wella dealltwriaeth o'r ffordd y gall tystiolaeth lywio a gwella'r broses o lunio polisïau a gwasanaethau cyhoeddus a chyfrannu at ddamcaniaeth llunio a gweithredu polisi.

Drwy secondiadau, lleoliadau PhD a'i rhaglen Prentisiaeth Ymchwil, mae'r Ganolfan hefyd yn helpu i wella gallu ymchwilwyr i wneud gwaith ymchwil effeithiol sy'n berthnasol i bolisi.

I gael rhagor o wybodaeth ewch i'n gwefan yn www.wcpp.org.uk

Arianwyr Craidd

Sefydlwyd **Prifysgol Caerdydd** ym 1883. Wedi'i lleoli mewn prifddinas ffyniannus, mae'r Brifysgol yn sefydliad uchelgeisiol ac arloesol sy'n awyddus i feithrin cydberthnasau rhyngwladol cryf a dangos ei hymrwymiad i Gymru.

Mae'r **Cyngor Ymchwil Economaidd a Chymdeithasol (ESRC)** yn rhan o UK Research and Innovation, sefydliad newydd sy'n dwyn ynghyd saith cyngor ymchwil y DU, Innovate UK a Research England i sicrhau bod pob cyngor yn cyfrannu cymaint â phosib ac i greu'r amgylchedd gorau ar gyfer datblygu ymchwil ac arloesedd.

Llywodraeth Cymru yw llywodraeth ddatganoledig Cymru sy'n gyfrifol am feysydd allweddol o fywyd cyhoeddus, gan gynnwys iechyd, addysg, llywodraeth leol a'r amgylchedd.

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Crynodeb

- Mae'r nodyn hwn yn rhoi crynodeb o'n canfyddiadau yn dilyn adolygiad cyflym o dystiolaeth a barn arbenigwyr mewn cysylltiad â datganoli gweinyddu nawdd cymdeithasol yng Nghymru, ar ran Llywodraeth Cymru.
- Wrth archwilio'r dystiolaeth rydym wedi awgrymu y dylai unrhyw asesiad o fanteision a risgiau posibl datganoli gweinyddu nawdd cymdeithasol roi sylw i bedwar cwestiwn allweddol, sef:
    - Pa ganlyniadau a fwriedir wrth ddatganoli gweinyddu nawdd cymdeithasol?
    - Pa agweddau ar y trefniadau presennol ar gyfer gweinyddu nawdd cymdeithasol sy'n ein hatal rhag cyflawni'r amcanion hyn?
    - Sut y gellid newid yr agweddau hynny ar nawdd cymdeithasol er mwyn cyflawni'r amcanion hyn?
    - Beth yw goblygiadau cyfreithiol ac ariannol y newidiadau y byddai angen eu gwneud a pha ffactorau eraill y byddai angen eu hystyried?
- Mae'r gwahaniaeth rhwng polisi a gweinyddu nawdd cymdeithasol yn amwys, ac nid yw'n sail ddefnyddiol iawn ar gyfer archwilio manteision a risgiau posibl o ran datganoli pellach. Yn anad dim, mae hyn oherwydd bod agweddau ar yr hyn y gellid ei alw'n weinyddu wedi'u corffori mewn deddfwriaeth sylfaenol.
- Byddem yn dadlau felly mai'r cam cyntaf fyddai diffinio'r canlyniadau rydym yn dymuno eu cael drwy newid y system bresennol.
- Wrth wneud hyn, byddai wedyn yn bosibl trin a thrafod ym mha ffordd y mae angen i'r system bresennol newid, a dechrau llunio dewisiadau y gellir eu dadansoddi yn fwy manwl.
- Rydym wedi canfod sawl model gwahanol ar gyfer addasu neu ddiwygio'r system nawdd cymdeithasol bresennol y gellid eu defnyddio fel sail ar gyfer syniadau yng Nghymru. Mae bob un yn ceisio cyflawni nodau gwahanol sy'n golygu y byddai gan bob un ohonynt oblygiadau gwahanol o safbwynt y setliad datganoli.
- Mae ein gwaith hyd yma yn dangos bod llawer i'w ddysgu o brofiad ehangach, yn enwedig datblygiadau yn yr Alban a Manceinion Fwyaf.
- Gobeithio y bydd y dadansoddiad cychwynnol hwn yn fuddiol o ran llywio trafodaethau pellach ynghylch mwy o ddadansoddi a thystiolaeth ychwanegol yng nghyswllt datganoli gweinyddu nawdd cymdeithasol yng Nghymru.

Cyflwyniad

Mae'r Prif Weinidog wedi gofyn i Ganolfan Polisi Cyhoeddus Cymru asesu'r materion y byddai angen eu hystyried er mwyn dod i benderfyniad ynghylch pa mor ddymunol ac ymarferol y byddai datganoli rhai agweddau ar weinyddu nawdd cymdeithasol[1] yng Nghymru. Mae'r nodyn hwn yn rhoi crynodeb o'n canfyddiadau yn dilyn adolygiad cyflym o'r dystiolaeth sydd ar gael ar hyn o bryd (er mai cyfyngedig yw'r dystiolaeth a gyhoeddwyd am y pwnc hwn), cyfarfodydd a gohebiaeth â swyddogion, a sgyrsiau gyda nifer o arbenigwyr.

Rydym wedi dod i'r casgliad y dylai asesiad o'r manteision a'r risgiau sydd ynghlwm â datganoli gweinyddu nawdd cymdeithasol ymdrin â phedwar mater allweddol, sef:

1. Pa ganlyniadau a fwriedir wrth ddatganoli gweinyddu nawdd cymdeithasol?
2. Pa agweddau ar y trefniadau presennol ar gyfer gweinyddu nawdd cymdeithasol sy'n ein hatal rhag cyflawni'r amcanion hyn?
3. Sut y gellid newid yr agweddau hynny ar nawdd cymdeithasol er mwyn cyflawni'r amcanion hyn?
4. Beth yw goblygiadau cyfreithiol ac ariannol y newidiadau y byddai angen eu gwneud a pha ffactorau eraill y byddai angen eu hystyried?

Mae gweddill yr adroddiad hwn yn rhoi cyd-destun y system nawdd cymdeithasol bresennol ledled y DU cyn archwilio'r pedwar cwestiwn dan sylw yn fanwl. Ein gobaith yw y bydd y dadansoddiad cychwynnol hwn yn fuddiol o ran llywio trafodaethau pellach ynghylch mwy o ddadansoddi a thystiolaeth ychwanegol yng nghyswllt datganoli gweinyddu nawdd cymdeithasol yng Nghymru.

Cynhaliwyd yr adroddiad hwn o gwmpas yr un amser ag ymholiad y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol *Budd-daliadau yng Nghymru: Opsiynau i'w cyflawni'n well* (2019a) ac mae'n defnyddio'r adroddiad hwnnw pan fo hynny'n briodol. Er bod ein hadroddiad yn ymdrin â maes tebyg i waith y Pwyllgor, wrth geisio amlinellu'r ystod o ddulliau posibl y gellid eu defnyddio i ddiwygio'r ffordd mae nawdd cymdeithasol yn cael ei weinyddu yng Nghymru ar hyn o bryd, y gwahaniaeth yw nad yw'n canolbwyntio ar fudd-daliadau penodol ac nid yw'n argymell pa ddulliau y dylid eu defnyddio.

[1] Mae'r termau 'lles' a 'nawdd cymdeithasol' yn aml yn cael eu defnyddio'n gydgyfnewidiol. Rydym yn defnyddio'r term 'nawdd cymdeithasol' ar gyngor arbenigwyr rydym wedi ymgynghori â nhw. I gael rhagor o wybodaeth am iaith, gweler Lister (2013).

Nawdd cymdeithasol yn y DU

Ym mis Tachwedd 2016[2], roedd 11.3% o boblogaeth oedran gweithio Cymru yn hawlio budd-daliadau diweithdra, cyfran uwch nag yn Lloegr (8.1%) a'r Alban (10.3%) (Ystadegau Cymru, 2017). Yng Nghymru ar hyn o bryd, mae nawdd cymdeithasol yn fater sydd wedi cael ei gadw yn ôl ar gyfer Llywodraeth y DU, ac eithrio rhai budd-daliadau (sy'n cael eu trafod yn fwy manwl isod o dan 'Beth yw'r goblygiadau cyfreithiol?').

Yng Ngogledd Iwerddon mae nawdd cymdeithasol yn fater sydd wedi cael ei ddatganoli'n llawn. Fodd bynnag, yn ymarferol, mabwysiadwyd dull tebyg i'r un a ddefnyddir gan Lywodraeth y DU yn gyffredinol oherwydd mae'n rhaid trafod a dod i gytundeb ynghylch unrhyw ddull gwahanol gyda'r Gweinidog â chyfrifoldeb yng Ngogledd Iwerddon ac Ysgrifennydd Gwladol Llywodraeth y DU (Deddf Gogledd Iwerddon 1998, a87), ac oherwydd bod yn rhaid i Ogledd Iwerddon ariannu unrhyw newidiadau. Er enghraifft, oherwydd nad oedd Cynulliad Gogledd Iwerddon wedi pasio deddf gyfatebol i'r Ddeddf Diwygio Lles yn 2012 ar unwaith bu'n rhaid iddo dalu miliynau i Lywodraeth y DU er mwyn cyflenwi'r gwahaniaeth yn y gost o ddarparu nawdd cymdeithasol. Fodd bynnag, ers 2016 mae Gogledd Iwerddon wedi rhoi polisi 'paredd a mwy' ar waith, sef: £501m tuag at 'fesurau lliniaru' ar gyfer agweddau ar ddiwygio lles, a bydd y rhain mewn grym tan fis Mawrth 2020 (yr Adran Cymunedau, 2019a). Trafodir hyn yn fwy manwl isod.

Yn 2014 roedd Comisiwn Silk wedi argymell y dylai nawdd cymdeithasol barhau i fod yn fater a gedwir yn ôl ar gyfer Llywodraeth y DU oherwydd ei fod yn rhan o 'undeb cymdeithasol' y DU ac oherwydd bod datganoli nawdd cymdeithasol yn cael ei ystyried yn ormod o risg ariannol ' (Comisiwn Silk, 2014). Ond roedd y Comisiwn hefyd wedi argymell pe bai nawdd cymdeithasol yn cael ei ddatganoli i'r Alban yn y dyfodol, dylid adolygu'r sefyllfa yng Nghymru.

O dan Ddeddf yr Alban 2016, a Deddf Nawdd Cymdeithasol (Yr Alban) a'i dilynodd yn 2018, datganolwyd rhagor o bwerau i Lywodraeth yr Alban, gan gynnwys cyfrifoldeb dros 11 o fudd-daliadau sydd ddim yn gysylltiedig â Chyfraniadau Yswiriant Gwladol.[3] Erbyn hyn hefyd mae gan Lywodraeth yr Alban bwerau i ychwanegu arian at fudd-daliadau a gedwir yn

[2] Nid yw'r data hyn yn cael eu diweddaru bellach; ystadegau ar gyfer 2016 yw'r rhai diweddaraf sydd ar gael, ac felly nid yw cyflwyno Credyd Cynhwysol wedi cael ei ystyried ynddynt.

[3] Sef: Taliad Annibyniaeth Personol a Lwfans Byw i'r Anabl, Lwfans Gweini, Lwfans Gofalwr, Taliad Tanwydd Gaeaf, Budd-dal Anabledd Anafiadau Diwydiannol, Taliad Tywydd Oer, Lwfans Anabledd Difrifol, Taliad Disgresiwn at Gostau Tai, Grant Mamolaeth Cychwyn Cadarn a Chostau Angladd, yn ogystal â rhai pwerau sy'n gysylltiedig â Chredyd Cynhwysol.

