

One Voice Wales response to Proposed Local Government (Wales) Measure consultation questions asked by Assembly Legislation Committee No.3

Introduction

1. Over 70% of the 735 community and town councils are members of One Voice Wales and the organisation is recognised by the Welsh Assembly Government as the national representative body for the sector. One Voice Wales has developed its services considerably in recent years, among the most notable being the launch of a national training programme for community councillors. For more information, please visit our website: www.onevoicewales.org.uk.
2. Our responses to each of the consultation questions on the proposed Measure are set out below (as per the Measure, references to community councils should be read as including town councils).

Is there a need for a proposed Measure to deliver the stated objectives of strengthening the structures and working of local government in Wales at all levels and ensuring that local councils reach out to and engage with all sectors of the communities they serve?

3. Yes. One Voice Wales believes that the Measure addresses needs identified in a range of independent reports (e.g. Aberystwyth study, Councillors Commission Expert Panel for Wales report, Independent Remuneration Panel reports) and that it offers scope to improve considerably the overall operation of local government. These improvements relate to interactions between the two tiers of local government and other bodies as well as the operation of any particular sector or body.

How will the proposed Measure change what organisations do currently and what impact will any such changes have?

4. Generally, the Measure will increase the capacity of community and town councils to respond to the needs of the communities they serve and will also increase transparency, e.g. on how councillors are co-opted. One Voice Wales is fully supportive of these changes. Summarised below are the specific impacts of the Measure on community and town councils.
 - Survey of election candidates (including community councillors) to be carried out every 4 years by unitary authorities.
 - The threshold for electors calling a community meeting is raised from 6 electors to 10% of the electors for the community, or 50 electors (if 10% exceeds 50 electors).
 - The threshold to demand a poll in a community meeting is raised from 10 or one third of electors present to a majority of electors present, providing this majority constitutes 10% of the local electorate or 150 electors (whichever is the lesser).
 - The threshold for a community meeting to call for a poll to establish a council is lowered from 30% or 300 of the electors present and voting at the meeting to 10% or 150 electors (whichever is the lesser).

- The 300 electors or 30% threshold is retained for a community meeting to call for a poll to dissolve a council.
- A community poll held to establish a community council requires a simple majority of those voting.
- A poll held to dissolve a community council requires a two thirds majority of those voting.
- Ministers will have a power to alter these thresholds in the light of experience.
- Where vacancies are to be filled by co-option, a requirement of public notice introduced.
- Councils empowered to appoint up to 2 'community youth representatives', aged 16-26.
- Stronger requirements on unitary authorities to review community boundaries (reporting every 15 years at minimum).
- Extends Power of Wellbeing to all community and town councils "to do anything that they consider is likely to achieve the promotion or improvement of the economic, social or environmental well-being of their area".
- Enables Welsh Ministers to change laws preventing exercising of the Power of Wellbeing;
- Enables the Welsh Ministers to pay grants to community councils.
- Power to make charters mandatory, if necessary.
- Power to introduce an accreditation scheme for community councils, which may include (but not be limited to): % of members elected; qualifications/training of staff; training of members; frequency of meetings; publicity re meetings; community involvement; promotion of community wellbeing; annual reports; and accounts. Ministers may delegate operation of the scheme.
- Gives the Independent Remuneration Panel for Wales powers over councillor allowances, including those for community and town councillors (allows for members to forgo any allowance if they wish).

Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives? In considering this question, the Committee is particularly interested to hear your views on the following:

(i) broaden and increase participation in local government by permitting steps which will help remove barriers and disincentives to standing for election to local councils (Parts 1 -2 of the proposed Measure);

Duty to conduct a survey

5. One Voice Wales welcomes the proposal for principal authorities (as we understand the wording – see comment below re terminology) to carry out a survey of election candidates. This is because, particularly regarding community councils, there is very little information available against which to judge the level of diversity amongst councillors. For relatively little cost this would provide a valuable benchmark to inform efforts to attract a wider range of councillors.

Remote attendance at meetings

6. Regarding enabling remote attendance at meetings, whilst One Voice Wales does not anticipate these elements of the Measure having immediate relevance to community councils, it is sensible for these provisions to apply to both tiers of local authority for reasons of 'future-proofing'.

