

LG 59

Bil Llywodraeth Leol ac Etholiadau (Cymru)

Local Government and Elections (Wales) Bill

Ymateb gan: Cyngor Sir Penfro

Response from: Pembrokeshire County Council

**To: WLGA, FAO Dan Hurford**

CC John Griffiths AM, Chair of the Equality Local Government and Communities Committee

**Date: 23 Jan 2020**

### **Response to the Local Government and Elections Bill**

This response has been submitted on behalf of Pembrokeshire County Council. It has been written following consideration at Council on 19 December 2019 and a subsequent meeting of Group Leaders on 17 January 2020. We hope that this response is helpful in formulating the WLGA's one on behalf of Councils as a whole.

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

Whilst there are differing views amongst our Members on the principle of extending the franchise to 16 year olds, many of our Members are in support of the proposal. We note that the practical requirements of this provision will have been tested in the 2021 National Assembly for Wales elections.

We have held engagement days with youth forums to lay the groundwork for registration of 16 year olds (and 14 year old attainers) and these have been successful. We note that this provision will have resource implications and urge Welsh Government to consider the impact of this on local authorities.

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

We agree with the WLGA position and support the proposal subject to clarification of Assembly competence in this area.

#### **Extending the local government franchise to prisoners**

Like the WLGA, we have mixed views on this proposal in principle. We note that there are a number of significant practical issues that would also need to be overcome. We consider clarification of Assembly competence is necessary prior to further consideration of this proposal.

#### **Two voting systems (Section 5)**

We agree with both the WLGA and the Electoral Commission's position that there should be a common electoral system for principal councils across all local authorities to avoid complexity and voter confusion. We do not consider it is appropriate for individual local authorities to choose their own voting system.

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

We support this proposal.

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

Members are of the view that there is merit in allowing employees to stand in their own authority. We consider that this could widen the pool of people prepared to stand at elections but this also needs to be balanced against the risk of conflicts of interest. Whilst we are supportive in principle, we consider that further discussion is needed before this provision is put into legislation.

We note 80A (6) *A person who would be disqualified but for subsection (3) or (4) must not act in the office of member of a local authority in Wales.* In our view, this provision needs to be strengthened to make it clear that the person is also not entitled to payment of any allowance.

## **Meeting expenditure of returning officers (Section 28)**

Our starting point for consideration of this issue is that the independence of the role of returning officer, which is accountable to the Courts, not the local authority, must be maintained. Members were undecided on whether they supported the inclusion of this section.

We recognise that there is a perception amongst some Members and the wider public that the current arrangements may give rise to the perception that the Chief Executive receives an additional payment for a role that is usually undertaken by them. Members were also clear that they considered that the returning officer role carries with it personal responsibility and that therefore they are exposed to a degree of risk. We note that SOLACE/ALACE has raised objections to this proposal and many Members agreed that it is not appropriate for Welsh Government to expect someone to take on significant responsibilities for no fee.

Members also noted that Welsh Government's proposals would lead to a different approach being undertaken for local elections (and Assembly elections – see below) than national elections where a separate fee would continue to be paid. This provision cannot fully address any concerns over senior salaries as stated in the Explanatory Memorandum.

We note that Explanatory Memorandum states that *the personal fee will also be removed for National Assembly for Wales elections when an order is next made under article 23 of the National Assembly for Wales (Representation of the People) Order 2007.* In our view, this sends out a clear statement that Welsh Government intend to legislate in this area regardless of the views that consultees express.

To conclude, we urge Welsh Government to work closely with SOLCAE/ALACE on the drafting of this Bill and of the Order highlighted above to ensure that the independence of the returning officer role is maintained and that legislation does not have unintended consequences.

## **Part 2: General Power of Competence**

We agree with the WLGA that this is welcome. We note that reviews of the use of the General Power of Competence in England have found that, as drafted, it is used as a power of last resort. We consider that there is scope to strengthen this clause.

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

We support measures to encourage participation and fully support the general principle underpinning this section. We note the proposal is for a duty and would welcome further clarification on the implications of this. We have some reservations on whether a duty could divert resources away from undertaking engagement work and into process activities.