ôl ac i greu budd-daliadau newydd mewn unrhyw faes ac eithrio os oes cysylltiad â materion a gedwir yn ôl y DU, megis cynhaliaeth cynnal plant neu agweddau ar gymorth cyflogaeth sydd wedi'u cadw'n ôl (Senedd yr Alban, 2017: erthyglau 4 a 5). I ddechrau roedd Llywodraeth yr Alban wedi bwriadu dechrau cymryd hawliadau newydd ym mhob un o'r 11 maes budd-daliadau erbyn mis Mai 2021, ond bellach mae hyn wedi cael ei ohirio tan 2024 (Somerville, 28 Chwefror 2019).

Ers datganoli nawdd cymdeithasol yn yr Alban, bu galw o'r newydd am adolygu'r system nawdd cymdeithasol yng Nghymru. Roedd Sefydliad Bevan (2016) wedi argymell datganoli nifer o fudd-daliadau oedran gweithio ar y sail y byddai hyn yn gwella canlyniadau i bobl Cymru. Mae dadansoddiad gan Ganolfan Llywodraethiant Cymru yn awgrymu y gallai Trysorlys Cymru elwa'n sylweddol o ddatganoli rhai budd-daliadau penodol (Ifan a Sion, 2019). Yn ddiweddar, cynhaliodd y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol ymholiad i Fudd-daliadau yng Nghymru: Opsiynau i'w cyflawni'n well (Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, 2019a).

'Gweinyddu' o'i gymharu â 'polisi'

Yn achos nawdd cymdeithasol, nid yw'n hawdd gwahaniaethu rhwng polisi a gweinyddu. Mae elfennau o'r system bresennol y gellid eu hystyried yn 'weinyddu' mewn gwirionedd wedi'u cynnwys mewn deddfwriaeth, ac maent yn ganolog i gyflawni amcanion polisi Llywodraeth y DU. Er enghraifft, mae deddfwriaeth yn mynnu bod Credyd Cynhwysol (ac eithrio yng nghyswllt y rheini sy'n gymwys ar gyfer Trefniadau Talu Amgen[4]) yn cael ei dalu'n fisol (Llywodraeth y DU, 2013: adran 47). Y rheswm am hyn yw mai bwriad Credyd Cynhwysol yw 'paratoi hawlwyr ar gyfer byd gwaith lle mae 75% o weithwyr yn cael eu talu'n fisol' (Adran Gwaith a Phensiynau, 2019). Oherwydd bod pa mor aml y dylid gwneud taliadau wedi'i ddynodi mewn deddfwriaeth, dim ond drwy weithredu deddfwriaeth newydd yr oedd Llywodraeth yr Alban yn gallu cynnig gwneud taliadau ddwywaith y mis i bawb oedd yn derbyn Credyd Cynhwysol (Llywodraeth yr Alban, 2017), ac nid oedd hyn ond yn bosibl oherwydd bod Llywodraeth yr Alban wedi cael pwerau ychwanegol drwy Ddeddf yr Alban 2016. Felly, mae rhywbeth y gellid ei ystyried yn benderfyniad gweinyddol, sef amseriad taliadau, mewn gwirionedd wedi'i ddynodi mewn polisi yng Nghymru a Lloegr. Felly byddai angen deddfwriaeth sylfaenol i newid pa mor aml y byddai Credyd Cynhwysol yn cael ei dalu yng Nghymru. Heb ddeddfwriaeth o'r fath, gallai trin dinasyddion yng Nghymru a Lloegr yn wahanol wneud Llywodraeth y DU yn agored i adolygiad barnwrol.

[4] Mae Trefniadau Talu Amgen ar gael i rai hawlwyr penodol y mae angen 'cymorth ychwanegol' arnynt. Mae'r trefniadau'n cynnwys taliadau a wneir yn fwy aml na bob mis, rhannu'r taliad rhwng gwahanol bartneriaid yn y cartref a thalu elfennau tai Credyd Cynhwysol yn uniongyrchol i landlordiaid. (Adran Gwaith a Phensiynau, 2019).

Oherwydd hyn, mae'n debyg y byddai'r gwahaniaeth rhwng polisi a gweinyddu yn cael ei herio ac yn rhan bwysig o unrhyw drafodaethau rhwng Llywodraeth Cymru a Llywodraeth y DU am ddatganoli nawdd cymdeithasol.

Cwestiynau allweddol ynghylch datganoli gweinyddu nawdd cymdeithasol yng Nghymru

Mae Canolfan Polisi Cyhoeddus Cymru wedi nodi pedwar mater allweddol yng nghyswllt datganoli gweinyddu rhai agweddau ar y system nawdd cymdeithasol yng Nghymru, sef:

1. Pa ganlyniadau a fwriedir wrth ddatganoli gweinyddu nawdd cymdeithasol?
2. Pa agweddau ar y trefniadau presennol ar gyfer gweinyddu nawdd cymdeithasol sy'n ein hatal rhag cyflawni'r amcanion hyn?
3. Sut y gellid newid yr agweddau hynny ar nawdd cymdeithasol er mwyn cyflawni'r amcanion hyn?
4. Beth yw goblygiadau cyfreithiol ac ariannol y newidiadau y byddai angen eu gwneud a pha ffactorau eraill y byddai angen eu hystyried?

1. Pa ganlyniadau a fwriedir wrth ddatganoli gweinyddu nawdd cymdeithasol?

Rydym yn awgrymu mai'r man cychwyn ar gyfer unrhyw asesiad mewn perthynas ag a ddylai gweinyddu nawdd cymdeithasol yng Nghymru gael ei ddatganoli yw nodi'r canlyniadau a ddymunir fel sail ar gyfer unrhyw benderfyniadau ynghylch beth, efallai, fyddai angen ei newid. Dull arall yw pennu rhai egwyddorion sylfaenol a fyddai'n gallu gweithredu fel sail ar gyfer dyluniad neu/a gweithrediad y gwaith o weinyddu nawdd cymdeithasol.

Mae llawer o'r dadleuon diweddar ynghylch nawdd cymdeithasol wedi troi o amgylch effaith y Diwygio Lles a gyflwynwyd o dan Lywodraethau Clymblaid a Cheidwadol y DU (Deddf Diwygio Lles 2012; Deddf Gwaith a Lles 2016). Mae dadansoddiad diweddar o ddiwygiadau a gyhoeddwyd rhwng 2010 a 2018 yn awgrymu y bydd cartrefi yng Nghymru yn colli 1.5%, neu £480 y flwyddyn, o'u hincwm net ar gyfartaledd o ganlyniad iddynt; rhagwelir y bydd y cartrefi hynny â'r incwm isaf ac sydd â phlant (yn enwedig os oes yno dri phlentyn

neu fwy) yn colli cryn dipyn yn fwy na hynny, hyd at £4,110 y flwyddyn (Llywodraeth Cymru, 2019: 9). Gallai'r awydd i liniaru ar effaith y gostyngiad hwn o ran incwm cartrefi ysgogi dull o ddatganoli nawdd cymdeithasol sy'n canolbwyntio ar ganlyniadau.

Gall set o egwyddorion helpu i ddiffinio'r canlyniadau a ddymunir. Mae Llywodraeth Cymru eisoes wedi dechrau amlinellu rhai egwyddorion craidd y gellid seilio'r gwaith o weinyddu nawdd cymdeithasol yng Nghymru arnynt. Mae'r rhain yn cynnwys trugaredd, tegwch, parch, urddas a dealltwriaeth, gyda'r nod o fabwysiadu dull mwy dyngarol sy'n canolbwyntio ar y dinesydd (Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, 2019b).

Mae Cyngor ar Bopeth (Hobson, 2019) wedi nodi tair egwyddor y mae'n awgrymu a ddylai fod wrth wraidd unrhyw system nawdd cymdeithasol:

1. System sydd ar gael i bawb sydd ei hangen.
2. Lefel ddigonol o fudd-daliadau sy'n cwmpasu costau byw.
3. Hyblygrwydd i helpu pobl i fyw bywydau sy'n gwireddu eu dyheadau, ni waeth be fo'u sefyllfa:
    a. System syml y gall pawb ei defnyddio'n hawdd.
    b. System sy'n rhoi sylw i anghenion unigol cymhleth.
    c. System sy'n gallu ymateb i anghenion lleol ac unigol sy'n newid.

Yn yr Alban, mae Deddf Nawdd Cymdeithasol (Yr Alban) 2018 yn seiliedig ar wyth egwyddor sy'n ymwneud â nawdd cymdeithasol fel hawl ddynol. Mae'r egwyddorion hyn wedi'u hategu gan 'Ein Siarter' (Social Security Scotland, 2019a), a luniwyd mewn ymgynghoriad â phobl sydd â phrofiad uniongyrchol o hawlio nawdd cymdeithasol, sefydliadau sy'n helpu neu sy'n cynrychioli pobl sy'n defnyddio nawdd cymdeithasol, a Llywodraeth yr Alban a Nawdd Cymdeithasol yr Alban (yr asiantaeth newydd a sefydlwyd i ddarparu budd-daliadau yn yr Alban).

Yn yr un modd, yng Nghymru mae Awdurdod Cyllid Cymru wedi bod yn gweithio gyda threthdalwyr, eu cynrychiolwyr, a'r cyhoedd yng Nghymru i lunio 'Ein Siarter' sy'n egluro'r gwerthoedd, y mathau o ymddygiad a'r safonau sy'n llywio ei waith, ac ymysg y gwerthoedd hynny mae tegwch a pharch (Awdurdod Cyllid Cymru, 2018). Gallai Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 hefyd gynnig fframwaith defnyddiol ar gyfer diffinio egwyddorion a'r canlyniadau a ddymunir yng Nghymru. Gallai gwaith Canolfan Polisi Cyhoeddus Cymru a Chwarae Teg yng nghyswllt yr Adolygiad Cydraddoldeb Rhywiol (Parken, 2018; Davies a Furlong, 2019; Taylor-Collins a Nesom, 2019) weithredu fel sail ar gyfer y safbwynt a fynegir yn yr egwyddorion a'r canlyniadau hyn o ran rhywedd.

Fel rhan o'i ymchwiliad i ddatganoli nawdd cymdeithasol yng Nghymru, mae'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol wedi argymell bod set o egwyddorion i ategu 'system fudd-daliadau i Gymru' (sy'n cwmpasu'r holl fudd-daliadau sy'n dibynnu ar brawf modd y mae Llywodraeth Cymru yn gyfrifol amdanynt ar hyn o bryd) yn cael ei lunio ar y cyd â phobl sy'n hawlio nawdd cymdeithasol a'r cyhoedd ehangach yng Nghymru (Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, 2019a: 37).

2. Pa agweddau ar y trefniadau presennol ar gyfer gweinyddu nawdd cymdeithasol sy'n ein hatal rhag cyflawni'r amcanion hyn?

Ar ôl diffinio'r canlyniadau a ddymunir, gellir defnyddio'r rhain i ganfod pa agweddau ar y system bresennol sy'n ein hatal rhag eu cyflawni. Bydd hyn yn ymwneud â nodi pa fudd-daliadau sydd o ddiddordeb ac asesu'r dulliau presennol o weinyddu'r budd-daliadau hynny.

Nodi budd-daliadau

Y peth cyntaf y bydd angen i'r broses hon ei wneud yw canfod pa fudd-daliadau y gellid eu gweinyddu'n wahanol a pha rai nad oes modd eu gweinyddu'n wahanol. Yn yr Alban, penderfyniad pragmatig, yn hytrach nag un ideolegol, oedd dewis pa fudd-daliadau i'w datganoli: sef, dim ond y rheini sydd ddim yn gysylltiedig â Chyfraniadau Yswiriant Gwladol sydd wedi cael eu datganoli. Mae'n debygol mae'r rheswm am hyn yw nad yw Cyfraniadau YG – sy'n ariannu rhai buddion penodol megis Pensiwn y Wladwriaeth – wedi cael eu datganoli i'r Alban. Yn hytrach, maent yn cael eu talu i mewn i'r Gronfa Yswiriant Gwladol, sydd, i bob pwrpas, yn cael eu tanysgrifennu gan Gronfa Gyfunol y DU. Felly byddai angen datganoli Cyfraniadau YG i'r Alban er mwyn datganoli'r budd-daliadau sy'n gysylltiedig â nhw hefyd. Drwy wneud hyn, gallai'r Alban fod mewn perygl o golli'r rhwyd diogelwch y mae'r Gronfa Gyfunol yn ei darparu.