Annual reports by members of a local authority

7. One Voice Wales believes that the wording of this section indicates it is intended to apply to principal authorities (e.g. the wording refers to reports by members of executives) but would welcome confirmation of this.

'Timing of council meetings' and 'Training and development' (sections 6 & 7)

8. Again – One Voice Wales believes the focus here is on principal authorities but would welcome confirmation.

Statutory status of Head of Democratic Services

9. Since this function also interacts closely with community councils regarding elections, One Voice Wales welcomes the new statutory status but would suggest that the electoral functions carried out on behalf of community councils should also be included. Furthermore we believe it may be appropriate for community councils, through One Voice Wales, to nominate a representative onto the proposed Democratic Services Committee.

Family absence for members of local authorities

10. One Voice Wales supports this Part of the Measure in the interests of not disadvantaging members that have good reason not to attend meetings (e.g. maternity leave).

(ii) enable the review and improvement of the governance structures introduced through the Local Government Act 2000 so that they better suit the circumstances of local government in Wales (Parts 3 -4);

11. One Voice Wales has no particular view on the proposed changes to governance structures of principal authorities.

(iii) enhance the role of non-executive ("backbench") local authority councillors in the scrutiny of local services (Parts 5 - 6);

12. One Voice Wales supports the proposals to enhance the scrutiny process in local government. Furthermore, we believe there is greater scope for principal authorities to co-opt community councillors onto scrutiny committees as a means of capturing 'grass roots' experiences.

(iv) develop and strengthen the role of community councils in Wales, including enabling them to deliver a wider range of services and actions locally as well as to increase the effectiveness of their representational role and their ability to work in partnership with other bodies (Part 7);

13. One Voice Wales is wholly supportive of Part 7 of the Measure, recognising that it offers scope to strengthen considerably the role of community and town councils whilst also increasing the accountability of councils to their electorates. In our view there is an appropriate balance between these two outcomes. In view of the relevance of Part 7 to the sector served by One Voice Wales, a greater focus is given in our response to this Part than other Parts of the Measure. Comments on the individual sections of Part 7 are as follows:

Chapter 1 – Community meetings and community polls (Sections 91 – 102)

Section 91 - Convening of community meetings by local government electors

14. One Voice Wales supports raising the threshold required to call a community meeting from 6 electors to 10% of the electorate or 50 electors (whichever is the lesser) in order to avoid vexatious actions by a very small number of electors.

Section 92 – Notice of community meeting convened by local government electors

15. This is supported, but it would appear that the reference in sub-paragraph 4 to sub-paragraph 3 should actually be a reference to sub-paragraph 2.

Section 93 – Facility for the provision of electronic notices of the convening of community meetings

16. Supported.

Section 94 – Action following receipt of notice of a community meeting

17. Supported.

Section 95 – Public notice of community meeting

18. Supported.

Section 96 – Demands for community polls

19. This section is supported as it will remove the scope for vexatious calls for community polls, and the consequent cost of holding a poll falling on the community council. Such polls can cost several thousands of pounds and the only way a council could re-coup this cost would be through raising the precept on the community. This section ensures that 10% or 150 electors (whichever is the lesser) would need to demand a poll in order for the community to bear the cost of holding the poll. This is more proportionate than the current arrangements whereby only 10 electors can be sufficient to trigger a poll.

Section 97- Notice to be given by returning officer following taking of a poll consequent on a community meeting

20. Supported. One Voice Wales would wish to be consulted on the regulations relating to the appropriateness of poll questions but in principle supports the approach that polls should be related to the powers and duties of community and/or principal councils. Again, this avoids costs being borne by community councils for polls on which they have no capacity to act.

Section 98 - Determination of monitoring officer as to the council to whose functions a poll relates

21. Supported with reservations. Whilst we accept it is the role of the principal authority's monitoring officer to express his or her view on the whether the poll question relates to either or both the community and principal councils, we believe that in the instance of a community calling for a poll in relation to principal authority function, the community should have the right of appeal to Welsh Ministers if it disagrees with the monitoring officer's view. This would provide a fail-safe to avoid the principal authority, through its monitoring officer, being able to frustrate the poll process (possibly on a technicality) where a community has expressed a clear view on, for example, the failure of a principal authority to provide a statutory function within that community.

