

DLG 05

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
Local Government Draft (Wales) Bill /Bil Llywodraeth Leol (Cymru) Drafft
Ymateb gan: SOLACE Wales
Response from: SOLACE Wales

National Assembly for Wales Communities, Equality and Local Government Committee's scrutiny of the draft Local Government (Wales) Bill.

Evidence of

1. SOLACE Wales welcomes the opportunity to give evidence to the Communities, Equality and Local Government Committee on the Local Government (Wales) Bill.
2. SOLACE Wales understands Welsh Government's wish to undertake a reform of local government in Wales from the current model of 22 authorities, particularly given the pressures on capacity in the smaller authorities as a result of austerity. However, we are not in favour of change for change's sake; and we only welcome such changes as will deliver better services, reduced cost and greater efficiency.
3. We do not believe that reorganisation into a fewer number of large authorities is in itself a silver bullet to tackle the current financial restrictions on public service, and we feel that it is imperative that the newly created councils are well led and citizen centric, with a strong organisational culture focusing on performance, innovation and staff engagement.
4. We are concerned that the already longstanding uncertainty on how these proposals will be taken forward has made it difficult to maintain morale in the current local authorities and to plan ahead effectively. Even if the timetable currently proposed in the Bill goes ahead exactly as planned, we are looking at another four years before the new local authorities come into being, and those issues will continue to be of concern particularly as staff take decisions to leave or retire.
5. In terms of the transitional arrangements outlined in the Bill, the period between the local elections in 2017 and the abolition of the old authorities in 2020 will need to be carefully managed to ensure that strong political and officer leadership and focus is maintained. Once the shadow authorities are established in 2019, it is inevitable that the focus will shift to them; but high quality, day to day services will still need to be delivered by the outgoing organisations until the last day. There will inevitably be a number of members who are elected in 2017 who will not be serving in the new authorities, there are also likely to be a number of officers who will see the transition as a point to retire or move on. Maintaining the morale and energy of the outgoing organisations will therefore be a key task.

6. We represent Chief Executives of Councils from across the Welsh local authorities, and it is therefore difficult for us to comment on the proposed map, and number of councils, as there are many different shades of opinion. We do, however, have concerns about the size of some of the new organisations in terms of their connectedness to citizens and communities, particularly with respect to democratic representation. The advantage of current collaborative arrangements is that, whilst they take advantage of scale in service planning and delivery, they are rooted in being overseen by elected members who have a depth of understanding of local circumstances.
7. As we feel there is a danger of very large new councils being out of touch with communities, we are not against the establishment of community area committees.

However, we do have concerns about the potential plethora of bureaucracy and the cost of maintaining and supporting this. One small community could be overseen by a Community Council, a Community Area Committee, a Local Authority, a Public Service Board, a constituency Assembly Member, regional Assembly Members, a Member of Parliament and a Member of the European Parliament. A major reform of local government is an opportunity to start from a blank canvas and design governance that is streamlined, cost effective and fit for purpose. An alternative to creating area committees is to redesign the relationship between Community Councils and the new local authorities, with powers of delegation aligned with clear lines of accountability for delivery and cost effectiveness.

If there are to be community area committees, we would be in favour of delegation powers that relate to services delivered specifically to that geographical location; for example, greening and cleaning, parks, community safety. We think that there is potential in this way for not only elected representatives, but also staff delivering the services to be much more closely in touch with local communities and to have a stronger sense of direct accountability to them. We do not think it would be appropriate to delegate functions that relate to individuals, such as social services and education, nor services that have a regulatory aspect.

The strength of very locally based democracy is that it is very immediately and directly in touch with key local issues of concern; the danger is that it can become dominated by individuals with strong personalities focused on single issue agendas. For this reason we believe that community area committees should be made up only of elected representatives and those who have been nominated by established public bodies and voluntary sector organisations and who have some accountability back to those organisations.

8. We welcome a five year cycle for local elections; we believe that this gives elected members a proper period of time to immerse themselves in the working of the organisation and therefore enables them to lead and scrutinise effectively. It also allows time for key decision making to be undertaken on major issues without the constant presence of an election looming. Medium to long term forward planning on financial, service delivery and workforce issues has strengthened in Wales as a

response to austerity; and it is important that councillors are able to continue thinking in these longer timelines as we move into the future, whether or not austerity continues to bite.

9. We welcome the provision in section 23 to give general power of competence to local authorities. The broad powers in section 23(2) are particularly appropriate as councils will increasingly need to look at innovative models of service delivery and ways of raising revenue, including through the use of arms length commercial enterprises.
10. We feel that the provisions of the Bill relating to powers of competence for Community Councils are, in the main, best commented on by Community Councils themselves. However, we would make a general comment that, if the powers of Community Councils are to be expanded, it is important that there are appropriate safeguards and checks and balances to ensure that the calibre of the Community Council, and the support that it receives, is equal to exercising those powers.
11. We support the proposals to require Councils to consult on the annual budget. However, we feel that there should be a wide discretion in terms of how such consultation is carried out. The rapidly increasing use of new forms of social media is likely to mean that by the time the new authorities come into existence there will be ways of communicating with the public which have not yet been thought of.