Yng Nghymru, mae'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol (2019a: 10) wedi diystyru (ar hyn o bryd) datganoli'r system nawdd cymdeithasol gyfan, Credyd Cynhwysol yn ei gyfanrwydd, a'r holl fudd-daliadau salwch ac anabledd, oherwydd cymhlethdod datganoli o'r fath, y goblygiadau ariannol, a'r risgiau sydd ynghlwm â newid mor fawr i'r system lles.

Mae Sefydliad Bevan (2016) yn awgrymu mabwysiadu rhai egwyddorion allweddol wrth benderfynu pa fudd-daliadau a ddylai gael eu datganoli, sef:

- A yw'r budd-dal yn fudd-dal cylchol (h.y. un sy'n newid gyda'r cylch economaidd);
- A yw'n cyd-fynd yn dda â swyddogaethau datganoledig;

- A yw'n gysylltiedig â lle (h.y. yn adlewyrchu amodau lleol).

Mae'r IPPR yn ychwanegu at hyn ystyriaethau o ran effaith datganoli budd-daliadau ar dwf a pherfformiad economaidd, cyfuno risgiau ledled y DU (a dyna yw ystyr cyfeiriadau at yr 'undeb cymdeithasol' yn ein tyb ni), a'r effaith ar farchnad sengl y DU (Lodge a Trench, 2014: 8).

Ar ben hyn, mae pryder ynghylch y ffaith y gallai'r ffordd y mae rhai budd-daliadau yn cael eu gweinyddu ar hyn o bryd danseilio polisïau Llywodraeth Cymru a deddfwriaeth yng Nghymru, er enghraifft Deddf Llesiant Cenedlaethau'r Dyfodol (2015) (Sefydliad Bevan 2018) a chyfrifoldeb Llywodraeth Cymru dros feysydd fel tai. Ar y sail hon, mae Sefydliad Bevan yn dadlau y dylai'r Budd-dâl Tai (sydd bellach yn rhan o'r Credyd Cynhwysol), y rhaglen Gwaith ac Iechyd, a'r cyfrifoldeb dros wasanaethau a budd-daliadau ceiswyr gwaith ar gyfer pobl ifanc rhwng 16 a 24 sy'n ddi-waith gael eu datganoli.

Mae Cyngor ar Bopeth yn casglu data ar y ceisiadau am gyngor mae'n eu cael, a allai hefyd fod yn ffynhonnell dystiolaeth ddefnyddiol o ran penderfynu ar y budd-daliadau sydd o ddiddordeb. Er enghraifft, roedd y ceisiadau mwyaf cyffredin am gyngor a gafodd Cyngor ar Bopeth yn y 12 mis cyn Ebrill 2019 yn ymwneud â Thaliadau Annibyniaeth Personol ac, yn benodol, gwneud a rheoli hawliad ac ymholiadau cysylltiedig â chymhwysedd oedd y testunau mwyaf cyffredin (Cyngor ar Bopeth 2019). Byddai gwneud mwy o waith er mwyn ceisio deall a yw'r ymholiadau hyn yn ymwneud â sut mae Taliadau Annibyniaeth Personol yn cael eu gweinyddu ar hyn o bryd yn gallu amlygu gwelliannau posibl i'r system.

Ffordd arall bosibl o ganfod budd-daliadau y gellid eu datganoli fyddai drwy ganolbwyntio ar y grwpiau y byddai diwygio nawdd cymdeithasol yng Nghymru yn effeithio fwyaf arnynt, sef: y rheini â'r incwm isaf, pobl anabl, rhai grwpiau ethnig penodol a grwpiau sy'n wynebu anfanteision lluosog (Llywodraeth Cymru 2019).

Asesu dulliau presennol

Mae hefyd yn angenrheidiol deall sut mae pob budd-dal unigol sy'n rhan o'r cwmpas yn cael ei weinyddu yng Nghymru ar hyn o bryd cyn pennu unrhyw fodelau gweinyddu newydd posibl. Bydd hyn hefyd o gymorth i weld a yw'r dull presennol o weinyddu rhai o'r budd-daliadau hyn eisoes yn cyflawni'r canlyniadau a ddymunir, neu ai'r dull hwnnw yw'r dewis 'lleiaf gwael' sydd ar gael. Efallai mai'r dull cyfredol yw'r dull gorau sydd ar gael yng nghyswllt rhai budd-daliadau.

3. Sut y gellid newid yr agweddau hynny ar nawdd cymdeithasol er mwyn cyflawni'r amcanion hyn?

Mae sawl dewis posibl o ran diwygio nawdd cymdeithasol yng Nghymru. Mae'r prif ddewisiadau, fel y gwelwn ni, wedi'u nodi isod gydag enghreifftiau:

- Mabwysiadu dull mwy effeithiol a chyson o weinyddu budd-daliadau;
- Darparu cymorth amgen neu estynedig i bobl;
- Cael mwy o bobl i hawlio budd-daliadau;
- Rhoi hyfforddiant amgen neu estynedig i'r rheini sy'n gweinyddu budd-daliadau;
- Cynnig ychwanegiad at fudd-daliadau sy'n bodoli eisoes;
- Ailgynllunio budd-daliadau sy'n bodoli eisoes neu greu budd-daliadau newydd.

Er mwyn bod yn gydnaws â'r egwyddorion a nodwyd uchod (Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, 2019b), gallai bob un o'r diwygiadau hyn olygu system nawdd cymdeithasol sy'n fwy hael na'r un gyfredol, a byddai goblygiadau ariannol yn sgil hynny, fel y trafodir isod yng Nghwestiwn 4.

Bydd angen gwneud mwy o waith er mwyn pennu pa rai o'r newidiadau hyn y gellid eu hystyried yn 'bolisi' a pha rai y gellid eu hystyried yn 'weinyddu' (a goblygiadau cyfreithiol hynny). Trafodir hyn isod yng Nghwestiwn 4.

Bydd angen ystyried unrhyw werthusiad o fodelau amgen ar gyfer gweinyddu nawdd cymdeithasol. Mae'n rhy gynnar ar hyn o bryd i ddweud pa effeithiau mae'r newidiadau y mae Llywodraeth yr Alban wedi'u cyflwyno o dan Ddeddf Nawdd Cymdeithasol (Yr Alban) 2018 wedi'u cael, ond efallai bod tystiolaeth anecdotaidd ar gael.

Mabwysiadu dull mwy effeithiol a chyson o weinyddu budd-daliadau

Mae nifer o fudd-daliadau, fel Cynllun Gostyngiadau'r Dreth Gyngor, y Gronfa Cymorth Dewisol, Taliadau Disgresiwn at Gostau Tai a'r Grant Datblygu Disgyblion – Mynediad, eisoes yn cael eu gweinyddu gan Lywodraeth Cymru neu gan awdurdodau lleol yng Nghymru. Efallai y byddai'n fuddiol ymchwilio i weld a oes modd gwella'r ffordd y caiff y budd-daliadau hyn eu gweinyddu ar hyn o bryd, er enghraifft, yn nhermau pa mor gyson yw dulliau ar draws awdurdodau lleol gwahanol. Er enghraifft, mae gwaith wedi cael ei wneud o'r blaen gyda chynghorau yng Nghymru a'r Clwb Diwygio Lles i greu 'meini prawf hyblyg ond cadarn sydd wedi arwain at ddyrannu adnoddau prin Taliadau Disgresiwn at Gostau Tai yn well' (Ghelani 2016).

Mae cyswllt rhwng hyn ag un o'r argymhellion yn ymchwiliad y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol, sef bod angen creu 'pecyn cydlynol o fudd-daliadau Cymreig' (Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol 2019a: 37). Ar hyn o bryd, mae Sefydliad Bevan yn archwilio'r posibiliadau o ran mater tebyg sy'n ymwneud â chynlluniau cymorth i deuluoedd incwm isel. Mae wedi tynnu sylw at broblemau posibl yng

nghyswllt y dulliau amrywiol sydd ar waith yng Nghymru o ran gweinyddu Prydau Ysgol am Ddim a Mynediad at y Grant Datblygu Disgyblion. Er enghraifft, mae'r Sefydliad wedi canfod mai'r cyngor sy'n darparu Mynediad at y Grant Datblygu Disgyblion yn y mwyafrif o awdurdodau, ond, mewn awdurdodau eraill, yr ysgolion eu hunain sy'n gwneud hyn. Mae hyn yn codi pryderon y gallai problemau godi yn yr awdurdodau hynny lle mae ysgolion yn darparu'r gwasanaeth, pe bai teuluoedd eisiau hawlio'r grant y tu allan i dymhorau'r ysgol er enghraifft (Sefydliad Bevan 2019: 8).

Y tu hwnt i Gymru, mae swyddogion yn Awdurdod Cyfun Manceinion Fwyaf (GMCA) yn archwilio'r posibiliadau o ran sut y gallant gynyddu'r pwerau sydd eisoes ar gael er mwyn lliniaru ar agweddau negyddol diwygio lles, er enghraifft, drwy ddarparu cynlluniau lles lleol sy'n fwy effeithiol a chyson ar gyfer dinasyddion ar draws y 10 cyngor lleol sy'n rhan o'r GMCA.

Darparu cymorth amgen neu estynedig i bobl

Gallai darparu cymorth amgen neu estynedig i'r rheini sy'n hawlio budd-daliadau helpu i fynd i'r afael â'r heriau rydym yn eu hwynebu gyda'r system bresennol. Mae sawl esiampl eisoes ar gael yng Nghymru, er enghraifft, y gwasanaethau cymorth mewnol sy'n cael eu darparu gan landlordiaid cymdeithasol i helpu pobl sy'n hawlio Credyd Cynhwysol (Opinion Research Services, 2019: 39), a'r £8.04m y mae Llywodraeth Cymru wedi'i ddyrannu drwy ei Chronfa Gynghori Sengl at ddibenion darparu gwasanaethau cynghori ar nawdd cymdeithasol yn 2020, yn rhannol mewn ymateb i Ddiwygio Lles yn y DU (Hutt, 2019). Ers 2016 buddsoddwyd £8m ychwanegol mewn gwasanaethau cynghori annibynnol yng Ngogledd Iwerddon i gynorthwyo pobl drwy'r broses diwygio lles, gan gynnwys sefydlu Llinell Gymorth Annibynnol ar gyfer Newidiadau i'r System Lles (yr Adran Cymunedau 2019a: 60) a recriwtio cynghorwyr i helpu hawlwyr Lwfans Byw i'r Anabl gwblhau hawliadau am Daliadau Annibyniaeth Personol.

Yn ôl ymchwil a gynhaliwyd gan Gyngor ar Bopeth, roedd yn anodd i'r rheini nad oedd yn gallu cael mynediad at gyfrifiadur neu heb sgiliau digidol wneud cais am fudd-daliadau ar-lein (Hobson, 2019), canfyddiad a nodwyd mewn gwaith ymchwil a gomisiynwyd gan

Mae'r Adran Gwaith a Phensiynau, yng nghyswllt pobl oedd yn gwneud cais am Gredyd Cynhwysol, yn nodi bod bron i un ym mhob tri ymgeisydd yn ei chael yn anodd cofrestru eu hawliad ar-lein (Adran Gwaith a Phensiynau, 2018a: 35). Mae Cyngor ar Bopeth yn argymell bod y llywodraeth yn ymdrin â'r heriau hyn drwy gyflwyno prosesau symlach a chymorth ychwanegol (Hobson, 2019). Mae rhaglenni yng Nghymru, fel Cymunedau Digidol Cymru, yn ceisio mynd i'r afael â chynhwysiant digidol (Llywodraeth Cymru 2018).

Gallai darparu cymorth amgen neu estynedig hefyd olygu ystyried a fyddai modd i'r cymorth sydd eisoes ar gael i'r rheini sy'n hawlio budd-daliadau gwahanol fod yn fwy cydgysylltiedig er mwyn gwneud y broses yn haws i hawlwyr (Shelter Cymru 2013: 33).