We do not consider it is appropriate to place statutory responsibilities on Principal Councils to discharge duties over or on behalf of other autonomous 'connected authorities'.

### **Duty to make petition scheme (Section 49)**

We welcome this proposal which appears to be pragmatic and cost-effective.

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

Councillors expressed slightly different views on this provision. All Members agreed that it is important for councillors to be accessible to the public. All agreed that consideration of safety and safeguarding against intimidation are important issues. The potential for impact on Members' families was noted and some Members had personal experience of this form of intimidation.

The consensus was in-line with the WLGA view. We consider it is important for the Bill to include a safeguard that Councillors can use a Council rather than home address, but that this should be exception. Members noted that safety and safeguarding against intimidation is a much broader issue and that much more work needs to be done in this area.

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

We already to meet the requirements of this duty and welcome its introduction.

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

Members' view is that attendance in person for meetings is preferable. Members agreed that we should make best use of information technology and that the practical changes the Bill makes to the 2013 Measure are to be welcomed. Members noted that significant practical implications remain with remote attendance and suggest working with WLGA on practical implementation.

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

Members do not have a strong view on the use of the term “Chief Executive” as opposed to “Head of Paid Service” but note that “Chief Executive” is the term that the vast majority of Councils use.

Members noted that there are a number of important details to iron out on the proposal in section 60 on the performance management of the Chief Executive. The Bill may be over-prescriptive in stating that the senior executive member should undertake this role as, depending on local circumstances, it may be helpful for other senior members to be involved.

We note the views expressed by SOLACE / ALACE especially on publication of any performance review. We consider that Welsh Government needs to work with these bodies if this proposal is to be implemented and statutory guidance issued.

#### **Part 5 Collaborative Working by Principal Councils**

We note that Welsh Government is currently consulting on both the principles of collaborative working via the Bill and on the detailed Regulations that will be enabled by it.

We note that debate over regional footprints has been protracted and that the Bill has the potential to reduce duplication. However, Members noted that mention of health-based collaborations established under the Social Services and Well-being Act are conspicuous by their absence.

Members welcomed the provisions in the Bill for voluntary collaborative working. Members’ view is that the outcome from a Corporate Joint Committee must be driving up value and increasing service quality. They noted that, as drafted, the provisions have the potential to significantly increase the workload of the Leader. We agree with the view that the WLGA has already expressed on mandation and note Welsh Government’s response that it is still committed to mandation of the four function areas in the Bill.

Welsh Government has also asked for our views on our preferred footprint for mandated regional working.

Members are clear on their view that a single geography for all four mandated functions is not their preferred option. Members are firm in their view that the Swansea Bay City Deal area makes sense for economic development, transport (and to a lesser extent, strategic planning). They are also clear, that whilst ERW has experienced difficulties, its six county footprint offers us the greatest opportunity for improving our educational outcomes.

If faced with a straight choice of a four or six county footprint for all four functions, with no option of having more than one CJC for these, we would opt (on balance) for the Swansea Bay City Deal area.

## **Part 6: Performance and Governance of Principal Councils**

We broadly agree with the sections in the Bill. We are currently working with both the LGA and the WLGA on a Corporate Peer Challenge which will commence in February 2020.

We note that Welsh Government will have the power to issue Regulations and we consider that it is important that these build upon what has shown to work effectively; a system based peer-to-peer support that builds on expertise within the local government sector. We consider it is important that Regulations consider the practical implications of what local authorities are likely to do (for instance, many may choose to schedule their panel assessment at a similar time) and the implications this may have on resources for support within the sector itself.

### **Governance and Audit Committees**

We agree with the principles that underpin these sections; it is important that this committee is independent and that it is not chaired by a Member from the controlling group.

Political balance rules may need to be considered if prescribing that a third of the committee's membership are lay-members. Our understanding is that the convention is that these are considered be non-controlling group members.

## **Part 7 Mergers and Restructuring of Principle Areas**

The Council has supports the ability for principal local authorities to voluntarily merge.

## **Parts 8 and 9: Finance and Miscellaneous Reforms**

Members' view was that these provisions need to be discussed in detail with local authority Treasurers.