Traditional means of engaging the public by holding public meetings in geographical locations are increasingly ineffective, often resulting in small numbers of people attending who are not representative of the majority of the population.

12. In terms of improvement requests, we can see the merit in providing a mechanism for an open debate between a council and a community on an issue of specific local importance. We do feel however that there need to be parameters around this dialogue, as there is a danger of it absorbing a very large amount of officer time in the Council. "Reasonable grounds" for not entering into a dialogue should include the fact that a similar request has been made previously or that the issue has become vexatious. We welcome the fact that the Bill does not heavily prescribe the duty upon local authorities.

If there are to be community area committees, there will probably be merit in most "improvement requests" being dealt with at that level within the resource envelope delegated to that committee.

In times of continuing austerity, there will be issues around fair distribution of limited resources; and the danger that those who put in improvement requests are treated more favourably in terms of resource allocation than those who don't must be guarded against. The reality is that local authorities will increasingly have to take away or reduce services that communities want and value; a published debate will only have value if it highlights not only the rights of communities and individuals to receive services but also their responsibilities as citizens to contribute.

13. We are in favour of transparent electronic broadcasting of all formal meetings of democratically elected bodies. Having said this, we believe that there must also be space for members and officers to discuss and test out ideas in an informal discussion before formal meetings take place in the public eye.
14. We note at S77 (2) the power for Ministers to make regulations allowing persons to make their own electronic recordings of council meetings and to publish them on social media. We would urge that Ministers give this very careful consideration before making such regulations. If an electronic broadcast is freely available to all, we question why this would be necessary; and the ability of individuals to cut and paste to distort and misrepresent the facts is a serious consideration.
15. With regard to the question of keeping written minutes, we question the necessity of this going forward if all meetings have a full electronic record.
16. We support all proposals to engage children and young people actively in democratic decision making.
17. We welcome the provisions in the draft Bill requiring members to attend meetings regularly, hold surgeries at least quarterly, respond promptly to correspondence, attend all compulsory training and make annual reports. We also welcome the requirement for Leaders to set and monitor objectives for the Cabinet. These are all standards that the public have a right to expect from those whom they elect.
18. In section 100 (1)(a) of the Bill it is stated that a candidate for Leader must in advance of a leadership election prepare and circulate to other members a written manifesto. Whilst we understand why the Bill may cite this as good practice, we would point out that in local government election years the time between the election itself and the Annual General Meeting is short and that, particularly if there is a complicated period of negotiation between parties forming a coalition, this may be difficult to achieve in practice.
19. We support the provision in section 101 (2) for Councils to be able to appoint Assistant Executive Members; this is welcomed as a good way for younger councillors to gain experience and to allow for succession planning.
20. In Chapter 6 section 103, we support the provision to change the senior statutory role in the council from Head of Paid Service to Chief Executive as this more clearly describes the nature of the role and recognises the status of the Chief Executive within the organisation.
21. In section 103(6) it is stated that "a county council must provide its Chief Executive with such staff, accommodation and other resources as are, in the Chief Executive's opinion, sufficient to allow the Chief Executive's duties under this section to be carried out". Whilst it is of course desirable that councillors should listen to and respect the advice of their Chief Executive, and that Chief Executives should only

make requests of the Council that are proportionate and reasonable, we believe that this wording needs more thought. It surely cannot be the intention of the Bill to make it a statutory requirement that elected members must provide whatever resources are required *in the opinion of the Chief Executive* to discharge its various functions. Members may disagree with the Chief Executive as to where resources should be deployed according to political priorities, and the wording as it is drafted at present would override that.

22. Section 104, concerning the setting of objectives for Chief Executives, states at subparagraph (8) that Welsh Ministers may issue guidance, to which the Council must have regard. Is it the intention that Welsh Ministers should have the power to intervene in local arrangements between a Leader and a Chief Executive with regard to the way that the Chief Executive carries out their duties? If so, this seems to be a considerable incursion into the running of a local authority without the Bill putting any parameters around the Minister's reason for issuing such guidance – for example if the Council is failing to deliver on key performance or governance issues.
23. We welcome the decision referred to in the consultation document that issues concerning the appointment of Chief Executives and Chief Officers should be subject to further consideration and advice by the Public Services Staff Commission. Local Government reform will inevitably see the loss of a number of experienced and capable Chief Executives and senior managers, and Wales is not well placed to attract new talent from England or elsewhere. Therefore, whilst the wish for transparency and fairness in senior remuneration is understood, account must be taken as to the levels of remuneration that will recognise and reward the demands of the role and enable Wales to recruit and retain the best.
24. We feel that much has been done in recent years to undermine the value and respect that senior local government officers in Wales are held in. We accept that as senior public servants our pay should be open to scrutiny in terms of public value and transparency. However, the salaries of even the best remunerated of us do not compare favourably with our equivalents in the private sector (or of local authority Chief Executives in England or Chief Executives of Health Boards and other public bodies in Wales) and for that we run extremely complex organisations within a challenging political environment in the face of constant public scrutiny and criticism at a time that requires transformational leadership. When looking at the multiplier between the lowest and highest paid person in an organisation, it is considerably higher in most private sector organisations than in local government; and in Welsh local government in particular we are well below the maximum of 20:1 discussed in the Hutton Review of Fair Pay. The combination of increased levels of pension contributions and a lack of percentage increases on salary mean that many of us take home significantly less pay than we have done in previous years for carrying out an increasingly difficult role with fewer people to support us. It is already difficult to find a reasonable pool of high quality candidates for senior roles in Welsh local government or to recruit from outside Wales; this is likely to become an increasing problem as existing senior people leave or retire as a result of local government reform.