Cael mwy o bobl i hawlio budd-daliadau

Mae'r Adran Gwaith a Phensiynau yn amcangyfrif nad oedd bron i £10bn o'r Credyd Pensiwn, Budd-dâl Tai a Chymhorthdal Incwm/Lwfans Cyflogaeth a Chymorth yn Seiliedig ar Incwm oedd ar gael yn 2016/17 wedi cael ei hawlio (Yr Adran Gwaith a Phensiynau 2018b 3). Gallai diffyg ymwybyddiaeth o fudd-daliadau achosi tan-hawlio, ac felly gallai newid y ffordd y mae budd-daliadau yn cael eu gweinyddu hefyd gynnwys ymgyrchoedd pellach i gynyddu'r niferoedd sy'n eu hawlio. Yn ei ymchwiliad (2019a), mae'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol yn argymell cynnal ymgyrch i gynyddu'r niferoedd sy'n hawlio budd-daliadau yng Nghymru.

Darparu hyfforddiant amgen neu estynedig i'r rheini sy'n gweinyddu budd-daliadau

Mae darparu hyfforddiant amgen i staff yr Adran Gwaith a Phensiynau neu bobl eraill sy'n gweinyddu budd-daliadau neu gymorth budd-daliadau yn ffordd arall o geisio newid y ffordd y mae budd-daliadau yn cael eu gweinyddu. Er enghraifft, bu Oxfam Cymru a'r Adran Gwaith a Phensiynau yn gweithio mewn partneriaeth i ddarparu hyfforddiant ymwybyddiaeth o dlodi seiliedig ar dystiolaeth i staff rheng flaen yr Adran yng Nghymru (Scullion et al., 2017: vii) ac mae Llywodraeth Cymru wedi ariannu Cymorth Cymru i roi hyfforddiant i bobl yn y sector tai a digartrefedd ar ddulliau seiliedig ar drawma, gyda'r nod o atal digartrefedd (Cymorth Cymru 2018).

Cynnig ychwanegiad at fudd-daliadau sy'n bodoli eisoes

Yn ddiweddar, cyflwynodd yr Alban y Taliad Atodol i'r Lwfans Gofalwyr, sef taliad ychwanegol ar gyfer y rheini sy'n hawlio Lwfans Gofalwr. Bwriadwyd ef fel ychwanegiad dros dro hyd nes y bydd Llywodraeth yr Alban yn disodli'r Lwfans Gofalwr â budd-dâl newydd (Cyngor ar Bopeth, dim dyddiad).

Yng Ngogledd Iwerddon, cyflwynwyd Taliadau Lles Atodol yn 2016 (ar gost o £501m) fel pecyn cymorth oedd â'r nod o ddadwneud yr effeithiau hynny o ddiwygio lles oedd yn cael eu hystyried y rhai mwyaf sylweddol. Bwriadwyd y rhain i ymdrin â rhai, neu'r cwbl, o'r colledion a gafodd pobl oherwydd y canlynol:

- Y Cap ar Fudd-daliadau;
- Rhoi terfyn amser ar y Lwfans Cymorth a Chyflogaeth Cyfrannol;
- Symud i Daliadau Annibyniaeth Personol yng nghyswllt y rheini oedd yn hawlio Lwfans Byw i'r Anabl. Hefyd, yng nghyswllt Gogledd Iwerddon yn unig, darparwyd tâl atodol i unrhyw un oedd yn hawlio Taliad Annibyniaeth Personol oherwydd anafiadau oedd yn gysylltiedig â'r Helyntion;
- Newidiadau i'r Lwfans Gofalwr, os yw'r sawl y mae'r unigolyn yn gofalu amdano/amdani yn aflwyddiannus o ran trosglwyddo o'r Lwfans Byw i'r Anabl i'r Taliad Annibyniaeth Personol;

- Meini Prawf Maint y Sector Cymdeithasol (y ‘Treth Ystafell Wely’ neu'r ‘gosb danfeddiannu’);

- Elfennau o'r Gronfa Gymdeithasol yn ôl disgresiwn (a ddisodlwyd gan y Cynllun Cymorth yn ôl Disgresiwn yng Ngogledd Iwerddon).

Ailgynllunio budd-daliadau sy'n bodoli eisoes neu greu budd-daliadau newydd

Yn yr Alban, disodlwyd y grant Mamolaeth Cychwyn Cadarn â'r cynllun grant Best Start. Mae hwn yn rhoi arian ychwanegol i deuluoedd, nid yw’n cyfyngu ar faint o blant sy'n cael cymorth ym mhob teulu, ac mae’n rhoi mwy o amser i deuluoedd wneud cais (Social Security Scotland, 2019b).

Mae elfennau hyblyg i'r Credyd Cynhwysol yng Ngogledd Iwerddon, ac mae Llywodraeth yr Alban hefyd yn y broses o gyflwyno'r rhain fel ‘Dewisiadau'r Alban’ (Scottish Choices). Mae'r rhain yn rhoi dewis i bobl gael eu talu ddwywaith y mis yn hytrach na bob mis, talu'r elfen tai yn uniongyrchol i'r landlord yn hytrach na bod angen i'r hawlydd wneud hynny ei hun, a rhannu'r taliad rhwng y ddau unigolyn mewn cwpwl.

Gallai ailgynllunio budd-daliadau sy'n bodoli eisoes hefyd gynnwys newid y gofynion o ran cymhwysedd yng nghyswllt rhai budd-daliadau penodol, fel y mae ymgyrchwyr yn erbyn yr hyn a elwir y ‘cymal treisio’ yn y Credyd Treth Plant yn dadlau o’i blaid (Cymorth i Fenywod Cymru, 2017). Gallai hefyd gynnwys newid prosesau asesu yng nghyswllt rhai budd-daliadau penodol, fel y Taliad Annibyniaeth Personol.

4. Beth yw goblygiadau cyfreithiol ac ariannol y newidiadau y byddai angen eu gwneud a pha ffactorau eraill y byddai angen eu hystyried?

Yn olaf, byddai angen archwilio goblygiadau pob dull newydd dichonol o weinyddu yn fanwl. Mae'r rhain yn cynnwys y goblygiadau cyfreithiol ac ariannol, ond hefyd mae angen ystyried ffactorau ehangach.

Beth yw’r goblygiadau cyfreithiol?

Bydd angen cael cyngor arbenigol er mwyn penderfynu pa rai o'r modelau posibl fyddai'n galw am newidiadau mewn deddfwriaeth. Mae'r ddeddfwriaeth fanwl sy'n berthnasol i nawdd cymdeithasol yn y DU yn golygu ei bod yn bosibl y byddai mân-newidiadau hyd yn oed, y gellid eu hystyried yn newidiadau gweinyddol yn hytrach na newidiadau mewn polisi, yn galw am newid deddfwriaethol er mwyn eu rhoi mewn grym yng Nghymru. Roedd angen creu

Fframwaith Ariannol newydd er mwyn i'r Alban sicrhau ei phwerau diweddar dros nawdd cymdeithasol (Llywodraeth yr Alban a Llywodraeth EM, 2016), a bu'n rhaid sefydlu deddfwriaeth sylfaenol ar gyfer yr holl Daliadau Lles Atodol a gyflwynwyd gan Ogledd Iwerddon o 2016 ymlaen. Fel y trafodwyd uchod, gan fod rhai budd-daliadau eisoes yn cael eu gweinyddu gan Lywodraeth Cymru neu awdurdodau lleol yng Nghymru, byddai'n werth edrych i weld a yw'r gallu eisoes gan Lywodraeth Cymru i newid y ffordd y mae'r budd-daliadau hyn yn cael eu gweinyddu heb orfod gofyn am bwerau pellach gan Lywodraeth y DU.

Beth yw'r goblygiadau ariannol?

Gallai Llywodraeth Cymru elwa'n ariannol yn sgil newid y system nawdd cymdeithasol yng Nghymru. Er enghraifft, gallai olygu arbedion rhagamcanol mewn meysydd eraill o wariant Llywodraeth Cymru, er enghraifft, iechyd a gofal cymdeithasol. Mae Ifan a Siôn (2019) wedi modelu'r goblygiadau ariannol a fyddai'n codi pe bai Llywodraeth Cymru yn sicrhau rheolaeth dros yr un ystod o fudd-daliadau ag sydd wedi'u datganoli i Lywodraeth yr Alban. Daethant i'r casgliad y gallai Llywodraeth Cymru elwa'n sylweddol o ddatganoli nawdd cymdeithasol. Ond, maent yn cydnabod y byddai hyn yn dibynnu ar y canlynol:

- Manylion y Fframwaith Ariannol a fyddai'n cael ei gytuno;
- Pwy sy'n talu costau gweinyddol unrhyw newidiadau;
- Pa mor ddibynadwy yw'r rhagolygon y seilir y cyfrifiadau arnynt, gan gynnwys ffactorau fel y cynnydd posibl o ran cyfraddau hawlwyr.

O dan Fframwaith Ariannol yr Alban, mae Llywodraeth yr Alban yn ysgwyddo'r risgiau ariannol sy'n gysylltiedig â chynnydd mewn budd-daliadau sy'n seiliedig ar y galw amdanynt neu newidiadau demograffig (Senedd yr Alban, 2017: erthyglau 24-25, 31-33). Yn yr un modd, mae'n dwyn y costau sy'n codi yn sgil gostyngiadau mewn tan-hawlio, a'r costau sydd ynghlwm â chynllunio ac argraffu deunyddiau cyhoeddusrwydd sy'n gysylltiedig ag ymgyrchoedd o'r fath neu ar gyfer hysbysebu unrhyw newidiadau.

Mae'r costau gweinyddol sydd ynghlwm â sefydlu asiantaeth newydd, fel yr Asiantaeth Nawdd Cymdeithasol newydd yn yr Alban, yn sylweddol. O dan Fframwaith Ariannol yr Alban, roedd Llywodraeth y DU wedi darparu swm cychwynnol o £200m i dalu am y gwaith o roi'r holl bwerau newydd mewn grym (roedd nawdd cymdeithasol yn un ohonynt), a throsglwyddiad llinell sylfaen gwerth £66m i dalu am gostau gweinyddol parhaus. Fodd bynnag, er yr ystyriwyd bod y taliadau hyn yn 'setliad ariannol teg yng nghyd-destun yr hyblygrwydd ehangach yr oedd y Fframwaith Ariannol yn ei ddarparu', nid ydynt yn cynrychioli'r costau llawn sydd ynghlwm â'i weithredu a'i weinyddu (Senedd yr Alban, 2017: erthygl 51). Gan fod y broses o'i roi ar waith yn mynd rhagddo o hyd, a bod oedi wedi bod mewn perthynas ag ef, nid ydym yn gwybod beth fydd y gost i gyd gyda'i gilydd.

Mae Llywodraeth yr Alban yn gyfrifol am dalu unrhyw gostau gweinyddol ychwanegol, yn ogystal â'r costau ychwanegol sydd ynghlwm â Scottish Choices, budd-daliadau newydd, a thaliadau atodol i fudd-daliadau (Senedd yr Alban a Llywodraeth EM 2016: erthyglau 33-34). Yn achos Scottish Choices, mae Senedd yr Alban wedi trosglwyddo arian, ymlaen llaw ac yn barhaus, i'r Adran Gwaith a Phensiynau at ddibenion gweithredu'r dewisiadau, gan gynnwys y canlynol:

- Swm cychwynnol gwerth £0.5m i dalu am newid systemau TG a hyfforddi staff i'w defnyddio;
- Costau gweithredu parhaus, gwerth oddeutu £115,000 rhwng mis Hydref 2017 a mis Rhagfyr 2018 at ddibenion prosesu achosion unigol (Senedd yr Alban, 2018: 15).