Section 99 – Consideration of result of community poll by community council

22. Supported.

Section 100 – Action to be taken following community council's consideration of results of certain community polls

23. Whilst we support the underlying principle of informing those who convened the community meeting that led to the poll, we believe it should not be necessary to write to each of the (up to) 50 individuals that might be involved. This could be quite onerous for smaller councils. Instead, we feel that posting a notice in some conspicuous place within the community (as per the requirements for posting meeting notices etc.) would be preferable as it would also communicate to all electors what actions the council intends to take in response to the poll.

Section 101 – Consideration of result of community poll by principal council

24. Supported with reservations. We believe that where a clear course of action has been determined through the wording of the poll question, it should not be open to a principal authority to initiate a consultation exercise, hold an open meeting or carry out research on what action the council should take in response to the community poll. At best this is likely to be wasteful of public funds and at worst could be used to undermine a democratically held poll or be used as a delaying tactic. The wording of the Section 101 should be amended to prevent such a possibility.

Section 102 – Principal council's explanation of its response to a community poll

25. Supported. We believe it would also be helpful for the principal authority to post a notice in some conspicuous place in the community (e.g. village notice board, post office or library) setting out the action(s) taken consequent to the poll.

Chapter 2 – Organisation of Communities and their Councils

Section 103 – Repeal of existing provisions about establishment and dissolution of community councils etc.

26. Supported.

Section 104 – Power of community meeting to apply for an order establishing a community council

27. Supported. The section gives effect to the recommendation of the independent Aberystwyth study, adopted by the Assembly Government, that it should be easier to form a community council where one does not already exist. The Explanatory Memorandum may be slightly misleading in suggesting that it is the community meeting that votes to establish a community council whereas our understanding of the Proposed Measure as drafted is that the community meeting votes on whether or not to hold a poll to establish a council.

Section 105 – Orders establishing separate community councils for communities

28. We believe there is a typographical error in the wording of this section, i.e. that the last line of paragraph (5) should read “by the order, or by an order under section 27J or 27L below.”

Section 106 – Power of community meeting to apply for an order dissolving its separate community council

29. Supported. One Voice Wales would ideally wish to see the power to dissolve a community council in this way completely removed from statute, being the only form of public body (as far as we are aware), that is subject to such a power. However, we recognise the change to the requirement for a two thirds majority to be a significant step in the right direction.

Section 107 – Orders dissolving separate community councils for communities

30. Supported.

Section 108 – Power of community meeting to apply for an order grouping its community with other communities under a common community council

31. Supported.

Section 109 – Orders grouping a community with other communities under a common community council

32. Supported.

Section 110 – Power of community meeting to apply for an order adding its community to a group of communities with a common council

33. Supported.

Section 111 – Orders adding a community to a group of communities with a common council

34. Supported.

Section 112 – Power of council for a group of communities to apply for an order dissolving the group

35. Supported – but subject to the same caveat mentioned in relation to section 106.

Section 113 – Orders dissolving a group of communities

36. Supported.

Section 114 – Power of community meeting to apply for order separating community from a group of communities

37. Supported.

Section 115 – Orders separating a community from a group of communities

38. Supported.

Section 116 – Power of Welsh Ministers to alter voting threshold in connection with organisation of community councils

39. Supported. One Voice Wales believes it is in the interests of sensible local government for Welsh Ministers to have this power and thus avoid recourse to primary legislation to vary such thresholds. One Voice Wales would expect to be consulted on any changes to thresholds.

Section 117 – Organisation of communities and their councils: consequential amendments

40. Supported.

Section 118 – Transitional provision

41. Supported.

Chapter 3- Co-option of members of community councils

Section 119 – Requirement of public notice where vacancies in community council membership are to be filled by co-option

42. Supported. One Voice Wales is in favour of the greater transparency that this would bring to the co-option process. We would, however, wish to be consulted on any regulations made by the Welsh Ministers under paragraph (5)(c).

Section 120 – Guidance about giving public notice of co-option

43. Supported – subject to the consultation mentioned above.

Chapter 4- Appointment of Community youth representatives

Section 121 – Appointment of community youth representatives by community councils

44. Supported. Whilst the age range given for a youth representative (16 to 26) overlaps with the eligible age at which an individual can become a councillor (18), it is recognised that some young people over the age of 18 may prefer to act as a youth representative rather than become a full councillor.