25. The Bill is not entirely clear on the question of which Returning Officer roles would be regarded as included as being integral to the role of Chief Executive. The reasoning behind this with regard to Local Government Elections is understood, although such elections do add considerably to the Chief Executive's workload; with regard to other elections (Parliamentary, Welsh Assembly, European, Police Commissioner, referenda etc.) these are not financed by the local authority and do entail additional duties over and above the Chief Executive role.

26. We recognise and agree with the need for shadow authorities to appoint interim Returning Officers given the timescales.

27. With regard to the statutory protections afforded to certain senior officers of the Council, these are given to statutory officers for a specific reason, which is that they are required to "speak truth to power" for the safety, proper conduct and reputation of the organisation and those leading it, particularly in cases of potential corruption or illegality. We would strongly oppose, and advise extreme caution on, taking any action to remove these protections in Wales.

Votes in full council concerning the employment of individual officers would inevitably lead to protracted litigation in employment tribunals and courts for unfair dismissal, and could easily lead to reputationally damaging and costly claims of bullying, harassment and discrimination. It is hard to see the justification for carrying out such procedures in public, and easy to see how it could turn into a "witch hunt" playing to the public gallery.

28. We welcome the proposed greater flexibility to allow Councils to determine what matters can and cannot be delegated through simplification of the existing legislation. As stated above in the answer relating to community area committees, there is a danger in creating new councils with very large populations and geographical spread that the connection with local decision making will be lost. Decisions that relate specifically to a particular community and its activities are most properly taken at the most local level possible.

Key strategic policy decisions should remain the responsibility of the full Council, and it is suggested that the bullet point list in the consultation document should include the setting of the Council's key priorities and objectives in its Corporate Plan.

29. There is much in Part 5 of the Bill that we strongly support. Many councils have found a combination of rigorous self assessment supplemented by peer review to be instrumental in focusing on and driving up performance.

The huge reduction in resources available to local authorities makes it vital to have clear and focused priorities based on clear political choices, and for the Corporate Plan to be closely aligned with the Medium Term Financial Plan and Workforce Plan.

30. Section 113 of the Bill requires a County Council to publish its first corporate plan no later than three months after the date of the first ordinary election of councillors. Experience suggests that this timescale is unrealistic. The corporate plan will set out the key strategic direction for the council for years to come. It requires careful thought and wide consultation both within political parties and cross party; in addition the Bill requires consultation with both the Local Health Board and the Public Service Board. In our view a plan that attracts wide consensus and support is much more effective to the good governance of the organisation than one that has to be rushed into existence.
31. We very much support provisions that require regulators to work and plan together and to carry out combined assessments, the burden of regulation on local authorities is very heavy and in many cases disproportionate to the benefits that it confers.
32. We feel that the creation of local public accounts committees would add unnecessary bureaucracy, complexity and expense to an already crowded landscape without delivering significant benefits that would drive public service improvement.
33. Public Service Boards do appear to be an appropriate place for the examination of key strategic policy choices. The only caveat to this is that PSBs will be made up of the senior executives of the local public service organisations, and there is therefore a danger that their deliberations will result in a reinforcing of existing attitudes and views, rather than an element of challenge and enquiry. It would certainly be beneficial for PSBs to be able to commission external expertise and for them to be able to introduce independent critical friends to challenge their thinking. It does not seem necessary for them to have powers to summon officers to give evidence, given that they can do so through their seniority within the constituent organisations.
34. Experience suggests that there not as many legislative barriers to the scaling of shared services across not only local authorities but public services generally as may be supposed. There are state aid considerations in terms of commercial trading but these can be accommodated with the appropriate legal advice. The general powers of competence proposed in the Bill should help to iron out any existing wrinkles around legal powers.

Creating an arms length wholly local authority owned company allows for strategic partnerships with private sector providers that do not fall foul of procurement legislation and therefore provides greater flexibility within appropriate legal parameters. This can be done under existing legislation.

35. We have considerable concerns about the proposals in the Bill to issue guidance, to which public bodies must have regard, with respect to workforce matters. The definition of workforce matters in section 173 combined with the ability to issue guidance to particular public body effectively means that a Minister and his or her officials can take on the responsibilities of a Chief Executive in relation to the staff with an organisation. It is of particular concern that there no parameters built into

this power, so that there is no need for a local authority to be failing in some respect for these powers to be exercised.