Yn gysylltiedig â hyn mae'r gost ddichonol o gysylltu data nawdd cymdeithasol os yw budd-daliadau yn cael eu talu gan gyrff gwahanol. Yn achos taliadau atodol i fudd-daliadau, os bydd un asiantaeth yn talu budd-dâl penodol ac asiantaeth arall yn talu'r tâl atodol, byddai angen i'r naill asiantaeth a'r llall gael mynediad at ddata'n ymwneud ag amgylchiadau cartref a manylion personol hawlwyr (Spicker 2015: 23).

Hefyd, mae'n werth cydnabod y byddai agor trafodaethau â Llywodraeth y DU ynghylch y setliad datganoli yn galw am adnoddau gan Lywodraeth Cymru. Mae profiad yr Alban yn awgrymu y byddai angen staff ychwanegol (ac, o bosibl, galluoedd newydd) nid yn unig er mwyn paratoi ar gyfer trafod y setliad a chyfrannu at y trafodaethau hynny, ond yn rheolaidd ar ôl hynny (mae trafodaethau'n parhau yn yr Alban wrth iddi roi'r pwerau newydd mewn grym).

Yn olaf, os mai'r canlyniad a ddymunir yng Nghymru yw lliniaru ar y golled ariannol y mae teuluoedd yn ei hwynebu o dan y system bresennol, byddai llwyddo yn hyn o beth yn golygu mwy o gostau i Lywodraeth Cymru; nid yw'r gwaith modelu y mae Ifan and Sion (2019) wedi'i wneud yn cynnwys hyn. Mae'r IPPR yn awgrymu bod gallu llywodraethau datganoledig i dalu am rai o'r costau hyn o leiaf drwy ddatganoli ariannol - ac mae gan Lywodraeth Cymru'r gallu hwn erbyn hyn yn sgil pwerau newydd o ran codi trethi - yn 'ragofyniad hanfodol' yng nghyswllt datganoli nawdd cymdeithasol (Lodge a Trench, 2014: 3). Ond, mae gwaith blaenorol y mae Canolfan Polisi Cyhoeddus Cymru wedi'i wneud yn awgrymu bod gallu Llywodraeth Cymru i godi refeniw sylweddol drwy'r pwerau newydd hyn i godi trethi yn gyfyngedig, o gofio natur sylfaen dreth bresennol Cymru (Ifan a Poole, 2018).

Pa ffactorau eraill fyddai angen i ni eu hystyried?

Mae cymhlethdod y system nawdd cymdeithasol a sut mae'n rhyngweithio â swyddogaethau eraill y wladwriaeth (a'r system drethu yn enwedig) yn cynyddu'r **risg y bydd unrhyw newidiadau yn arwain at ganlyniadau anfwriadol**.

Er enghraifft, yng Ngogledd Iwerddon, gwelwyd bod cael taliadau Credyd Cynhwysol bob pythefnos yn well i bobl yn y tymor hir, ond eu bod yn gallu cael effaith negyddol ar bobl yn ystod wythnosau cyntaf eu hawliad: 'Mae Hawlwyr yn cael eu taliad cyntaf ymhen pum wythnos ar ôl cyflwyno eu hawliad am Gredyd Cynhwysol. Ym Mhrydain Fawr, bydd hawlwyr yn cael y swm misol llawn ar y pwynt hwn. Ond, bydd hawlwyr yng Ngogledd Iwerddon yn cael 50% o'u swm misol llawn ar ôl pum wythnos, ac yn cael yr ail daliad pythefnos ar ôl hynny (Yr Adran Cymunedau, 2019b: erthygl 48).

Mae newid y trefniadau gweinyddu yng nghyswllt un budd-dâl yn gallu rhyngweithio â budd-daliadau (a gedwir yn ôl) eraill. Er enghraifft, mae rhai budd-daliadau yn gweithredu fel 'pasbort' i fudd-daliadau eraill, a gallai taliadau atodol i un budd-dâl effeithio ar gymhwysedd yr unigolyn dan sylw i gael rhai eraill. Byddai'n rhaid ystyried unrhyw effeithiau o ran rhyngweithio ac, o bosib, lliniaru ar yr effeithiau hynny. O dan y Fframwaith Ariannol yn yr Alban, mae'n rhaid i fudd-daliadau newydd neu daliadau atodol sy'n cael eu darparu gan Lywodraeth yr Alban roi incwm ychwanegol i bobl, ac felly efallai na fydd yn effeithio ar eu hawl i gael budd-daliadau eraill (Llywodraeth yr Alban a Llywodraeth y DU, 2016: erthygl 89).

Yn yr un modd, bydd yn bwysig ystyried unrhyw ryngweithio â'r system drethu. Os bydd unrhyw daliadau atodol neu fudd-daliadau newydd yn drethadwy, gall hyn effeithio'n sylweddol ar faint o arian y bydd hawlwyr yn ei gael. Er enghraifft, roedd Gogledd Iwerddon wedi bwriadu darparu taliadau atodol i weithwyr ar gyflog isel, ond byddai CThEM wedi trin y rhain fel incwm trethadwy, sy'n golygu y byddai bron i hanner yr arian yr oedd Llywodraeth Gogledd Iwerddon yn ei dalu i ariannu'r budd-daliadau hyn yn mynd yn ôl i CThEM ar ffurf trethi, ac efallai y byddai'r bobl dan sylw ar eu colled o ran Credydau Treth Gwaith. O ganlyniad, ni weithredwyd y taliadau hyn (yr Adran Cymunedau 2019a 13).

Byddai cyflwyno unrhyw newidiadau gam wrth gam (ynghyd â throsglwyddo cyllid yn raddol ar yr un pryd), fel sy'n digwydd yn yr Alban ar y funud, yn un ffordd o 'ddadrisgio'r broses (Senedd yr Alban 2017: erthygl 9).

Bydd angen rhoi cyfrif am allu unrhyw asiantaeth newydd neu asiantaeth sy'n bodoli eisoes i ymdopi â **galw ansicr, sy'n newid o hyd, am wasanaethau** – yn enwedig y posibilrwydd y ceir mewnlifiad o ymholiadau a hawliadau newydd sy'n gysylltiedig â'r newid i fudd-daliadau. Dyma her a wynebodd yr Alban yn sgil lansio'r grant Best Start: Yn y tri mis cyntaf, roedd Social Security Scotland wedi derbyn 16,490 o geisiadau am ei grant Best Start newydd (Social Security Scotland 2019a: 2). Dylid hefyd ystyried y goblygiadau i wasanaethau cynghori gan fod newidiadau yn debygol o arwain at geisiadau ychwanegol am wybodaeth a chymorth.

Dylid hefyd ystyried goblygiadau tymor hwy'r hyn mae rhai yn ei alw yn **yr undeb cymdeithasol**. Beth rydym yn ei olygu wrth ddweud hyn yw'r goblygiadau o ran cyfuno a rhannu risgiau ac adnoddau ar draws y DU. Mae angen gwneud mwy o waith er mwyn

archwilio'n llawn a fyddai unrhyw ddatganoli pellach yng nghyswllt nawdd cymdeithasol yn effeithio ar yr undeb cymdeithasol, ac os felly, sut. Un dimensiwn fydd yr effaith bosibl ar anghydraddoldeb yng Nghymru ac ar draws y DU. Mae damcaniaethau sy'n anghyson â'i gilydd ynghylch a ydi datganoli ariannol yn cynyddu anghydraddoldeb - er enghraifft, drwy leihau ailddosbarthu rhyngranbarthol (Kessler a Lessmann, 2010) - neu'n lleihau anghydraddoldeb, er enghraifft drwy gyfateb polisïau'n well i anghenion a dewisiadau dinasyddion (Oates, 1972). Cymysg hefyd yw'r dystiolaeth ffeithiol am wledydd OECD, gyda rhai yn awgrymu bod datganoli ariannol, at ei gilydd, yn lleihau cydraddoldeb (Sorens, 2014; Bartolini, Stossberg, a Blöchliger, 2016), ac eraill ei fod yn cael effaith amwys a allai fod yn negyddol ar anghydraddoldeb (Dougherty ac Akgun, 2018), yn dibynnu ar y cyd-destun a sut y gweithredir datganoli. Byddai angen cynnal dadansoddiad pellach, penodol i Gymru, i ddeall effaith ddichonol datganoli ariannol ar Gymru.

Yn olaf, mae unrhyw ddatganoli pwerau pellach yn debygol o ysgogi **newid yn nisgwyliadau'r cyhoedd** o Lywodraeth Cymru. Un elfen bosibl fyddai pwysau i gyflwyno mwy o newidiadau yng nghyswllt nawdd cymdeithasol. Yn yr Alban, roedd y Grŵp Gweithredu ar Dlodi Plant wedi lobïo Llywodraeth yr Alban i ychwanegu £5 yr wythnos at y budd-dâl plant drwy ei ymgyrch 'Give me 5'; mae'r Grŵp yn ystyried ei fod wedi bod yn ddylanwadol yng nghyswllt cyhoeddiad Llywodraeth yr Alban yn ddiweddar ynghylch Taliad Plant newydd yn yr Alban (Graham 2019).

Casgliadau

Mae'r adolygiad cyflym hwn o dystiolaeth yn tynnu sylw at nifer o ystyriaethau pwysig wrth asesu a ellid datganoli rhai agweddau ar weinyddu nawdd cymdeithasol i Gymru a sut y dylid gwneud hynny. Rydym yn awgrymu y dylai'r asesiad hwn ymdrin â phedwar mater allweddol yn eu tro, sef:

1 **Pa ganlyniadau a fwriedir wrth ddatganoli gweinyddu nawdd cymdeithasol?** Gellir defnyddio hyn i lywio penderfyniadau ynghylch pa newidiadau y gellir eu gwneud, ac y gellir eu mynegi drwy set o egwyddorion craidd sy'n ategu dull gweithredu Cymru yng nghyswllt nawdd cymdeithasol.

2 **Pa agweddau ar y trefniadau presennol ar gyfer gweinyddu nawdd cymdeithasol sy'n ein hatal rhag cyflawni'r amcanion hyn?** Ar sail y canlyniadau o ddiddordeb yng Nghwestiwn 1, dylid nodi'r budd-daliadau sydd o fewn y cwmpas ar gyfer diwygio cyn cynnal asesiad o sut y mae'r budd-daliadau hynny yn cael eu gweinyddu ar hyn o bryd.

3 **Sut y gellid newid yr agweddau hynny ar nawdd cymdeithasol er mwyn cyflawni'r amcanion hyn?** Gellir newid agweddau ar y system mewn nifer o ffyrdd: trwy fabwysiadu dull mwy effeithiol a chyson o weinyddu; rhoi cymorth amgen neu estynedig i hawlwyr; cael mwy o bobl i hawlio budd-daliadau; darparu hyfforddiant amgen neu estynedig i'r rheini sy'n gweinyddu budd-daliadau; cyflwyno taliadau atodol i fudd-daliadau presennol; ac ailgynllunio budd-daliadau sy'n bodoli eisoes neu greu rhai newydd.

4 **Beth yw goblygiadau cyfreithiol ac ariannol y newidiadau y byddai angen eu gwneud a pha ffactorau eraill y byddai angen eu hystyried?** Ochr yn ochr â'r goblygiadau cyfreithiol ac ariannol o ddatganoli agweddau ar weinyddu nawdd cymdeithasol, ymysg y ffactorau eraill a ddylai gael eu hystyried yn unrhyw asesiad mae: y risg o ganlyniadau anfwriadol, galw ansicr, sy'n newid o hyd, am wasanaethau, yr effaith ar gyfuno a rhannu risgiau ac adnoddau ar draws y DU ('undeb cymdeithasol') a newidiadau posibl yn nisgwyliadau'r cyhoedd o Lywodraeth Cymru.

Rydym yn gobeithio y bydd y dystiolaeth a gasglwyd yn yr adolygiad hwn yn ddefnyddiol o ran fframio ein disgwyliadau yng nghyswllt y broses o ddatganoli gweinyddu budd-daliadau yng Nghymru, a'r risgiau a'r cyfleoedd sy'n gysylltiedig â gwneud hyn.