Section 122 – Notice requirements in connection with youth representative appointments

45. Supported.

Section 123 – Guidance about appointment of community youth representatives

46. Supported. One Voice Wales would wish to be consulted on any guidance.

Section 124 – Effect of appointment as a community youth representative

47. Supported. One Voice Wales would wish to be consulted on any guidance.

Chapter 5- Reviews of community areas and electoral arrangements

Section 125 – Reports about discharge of a principal council's function of keeping community areas under review

48. Supported with reservations. This should ensure community boundaries are reviewed sufficiently often such that they reflect medium to long term changes in settlement patterns. However, One Voice Wales believes that reviews of community boundaries would be best undertaken by the Local Government Boundary Commission for Wales rather than the principal authority for the area since this would ensure a greater degree of independence and no scope for undue political influence by the principal authority. This view was also strongly supported by attendees at workshops in 2009 on the Boundary Commission's Strategic Plan (see: http://www.lgbc-wales.gov.uk/publications/the_2009_workshops_e.pdf)

Section 126 – Reports about discharge of a principal council's function of keeping electoral arrangements for communities under review

49. Supported with reservations – see comments in relation to section 125.

Section 127 – Exercise of functions by the Local Government Boundary Commission for Wales on behalf of principal councils

50. Supported. One Voice Wales' position is that it would prefer the LGBCW to exercise these functions as a matter of course. In addition to the increased independence it would probably also offer better value for money and the development/use of expertise in these matters.

Section 128 – Sums payable in respect of reviews carried out by the Local Government Boundary Commission for Wales

51. Supported.

Chapter 6- Community councils' powers to promote well-being

Section 129 – Community councils' powers to promote well-being

52. One Voice Wales supports fully the extension of the Power of Wellbeing to the sector. This will enable councils to work in more creative ways in order to enhance the economic, social and environmental well-being of their communities. It will be particularly pertinent to supporting the development and delivery of the new community planning process (in which community councils are now statutory partners). It also provides a mechanism for promoting at the level of individual communities throughout Wales the Assembly's commitment to sustainable development as a central organising principle. In addition it will send a very positive message to potential councillors about the opportunities to improve their community through becoming a councillor.

Section 130 – Modifications of enactments preventing or obstructing a community council from exercising their well-being power

53. Supported.

Section 131- Transitional provision

54. Supported.

Chapter 7- Grants to community councils

Section 132 – Welsh Ministers' power to pay grant to community councils

55. Supported. This power will complement other developments under the Measure and allow for the targeted support of particular initiatives. Although One Voice Wales sees the accountability of councils to their communities through the precept as an important strength of community councils, we welcome the measure allowing the Minister to pay grant to community councils. Community and Town councils ability to pay for training of its members can often be at odds with the raising of precept to allow this activity to be undertaken. The provision of a direct grant to support training and development of its members would improve the ability of the sector to take up its community enabling role more fully, ensure councillors have the capability to carry out the responsibilities placed upon them and will support the collaboration agenda across Wales as members will be better informed. Additionally, well trained

Community and Town councillors will be better able to support local scrutiny arrangements through co-option. It would also send out a positive message to potential councillors about the training they can expect to carry out their role and send out a clear message from the Assembly of its commitment to ensure the right supporting mechanisms are in place for effective governance within communities across Wales. Furthermore, it would place the sector on an equal footing with principal authorities' training funding arrangements.

Likewise, the decision to undertake community engagement with residents to inform community planning currently requires specific precept to enable the activity to be undertaken – One Voice Wales would welcome the provision of grant funding being available to allow its members the financial capacity to undertake this activity as part of the Community Planning framework. Indeed One Voice Wales would welcome the opportunity to explore the development of Participatory Budgeting within Community and Town Council areas as a means of engaging citizens in deliberative participatory democracy that empowers citizens to make a significant contribution to public spending decisions.

These two specific areas, if grant funded, would make a significant contribution towards enabling the sector to carry out its functions more effectively and contribute to improved local decision making on the basis of a better informed evidence base. One Voice Wales would welcome the opportunity to work with the Welsh Assembly Government and partners on the development of specific guidance for community and town councils on community based information gathering and their engagement of residents.

Chapter 8 - Model charter agreements between local authorities and community councils.