Cydnabyddiaeth

Mae ein diolch yn fawr i arbenigwyr yng Nghymru, Gogledd Iwerddon, yr Alban a Lloegr y mae eu sylwadau wedi gweithredu fel sail ar gyfer yr adolygiad hwn, ac i'n cydweithwyr, Steve Martin, Suzanna Nesom, Andrew Connell a Megan Park am eu cyfraniad hwythau. Rhai'r awdur yw unrhyw gamgymeriadau neu hepgoriadau.

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Annwyl John

Llythyr ymateb i'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Diolch am eich llythyr, dyddiedig 20 Rhagfyr, mewn ymateb i drafodaeth y pwyllgor am y papur tystiolaeth ar 5 Rhagfyr.

Rydym yn gweithio tuag at sicrhau system well, gynhwysfawr o ran diogelwch adeiladau, o'u dylunio a'u codi i'w meddiannu. Bydd hwn yn creu gwelliannau gwirioneddol o ran diogelwch adeiladau preswyl uchel yng Nghymru.

Mae llawer o'r camau hyn yn gymhleth ac yn creu newidiadau hirdymor a fydd yn galw am ddeddfwriaeth sylfaenol newydd, a byddwn yn parhau i weithio mor gyflym â phosibl i ddatblygu a sicrhau bod y camau diogelu priodol yn eu lle, wrth ofalu hefyd ein bod yn gwneud y newidiadau iawn.

Roedd gwaharddiad ar gladin llosgadwy wedi ei gyflwyno ar adeg wahanol yng Nghymru i gymharu â Lloegr. Fel y nododd fy swyddog, Francois Samuel, yn y cyfarfod, arweiniodd ambell fater penodol am hyn.

Yn gyntaf, cododd yr ymatebion i'r ymgynghoriad nifer o bwyntiau manwl iawn a thechnegol ynghylch y gwaharddiad arfaethedig. Roedd angen mynd i'r afael â'r pwyntiau hyn cyn dod i benderfyniad, ac oherwydd eu natur dechnegol, roedd angen ymgynghoriad peirianwyr tân arbenigol i'r pwyntiau a godwyd.

Roedd y cynigion yn ddarostyngedig i'r Gyfarwyddeb Safonau Technegol (2015/1535/UE). Nod y gyfarwyddeb yw atal rhwystrau technegol newydd i fasnachu rhag cael eu creu ac mae'n ei gwneud yn ofynnol i aelod-wladwriaethau roi gwybod i'r Comisiwn Ewropeaidd, ac

aelod-wladwriaethau eraill, am eu rheoliadau technegol, wrth iddynt gael eu drafftio. Sicrheir cyfnod segur o dri mis cyn y caiff y rheoliadau technegol drafft eu mabwysiadu (ac eithrio yn achos mesurau brys, cyllidol ac ariannol). Daeth y cyfnod hwn i ben ddechrau mis Tachwedd.

Argymhellodd adolygiad y Fonesig Judith Hackitt bwynt cychwyn a fyddai'n canolbwyntio ar adeiladau preswyl uchel dros 10 llawr neu 30m. Mae ein gwaith mewn perthynas ag adeiladau wedi canolbwyntio ar adeiladau 18m neu'n uwch, gan fod hyn yn gydnaws â chanllawiau Dogfen Gymeradwy Rhan B - 18m yw'r uchder sy'n galw am ddarpariaethau eraill yn ymwneud â thân, er enghraifft pibellau gwag mewn adeilad at ddibenion rheoli tân. Rwy'n ystyried, felly, ei bod yn gyson, yn absenoldeb tystiolaeth i'r gwrthwyneb, gwahardd cladin llosgadwy mewn adeiladau sydd â lefel llawr sy'n 18m o uchder o leiaf. Rwy'n ymwybodol o'r safbwyntiau a fynegwyd gan Undeb y Brigadau Tân, sef y dylai'r gwaharddiad ar ddefnyddio cladin llosgadwy fod yn berthnasol i bob adeilad preswyl, beth bynnag ei uchder, ond rwy'n credu y dylai safonau adlewyrchu'r risgiau perthnasol ar sail y dystiolaeth sydd ar gael. Byddwn yn cefnogi'r angen am adolygiad lle bo digon o dystiolaeth, ar hyn o bryd nid yw'r dystiolaeth a gyflwynwyd yn cefnogi trothwy is.

Fel yr esboniwyd yn y pwyllgor, dim ond drwy ddeddfwriaeth sylfaenol y gellir diwygio neu ddisodli Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005. Soniwyd Llywodraeth y DU am Fil Seneddol arfaethedig gan i wneud diwygiadau cyfyngedig ond pwysig i'r Gorchymyn, yn benodol i egluro ac ymestyn ei berthnasedd i flociau fflatiau. Mae'r cynigion hyn yn ymddangos yn synhwyrol ac yn angenrheidiol, a byddwn yn trafod â'r Swyddfa Gartref y posibilrwydd o'u hymestyn i Gymru. Wrth gwrs, byddai hyn yn ddarostyngedig i gydsyniad y Senedd.

Mae swyddogion wedi bod yn gweithio gyda Cartrefi Cymunedol Cymru i gyd-lunio 'cynnig tryloywder'. I ddechrau, caiff y cynnig hwn ei ddefnyddio gan landlordiaid tai cymdeithasol i lywio'r ffordd y maent yn ymgysylltu â'u preswylwyr ynghylch ystod eang o faterion diogelwch adeiladau, gan gynnwys tân. Mae'n cwmpasu canllawiau arfer da ar yr wybodaeth i'w darparu i breswylwyr yn ogystal â phrosesau a gweithdrefnau ffurfiol ar gyfer preswylwyr sydd am gyfeirio eu pryderon i lefel uwch. Defnyddiwyd cynhadledd ddiweddar TPAS i drafod y cynnig â phreswylwyr. Gwneir mwy o waith ymgysylltu cyn ei lansio. Fy mwriad yw cyflwyno'r arfer gorau hwn ym mhob math deiliadaeth cyn bod deddfwriaeth yn ei gwneud yn ofynnol darparu'r wybodaeth i breswylwyr.

Yn fwy cyffredinol, bydd swyddogion yn sicrhau bod preswylwyr yn cael ymgysylltu'n uniongyrchol â'r ymgynghoriad ar ddeddfwriaeth arfaethedig drwy ddarparu gwybodaeth benodol a 'sioeau teithiol' maes o law. Bydd yr ymgysylltu hwn yn cynnwys pob math deiliadaeth. Bydd hyn yn caniatáu inni glywed yn uniongyrchol gan breswylwyr adeiladau uchel.

Rwyf yn ymwybodol bod cyngor panel arbenigol Llywodraeth y DU ar ddrysau tân plastig a atgyfnerthwyd â gwydr na chyrhaeddodd y safon yw bod y risg i ddiogelwch y cyhoedd yn isel, ond byddwn yn parhau i ymgysylltu â Llywodraeth y DU. Mae Cymdeithas Gweithgynhyrchwyr Deunyddiau Cyfansawdd wrthi'n datblygu cynllun gweithredu a arweinir gan y diwydiant i gywiro'r drysau tân cyfansawdd risg uchaf.

Fel y dywedwyd yn y pwyllgor, rwy'n hapus i ystyried lle profion dinistriol lefel pedwar fel y'u gelwir yn y drefn diogelwch adeiladau newydd y byddwn yn ei chyflwyno. Rhaid i unrhyw fesurau diogelwch fod yn briodol ac yn gymesur i'r risgiau y maent yn ceisio eu lleihau. Yn yr achos hwn, mae'n amlwg bod profion dinistriol yn hollbwysig lle mae rhesymau eraill i amau namau difrifol o ran compartmentau adeiladau, a bydd angen inni ystyried hynny yn y system newydd. Gallai gwneud y profion hyn yn ofynnol ddarparu lefel sicrwydd bellach,

ond gallai hefyd olygu costau sylweddol i landlordiaid a thenantiaid, ac oedi wrth ailosod eiddo gwag. Bydd angen mynd ati'n ofalus i ddadansoddi hyn oll ymhellach.

Mae fy swyddogion wrthi'n datblygu cynnig i ariannu'r gwaith o ôl-osod chwistrellwyr i mi ei ystyried. Nid wyf wedi cael hwnnw eto ond byddaf yn ysgrifennu at y pwyllgor gyda mwy o wybodaeth, unwaith rwyf wedi ystyried y cynnig.

Lle bynnag y bo modd, byddwn yn ceisio sicrhau bod Cymorth i Brynu - Cymru yn cefnogi arferion da yn y diwydiant adeiladu tai. Rydym eisoes wedi newid y ffordd y gellir ei ddefnyddio i leihau camddefnyddio lesddaliadau, ac rwy'n parhau'n agored i ystyried sut y gallai unrhyw gynllun newydd a ddatblygir cyfrannu at wella sefyllfa darpar brynwyr a phrynwyr cyfredol.

Fel y mae eich llythyr yn ei nodi, rwy'n bwriadu cyhoeddi datganiad ysgrifenedig ar y gwaith y mae angen ei wneud i weithredu argymhellion y grŵp gorchwyl a gorffen ar ddiwygio lesddaliadau preswyl. Rwyf eisoes wedi gwneud ymrwymiad i lunio cynllun achredu gwirfoddol ar gyfer asiantwyr rheoli. Fodd bynnag, nid oes modd dweud ar hyn o bryd pryd y caiff ei gyflwyno. Rwy'n bwriadu egluro mwy ar hyn yn fy natganiad ysgrifenedig.

Rwyf wedi nodi eich sylwadau ynghylch Celestia Development, a byddaf yn parhau i roi gwybodaeth reolaidd i'r pwyllgor am y mater.

Mewn perthynas â'r camau gweithredu penodol sy'n deillio o gyfarfod pwyllgor 5 Rhagfyr, rwyf wedi ymateb isod.

- *Fe wnaethoch chi gynnig bod y Dirprwy Weinidog yn rhoi'r wybodaeth ddiweddaraf i'r pwyllgor am y trafodaethau gyda'r Prif Swyddogion Tân ynghylch y camau i'w cymryd yng Nghymru yn dilyn cyhoeddi adroddiad Cam 1 Ymchwiliad Tŵr Grenfell.*

- *Fe wnaethoch chi gytuno i ddadansoddi sut mae pob un o'r argymhellion yn adroddiad Cam 1 Ymchwiliad Tŵr Grenfell yn berthnasol i Gymru.*

Ar 13 Tachwedd cyfarfu Hannah Blythyn â'r tri Phrif Swyddog Tân. Rhoesant sicrwydd y byddent yn ystyried ac yn gweithredu pob un o argymhellion cam 1, fel mater o flaenoriaeth. Mae ein Prif Gynghorydd Tân ac Achub yn dilyn hynt yr addewid hwn yn ofalus, ac mae'r tabl sydd ynghlwm yn dangos y sefyllfa bresennol. Rwy'n hapus i roi'r wybodaeth ddiweddaraf i'r pwyllgor a'r Senedd fel y bo'n briodol.

- *Cytunwyd i rannu â'r pwyllgor yr ohebiaeth a anfonwyd gan y Gweinidog Addysg at sefydliadau addysg uwch yng Nghymru yn nodi eu rhwymedigaethau o ran diogelwch tân a chasglu data cywir.*

Ar 20 Tachwedd, ysgrifennodd y Gweinidog Addysg at bob sefydliad addysg uwch yng Nghymru. Mae copi o'r llythyr a anfonwyd at Brifysgol Bangor ynghlwm.

- *Cytunwyd i rannu â'r pwyllgor ddogfennau a anfonwyd at asiantwyr rheoli yn dangos sut mae'r llywodraeth yn rhannu gwybodaeth â rhanddeiliaid.*

Ar 20 Tachwedd, ysgrifennais at asiantwyr rheoli a pherchnogion. Mae copi o'r llythyr wedi ei atodi.

Yn gywir

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Grenfell Tower Public Inquiry

Phase 1 Report Recommendations

The recommendations are in Chapter 33 of the Phase 1 Report, which is available here: https://assets.grenfelltowerinquiry.org.uk/GTI%20-%20Phase%201%20full%20report%20-%20volume%204.pdf. Some of the recommendations, and our responses to them, are unavoidably detailed and use potentially unfamiliar acronyms and technical terms. These include the following:

BA	Breathing apparatus (as worn by firefighters)
CFO	Chief Fire Officer
CFRA	Chief Fire and Rescue Advisor (for Wales).
FRA	Fire and Rescue Authority
FRS	Fire and Rescue Service
FSG	Fire survival guidance. Advice and support given by control room staff to callers who are unable to escape from a fire.
FSO	The Regulatory Reform (Fire Safety) Order 2005
HRRB	High-rise residential building
JESG	Joint Emergency Services Group. A Wales-wide forum for all emergency services and other partners to discuss issues of common interest.
JESIP	Joint Emergency Services Interoperability Principles. A set of principles governing how the emergency services across the UK can and should work together at an incident.
LAS	London Ambulance Service
LFB	London Fire Brigade
MPS	Metropolitan Police Service
NFCC	National Fire Chiefs Council
NOG	National Operational Guidance. Standardised approaches to firefighting operations promulgated by the **NFCC**.
NPAS	National Police Air Service
OIC	Officer in command (at an incident)
PEEP	Personal Emergency Evacuation Plan. An arrangement which sets out how a person who may not be able to escape from a fire unaided (eg because of mobility or sensory impairments) should be assisted to do so.
SOP	Standard Operating Procedures. An **FRS**'s detailed procedures for each type of incident, usually derived by applying **NOG** to local circumstances.
SSRI	Site-specific risk information. Detailed information gathered by an **FRS** about the characteristics of a building with a high risk of fire.

	Para	Recommendation	Type	Current position in Wales
HRRB materials				
1	33.10a	The owner and manager of every high-rise residential building [should] be required by law to provide their local fire and rescue service with information about the design of its external walls together with details of the materials of which they are constructed and to inform the fire and rescue service of any material changes made to them	Policy	This is partly the practice now as FRAs are consulted on applications for building regulations approval, which will include all of these details at the point a building is constructed and when it is significantly renovated or adapted. There may be an issue about FRAs' retention of information about buildings constructed in the more distant past; however, it is equally possible that owners of such buildings may not have retained such information either. FRAs have powers in art.27 of the FSO to require responsible persons to provide information. However, it is not clear whether these would embrace the information in this recommendation, for instance because the FSO does not currently cover the external walls of an HRRB. We would be happy to consider correcting this in new legislation.
2	33.10b	Fire and rescue services [should] ensure that their personnel at all levels understand the risk of fire taking hold in the external walls of high-rise buildings and know how to recognise it when it occurs.	Operational (all FRSs)	We understand that SOPs in all three of our FRSs already cover this, but have asked for confirmation, and our CFRA intends to follow this up.
Firefighting information				
3	33.11a	The LFB [should] review, and revise as appropriate, Appendix 1 to PN633 to ensure that it fully reflects the principles in GRA 3.2	Operational (LFB only)	While these recommendations refer to LFB's specific policies and procedures, they may nonetheless have wider implications. In essence, they call for integration of SOPs with the process of gathering site-specific risk information (SSRI). Put simply the SOPs should set out the generic hazard and risk controls to provide basic knowledge to all operational personnel. The SSRI and associated operational plan should build on this with operational information specific to the premises. The public inquiry identified clear and serious deficiencies in LFB's practices in this area, so we need also to be assured that similar issues would not arise here. Our CFRA intends to follow this up with our FRSs.
4	33.11b	The LFB [should] ensure that all officers of the rank of Crew Manager and above are trained in carrying out the requirements of PN633 relating to the inspection of high-rise buildings		
Plans				
5	33.12a	The owner and manager of every high-rise residential building [should] be required by law to provide their local fire and rescue services with up-to-date plans in both paper and electronic form of every floor of the building identifying the location of key fire safety systems;	Policy	The comments under recommendation 1 about building regulations approval and FRAs' powers to require information are also relevant here. If those could not be used to require the provision of plans,

	Para	Recommendation	Type	Current position in Wales
6	33.12c	The owner and manager of every high-rise residential building [should] be required by law to ensure that the building contains a premises information box, the contents of which must include a copy of the up-to-date floor plans and information about the nature of any lift intended for use by the fire and rescue services		then we would be happy to consider correcting this in new legislation.
7	33.12	All fire and rescue services [should] be equipped to receive and store electronic plans and to make them available to incident commanders and control room managers.	Operational (all FRSs)	Floor plans are an integral component of SSRI and are necessary in order to complete robust searches during an incident. We understand all three of our FRSs are already capable of doing this, but the CFRA will follow this up with them.
Firefighting lifts				
8	33.13a	The owner and manager of every high-rise residential building [should] be required by law to carry out regular inspections of any lifts that are designed to be used by firefighters in an emergency and to report the results of such inspections to their local fire and rescue service at monthly intervals.	Policy	The essence of this may already be caught by the FSO, and in particular art.13, which requires responsible persons to provide appropriate firefighting equipment. However, there is nothing specific in there about firefighting lifts, or about their periodic testing. We would be happy to consider correcting this in new legislation. We will also establish the extent to which our FRS would be able to disseminate this information to responding crews to inform contingency planning.
9	33.13b	The owner and manager of every high-rise residential building [should] be required by law to carry out regular tests of the mechanism which allows firefighters to take control of the lifts and to inform their local fire and rescue service at monthly intervals that they have done so.		
Control – incident communication				
10	33.14a	The LFB should review its policies on communications between the control room and the incident commander	Operational (LFB only)	These recommendations are addressed only to LFB, and concern its specific procedures and training programmes. We have asked our Chief Fire Officers to consider how far they might also be relevant here, and the CFRA will follow this up with them.
11	33.14b	All officers who may be expected to act as incident commanders (i.e. all those above the rank of Crew Manager) receive training directed to the specific requirements of communication with the control room;		
12	33.14c	All [control room operators] of Assistant Operations Manager rank and above [should] receive training directed to the specific requirements of communication with the incident commander		

	Para	Recommendation	Type	Current position in Wales
13	33.14d	A dedicated communication link [should] be provided between the senior officer in the control room and the incident commander		
Emergency calls				
14	33.15a	The LFB's policies [should] be amended to draw a clearer distinction between callers seeking advice and callers who believe they are trapped and need rescuing	Operational (LFB only)	These recommendations are addressed only to LFB, and concern its control room policies and training programmes. We have asked our Chief Fire Officers to consider how far they might also be relevant here, and the CFRA will follow this up with them.
15	33.15b	The LFB [should] provide regular and more effective refresher training to [control room operators] at all levels, including supervisors		
16	33.15c	All fire and rescue services [should] develop policies for handling a large number of FSG [fire survival guidance] calls simultaneously	Operational (all FRSs)	These recommendations are aimed at the risk of FSG calls – which can last a long time – consuming all or most control room capacity. That in turn could mean other callers could not get through. While the chance of multiple simultaneous FSG calls is low, the consequences could be serious. The CFRA will follow this up with our three FRSs.
17	33.15d	Electronic systems [should] be developed to record [fire survival guidance] information in the control room and display it simultaneously at the bridgehead and in any command units;	Operational (all FRSs)	All three of our FRSs currently have this facility as regards incident command units. A system which could be deployed quickly and reliably at the bridgehead will, though, take some time to develop and implement. The CFRA will follow this up with them.
18	33.15d	Policies should be developed for managing a transition from "stay put" to "get out".	Operational (all FRSs)	This concerns tactical decisions at an incident to evacuate a building to which a 'stay put' approach had previously applied – eg when it is clear that compartmentation has been or may have been breached by fire. This is a reasonably foreseeable hazard at a high rise incident, and the appropriate control measure is partial or full evacuation. The related measure knowledge and tactics need to be developed through NOG and then embedded within FRS doctrine. The NFCC is leading work in this area, but has indicated that further research is needed to understand the most effective way of conducting an evacuation in these circumstances. There are, for instance, balancing risks of inducing panic and/or impeding the firefighting effort.
19	33.15e	Control room staff [should] receive training directed specifically to handling such a change of advice and conveying it effectively to callers		
20	33.16	Steps [should] be taken to investigate methods by which assisting control rooms can obtain access to the information available to the host control room	Operational (all FRSs)	There are two FRS control rooms in Wales – one in Bridgend, which is shared by South Wales FRS, Mid and West Wales FRS and South Wales Police; and one in St Asaph, which is shared by North

	Para	Recommendation	Type	Current position in Wales
				Wales FRS and North Wales Police. They provide mutual assistance to each other as needed, and we will follow up how far they are able to meet this recommendation.
21	33.17	The [London Ambulance Service] and the [Metropolitan Police should] review their protocols and policies to ensure that their operators can identify [fire survival guidance] calls (as defined by the LFB) and pass them to the LFB as soon as possible	Operational (LAS / MPS only)	This recommendation is addressed only to the London Ambulance Service and the Metropolitan Police, and relates to how they communicate with the London Fire Brigade. However, it is possible that similar problems could exist in other control room arrangements, so JESG is undertaking an exercise also to assure themselves and us that any such problems have been corrected.
Command and control				
22	33.18a	The LFB [should] develop policies and training to ensure better control of deployments and the use of resources	Operational (LFB only)	These recommendations are addressed only to LFB, and concern its policies and systems for collating, managing and communicating information at an incident. However, they may have wider implications. It is as much about BA search techniques as it is about communication techniques. Basically there are two methods of search: directional (left or right hand orientation) or room clearance. The GTI report implies a lack of consistency in their use on the night of the fire. That would make it almost impossible for an OIC to have any confidence that a floor had been cleared The CFRA will follow this up with the 3 FRSs to understand the extent of their training and doctrine in this area.
23	33.18b	The LFB [should] develop policies and training to ensure that better information is obtained from crews returning from deployments and that the information is recorded in a form that enables it to be made available immediately to the incident commander (and thereafter to the command units and the control room).		
24	33.19	The LFB [should] develop a communication system to enable direct communication between the control room and the incident commander and improve the means of communication between the incident commander and the bridgehead.		
25	33.20	The LFB [should] investigate the use of modern communication techniques to provide a direct line of communication between the control room and the bridgehead, allowing information to be transmitted directly between the control room and the bridgehead and providing an integrated system of recording FSG information and the results of deployments		
Equipment				
26	33.21a	The LFB [should] urgently take steps to obtain equipment that enables firefighters wearing helmets and breathing apparatus to communicate with the	Operational (LFB only)	These recommendations are addressed only to LFB, and concern its communication equipment. We have asked our Chief Fire

	Para	Recommendation	Type	Current position in Wales
		bridgehead effectively, including when operating in high-rise buildings;		Officers to consider how far they might also be relevant here, and the CFRA will follow this up with them.
27	33.21b	The LFB [should] urgently take steps to ensure that the command support system is fully operative on all command units and that crews are trained in its use		
Evacuation				
28	33.22a	The government [should] develop national guidelines for carrying out partial or total evacuations of high-rise residential buildings, such guidelines to include the means of protecting fire exit routes and procedures for evacuating persons who are unable to use the stairs in an emergency, or who may require assistance (such as disabled people, older people and young children);	Operational (all FRSs)	We fully agree that there should be a standard set of procedures and approaches to conducting an evacuation should that prove to be necessary. However, we are not convinced that government is best placed to develop and promulgate these. We have only limited expertise on fire and rescue procedures. It is probably better for this to be taken forward as part of the NFCC's NOG programme. The comments on recommendations 18-19 are also relevant here.
29	33.22b	Fire and rescue services [should] develop policies for partial and total evacuation of high-rise residential buildings and training to support them		
30	33.22c	The owner and manager of every high-rise residential building [should] be required by law to draw up and keep under regular review evacuation plans, copies of which are to be provided in electronic and paper form to their local fire and rescue service and placed in an information box on the premises;	Policy	This is already covered in part by art.15 of the FSO, which requires the responsible person to draw up appropriate evacuation procedures. However, like the FSO generally, this is designed to apply to workplaces, and covers matters such as fire drills which cannot sensibly apply to an HRRB. Equally, it would be arguable that no such procedures would be appropriate in premises where 'stay put' applies. We would be happy to consider correcting this in new legislation.
31.	33.22d	All high-rise residential buildings (both those already in existence and those built in the future) [should] be equipped with facilities for use by the fire and rescue services enabling them to send an evacuation signal to the whole or a selected part of the building by means of sounders or similar devices;	Policy	There is no current provision for this in the FSO. At present, where a temporary evacuation policy is in place, the responsible person would need also to have some means of implementing it, but this is likely to involve simply knocking on doors or using a loudhailer rather than any permanent automated system. We would be happy to consider correcting this in new legislation. We should also have to consider issues of cost and possible malicious misuse of such a system, and invasion of privacy.
32.	33.22e	The owner and manager of every high-rise residential building [should] be required by law to prepare personal emergency evacuation plans (PEEPs) for all residents whose ability to self-evacuate may be compromised (such as persons with reduced mobility or cognition).	Policy	There is no current provision for this in the FSO. We would be happy to consider making one in new legislation, although there would probably need also to be a corresponding duty on residents with relevant needs to notify the responsible person (or an exclusion from the responsible person's duty for any resident who had not given such notice).