56. One Voice Wales supports fully the inclusion of this chapter within the Measure as it sends a very important message to both tiers of local government regarding the importance of collaboration. We recognise that good progress is being made on a voluntary basis in different parts of Wales and it is hoped that the mere existence of the power will encourage the further development of charters. In our experience, those areas that already have charters in place tend to have better working relationships which support a 'team-based' approach to meeting citizens' needs. One Voice Wales worked with WAG and the WLGA to produce the voluntary model charter and would wish to be similarly involved in the production of a model charter under this part of the Measure.

Chapter 9- Schemes for the accreditation of quality in community government

57. Supported. One Voice Wales can see potential benefits from introducing an accreditation scheme for community councils but we would wish to be closely involved in setting the parameters for such a scheme. This would be with a view to ensuring that the construction of the criteria is carefully thought through to ensure maximum benefit for citizens, communities and the councils concerned. We also believe One Voice Wales may have an important role to play in the operation of the scheme.

(v) reform the system for setting allowances for councillors (Part 8):

58. One Voice Wales supports the proposed functions of the Independent Remuneration Panel for Wales with regard to community councillor allowances. The current arrangements for allowances are unnecessarily inflexible and the indices against which allowances have been set have been obsolete for a number of years. It is understood that the powers under this part of the Measure will also enable the outstanding agreed recommendations from the Aberystwyth study regarding allowances to be implemented. We welcome the inclusion in the Measure of the scope for Members to forgo payment of allowances since we know many community councillors will wish to continue not to receive any allowance. However, the principle of councillors being able to be reimbursed, at least in part, for legitimate expenditure is in our view an important component in the drive to encourage a more diverse range of councillors to stand for election. It should also be borne in mind that, since community councils are in the main funded entirely through the local precept added to the council tax, each council will be directly accountable to its local electorate for any allowances paid.

(vi) allow the Welsh Ministers to issue statutory guidance on collaboration between local authorities, and between them and other bodies (Part 9).

59. Supported. As the representative body for the sector, One Voice Wales would wish to be consulted on any guidance/orders made under the Measure that are applicable in community and town councils, in particular an order referred to under section 166.

What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

60. One Voice Wales does not envisage any potential barriers to the implementing the provisions of the proposed Measure. We believe the Measure marks a significant step forward in enabling community and town councils to respond more directly and positively to the needs of their communities and represent their local citizens more effectively. Clearly there will be a need for guidance to be developed on a range of matters and One Voice Wales looks forward to working with the Welsh Assembly Government and other partners on this.

What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.

61. Having considered Part 2 of the Explanatory Memorandum, we recognise that there are no other additional costs that will follow directly from the Measure. However, One Voice Wales believes that to make elements of the Measure operational, for example, making the Charters 'living' documents will require specific resource allocation. Whilst agreeing that the administrative charge of Charters is negligible – One Voice Wales believes the monitoring and evaluation of the Charters and development of action plans and a co-ordinating mechanism to manage the interaction between principal authorities and Community and Town councils will require resourcing if they are to become the mechanism for organising relationships between the two sectors and ensuring effective collaboration. At present there is a mixed picture of interaction between principal authorities and Community and Town

councils ranging from formal protocols with quarterly or bi-monthly meetings to adhoc informal arrangements. The identification of resource to co-ordinate activity across principal authority areas would ensure greater consistency of arrangements across Wales and would enable both the Community and Town council and principal authority areas to share learning and developments within a more structured environment.

Likewise, the accreditation scheme, if it is to be developed effectively will require dedicated resource to develop, implement and organise the scheme across Wales and One Voice Wales believes it has an important role to play in making this happen.

One Voice Wales believes that it is critical that resources are identified to provide the necessary capacity for the Community and Town council sector to play a full and active role in developing, managing and scrutinising local public services.

Are there any other comments you wish to make about specific sections of the proposed Measure?

62. There are a number of instances where the text of the Measure refers to local authorities but does not clarify whether this refers to both principal authorities and community councils. We believe this requires clarification, e.g. the wording of the section on production of annual reports by councillors reads as though it is referring to principal authorities but since it mentions 'local authorities' could be interpreted as referring to both tiers. This reinforces a comment made by One Voice Wales at the time the LCO was being considered, i.e. that there is a need at some point to review the terminology used to describe local government in Wales. For example, the terms unitary authority, principal authority, local authority, county council, and county borough council are frequently used interchangeably, something which does not make it straightforward for citizens to understand local government structures.