	Para	Recommendation	Type	Current position in Wales
33.	33.22f	The owner and manager of every high-rise residential building [should] be required by law to include up-to-date information about persons with reduced mobility and their associated PEEPs in the premises information box.		
34.	33.22g	All fire and rescue services [should] be equipped with smoke hoods to assist in the evacuation of occupants through smoke-filled exit routes	Operational (all FRSs)	South Wales FRS is currently trialling smoke hoods at all four fire stations in Cardiff, and all three in Newport. Subject to an evaluation of that trial early in 2020, smoke hoods may then be made available elsewhere in Wales. They are, though, unlikely to be needed in areas with no high-rise buildings, as the need to use a long escape route will probably not arise.
Internal signage				
35.	33.27	In all high-rise buildings floor numbers [should] be clearly marked on each landing within the stairways and in a prominent place in all lobbies in such a way as to be visible both in normal conditions and in low lighting or smoky conditions	Policy	This would assist the FRS greatly but there is no current provision for this in the FSO. We would be happy to consider making such provision in new legislation.
36.	33.28	The owner and manager of every residential building containing separate dwellings (whether or not it is a high-rise building) [should] be required by law to provide fire safety instructions (including instructions for evacuation) in a form that the occupants of the building can reasonably be expected to understand, taking into account the nature of the building and their knowledge of the occupants	Policy	As noted against recommendation 30, there are already broad requirements on responsible persons to draw up evacuation procedures. There is a duty in art.19 of the FSO to inform employees of these procedures, but nothing which applies to residents. We would be happy to consider correcting this in new legislation.
Fire doors				
37.	33.29a	The owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) [should] carry out an urgent inspection of all fire doors to ensure that they comply with applicable legislative standards	Policy	Doors wholly within a common area (eg between a landing and a stairwell) are already covered by the FSO. While the Order does not specify any particular testing regime, the importance of this is generally very well-known both by responsible persons and the FRS. However, such doors are of lesser importance in preventing the spread of fire than the front doors of flats themselves, as a fire is much more likely to break out in a flat than in a common area. The FSO does not clearly state whether the door to a flat forms part of the common area (in which case it would be covered by the FSO), or of the flat itself (in which case it would not be). We believe that it
38	33.29b	The owner and manager of every residential building containing separate dwellings (whether or not they are high-rise buildings) [should] be required by law to carry out checks at not less than three-monthly intervals to ensure that all fire doors are fitted with effective		

	Para	Recommendation	Type	Current position in Wales
		self-closing devices in working order		is the former, and that is also the prevailing view within the FRS. But this issue has never been tested in court, and it will need to be addressed in new legislation. In many leasehold blocks, front doors are the property of residents rather than responsible persons. We would have to consider also imposing duties on those residents in such cases.
39.	33.30	All those who have responsibility in whatever capacity for the condition of the entrance doors to individual flats in high-rise residential buildings, whose external walls incorporate unsafe cladding, [should] be required by law to ensure that [fire] doors comply with current standards		
Co-operation between emergency services				
40	33.31a	Each emergency service must communicate the declaration of a Major Incident to all other Category 1 Responders as soon as possible	Operational (all Cat 1 responders)	These recommendations are concerned with how emergency services communicate with each other, and simply restate the principles within JESIP. JESG is undertaking an exercise to assure themselves and us that these issues have been addressed.
41	33.31b	On the declaration of a Major Incident clear lines of communication must be established as soon as possible between the control rooms of the individual emergency services.		
42	33.31c	A single point of contact should be designated within each control room to facilitate such communication		
43	33.31d	A "METHANE" message should be sent as soon as possible by the emergency service declaring a Major Incident.		
44	33.32	Steps [should] be taken to investigate the compatibility of the LFB systems with those of the MPS and the LAS with a view to enabling all three emergency services' systems to read each other's messages	Operational (LFB/MPS/ LAS)	This recommendation is addressed only to LFB, the London Ambulance Service and the Metropolitan Police, and relates to the compatibility of their communication systems. However, it is possible that similar problems could exist elsewhere, so JESG is undertaking an exercise to assure themselves and us that any such problems have been corrected..
45	33.33	Steps [should] be taken to ensure that the airborne datalink system on every NPAS helicopter observing an incident which involves one of the other emergency services defaults to the National Emergency Service user encryption	Operational (NPAS)	This is an operational matter for the National Police Air Service, which falls outside devolved competence.
46	33.34	The LFB, the [Metropolitan Police], the [London Ambulance Service] and the London local authorities [should] all investigate ways of improving the collection of information about survivors and making it available more rapidly to those wishing to make contact with them	Operational (LFB/MPS/ LAS)	This recommendation is addressed only to LFB, the London Ambulance Service and the Metropolitan Police, and relates to how they collect and share information about survivors.. However, it is possible that similar problems could exist elsewhere, so JESG is undertaking an exercise to assure themselves and us that any such problems have been corrected..

Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education

Llywodraeth Cymru
Welsh Government

Professor Iwan Davies
Vice Chancellor
Bangor University
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LL57 2DG

20 November 2019

Dear Professor Davies

Universities in Wales have been proactive in the management of their estate and student accommodation since the Grenfell disaster. I am grateful for the information that you have provided to my officials regarding private student accommodation in response to a request from the Welsh Government in the wake of Grenfell.

However, the shocking scenes witnessed in the student accommodation in The Cube in Bolton has once again focused minds on what can go wrong if the perils of cladding that is flammable are not addressed. Advice Notes have recently been issued in relation to a number of types of cladding (ACM, non-ACM, HPL, Balconies) and I would urge you and your commercial partners to look at these.

The Minister for Housing and Local Government recently issued a Written Statement offering advice to those residing in high rise residential buildings that you should share widely, if you have not done so already.

I am writing to ask that each University (along with their commercial partners) urgently review the fire safety procedures, including evacuation policies, and safeguards across residential, teaching and research accommodation.

I would be grateful if this information[1] could include an update on the status of any building that contains cladding that is considered to be flammable, what remediation plans are in place and their progress. I am asking HEFCW to co-ordinate the response and to provide a report to me at their earliest opportunity. As part of this work, it would be helpful to specify whether any structures in Wales were built by the same construction company involved in

[1] **Information to collect**
Size (e.g. height, storeys, footprint, number of dwellings, students housed)
Confirmation that fire doors meet relevant building standards
Information on sprinkler systems and where fitted (common areas or individual dwellings), information on façade and structure
Details of the responsible person, freeholder and managing agent
The date of the last Fire Risk Assessment for each building and any significant finding if relevant.

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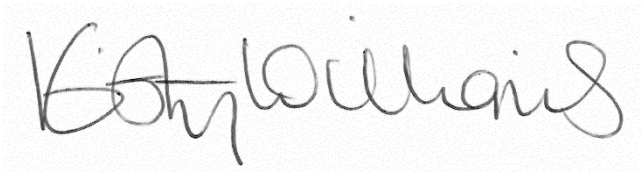
The Cube, and a list of the student accommodation in Wales managed by Valeo Urban Student Life.

Yours sincerely



Kirsty Williams AC/AM
Y Gweinidog Addysg
Minister for Education

cc: David Blaney, Chief Executive/Prif Weithredwr, HEFCW
David Allen, OBE, Chair/Cadeirydd, HEFCW

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-JJ-05180-19

Managing Agents and Owners
of High Rise Residential
Buildings in Wales

20 November 2019

To whom it may concern,

The unfortunate events of last weekend in Bolton are a timely reminder to us all of the need to ensure the highest levels of attention are paid to fire safety in residential property, and in particular in higher rise properties with multiple occupants.

There will no doubt be lessons to learn as investigations into the fire at 'The Cube' progress but what is already apparent is that dynamic management of potential risk is key to ensuring the safety of residents in the event of fire.

As we understand it following identification of concerns with the building the Greater Manchester Fire and Rescue Service and the managing agents worked to revise and communicate their evacuation strategy ahead of putting in place remediation works. On the night the Fire Service responded with speed, fighting not only the fire quickly and efficiently, but also supporting a safe and swift evacuation. Fortunately whilst the loss of personal possessions is devastating, injuries were minimal.

However, what it does highlight is the need for building owners and managing agents to ensure that the safety of individual buildings is managed dynamically – there is no single right approach to managing fire risk within a building. Up to date fire risk assessments, carried out by individuals with the relevant expertise and qualifications are essential. Whilst this is not yet a legal requirement I intend to bring forward legislation that will require annual fire risk assessments of high-rise residential buildings undertaken by qualified individuals. Therefore I would urge you to consider the most recent assessment for your building and decide if this should be updated in light of recent events.

It is also essential that residents understand what their response should be in the event of a fire in their building. This is especially important where change to the fire strategy is needed, for example changing from a 'stay put' strategy to 'simultaneous evacuation', and you may find the National Fire Chiefs Council's recent guidance on this useful. It is also important to clarify that, notwithstanding the terrible events at Grenfell and the near miss in Bolton, 'stay put' remains the default position, and for good reason. We do not want people evacuating needlessly in the event of a manageable fire, potentially

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exposing them to avoidable risk and impeding the firefighting effort. I believe that Responsible Persons should review their communications with regards to building safety and be proactive in providing this information regularly to residents, as well as displaying this essential information in common areas of buildings. Again, this is an area that I intend to legislate for in the future and I would ask that you lead the way in ensuring regular and clear updates to residents.

There are a number of other things that the Grenfell Phase 1 report, which came out at the end of October, highlight that are simple actions, but that have the potential to save lives. I précis these and bring them to your attention now to encourage you to take action:

- Floor numbers should be clearly marked on each landing within stairways and in a prominent place in all lobbies in such a way as to be visible in normal and low lighting or smoky conditions
- Providing information to enforcement bodies (the Fire and Rescue Service and the Local Authority) about the external walls and insulation
- Hold and have easily accessible up-to-date plans in both paper and electronic form of every floor of the building identifying the location of key fire safety systems and the nature of any lift intended for use by the fire and rescue services
- Undertake regular tests and maintenance of fire equipment including lifts, especially those for fire-fighting purposes
- Regularly inspect fire doors and ensure that all fire doors are fitted with effective self-closing devices and are in working order
- Keep under regular review evacuation plans, copies of which should be made available to the fire and rescue service in the event of an incident
- Prepare personal emergency evacuation plans (PEEPs) for all residents whose ability to self-evacuate may be compromised and provide to the FRS when required

I would remind Managing Agents and Owners subject to the Fire Safety Order that detailed requirements of building design and specification information to be handed to the responsible person at occupation are set out in Appendix G of Approved Document B – Fire Safety. It is crucial that this information is maintained.

I hope that you find this letter useful and you take the opportunity to review your current arrangements as a result.

Yours sincerely,

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government