

Legislation Committee No 3

Proposed Local Government (Wales) Measure

Response from Pembrokeshire County Council

Response to the Proposed Local Government (Wales) Measure

- 1. 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?***

We do not consider that legislation is required to achieve the stated objectives. There are already numerous pieces of legislation and guidance in place to ensure that local government in Wales operates in a robust fashion and that communities are effectively engaged in helping to determine local objectives and strategies. The proposed legislation will not complement the approaches that have already been adopted in many parts of Wales and may even run the risk of undermining existing work.

Furthermore, we do not agree that the stated objectives are sensible or desirable. We do not consider that the 'improvements' proposed in the Measure – which are almost exclusively concerned with the internal workings of local authorities – will actually result in improved outcomes for the people we serve. It is not clear how the various elements of the proposed Measure will "strengthen the structures and working of local government in Wales". They will certainly add to our internal structures, but they will not necessarily improve them.

Finally, the proposals set out in the Measure will add significant costs to what is accepted by the majority to be a perfectly reasonable system of governance. We do not accept that this is a legitimate course of action at a time when local authorities across Wales are endeavouring to reduce unnecessary costs in order to protect front line services. We have always worked hard to minimise internal process so that difficult decisions can be taken in a timely fashion (a stated objective of previous legislation). We would need some convincing, therefore, that there is ever a right time to invest in the sorts of activities set out in the proposed Measure. If there was ever a wrong time to be considering this course of action, however, then this is surely it.

The Measure itself very prescriptive, assumes that one-size-fits all and is not well drafted. Even if some modification to processes is perceived as necessary, e.g. opposition chairs on overview and scrutiny committees, this can be achieved in a less bureaucratic manner

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

At the risk of stating the obvious, the most visible change the Measure will bring about is an increase in the number of internal meetings that local authorities will need to arrange.

We remain to be convinced that this will result in a positive impact for customers and it will certainly increase the cost of decision-making.

3. 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);

Section 1 – We are not convinced that the proposal for local authorities to undertake a survey of successful and unsuccessful election candidates will increase participation in local government. It is information from people who did not stand for election that is pertinent to this consideration, as presumably all candidates were not deterred from standing for election.

Section 4 – The proposal concerning remote attendance is potentially useful. However, there are practical difficulties that would need to be overcome. It would be very costly in predominantly rural areas, such as ours, where broadband coverage is patchy. We would also like clarification as to why co-optees would not be able to take advantage of remote attendance facilities. Cabinet meetings also appear to be excluded – why?

Section 5 – Regarding the proposal that Members should publish Annual Reports, we recognise that constituents may wish to know what their councillor has been doing on their behalf, and that an annual report is one way of achieving this. However, our understanding is that the proposed Measure will impose a duty on the council to publish reports, rather than on individual councillors themselves. This creates practical difficulties. The council would need to satisfy itself that all the reports produced were accurate, not defamatory, did not contravene the Data Protection Act or breach confidentiality. This would take time and result in significant additional internal work. Members also have other roles (e.g. they may be on the board of a voluntary organisation) and separating out what has been achieved in their various capacities may not be straightforward.

Section 6 – We consider that the timing of council meetings is best left to councils themselves. Holding meetings at different times will suit different people depending on their circumstances and we do not consider that this is an area where a centrally prescribed one-size-fits all approach will help.

Section 7 – We support proposals to improve the training and development of Members and have already implemented a programme of Member training based on an analysis of their needs (as is the case in many local authorities in Wales). However, we do not consider that annual interviews with a ‘suitably qualified’ individual would be necessary or would be welcomed by Members. There is no educational qualification for standing for election and such mechanisms may further deter people from seeking election.

Sections 8 to 21 – The proposals that all local authorities should appoint a Head of Democratic Services and establish a Democratic Services Committee are perhaps the most poorly thought through in the Measure. We would seek further clarification of the salary and support arrangements that the Assembly Government would have us allocate to the Head of Democratic Services. The Explanatory Memorandum suggests that the new designations are simply absorbed by existing officers; it is difficult to see what this

proposal will actually achieve. What should the relationship be between the Chief Executive, Monitoring Officer and Head of Democratic Services in terms of providing advice to Members? The proposal, as currently set out, would seem to encourage the emergence of factionalism within local authorities.

We already have a Corporate Governance Committee that undertakes the functions of the proposed Democratic Services Committee. However, they only represent a small proportion of its work – it also deals with issues of financial health and constitutional change. We do not consider that there would be enough work for a stand alone Democratic Services Committee of the type proposed in the Measure. Establishing such a Committee (thereby incurring all the costs associated with supporting it) would undermine what is a financially efficient model.

Sections 22 to 32 – The proposals concerning maternity, paternity and so forth closely resemble what nearly all local authorities do already and will make little difference to the proceedings of the Council.

(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);

We operate a Leader and Cabinet model. This works well and we do not envisage changing this. We have no further comment to make other than it would appear to make sense to remove the mayor and council manager executive option, which has failed to generate any support.

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

Section 54 – The proposed Area Committees could conflict with the role of town and community councils. We would like to suggest that this is considered alongside a wider review of the future of town and community councils.

Sections 57 to 60 – The proposals set out in these sections of the Measure are potentially useful. Strategic planning for both waste and transport issues has been led at a regional level for some years and it is sensible to allow councils to develop formal regional mechanisms to hold respective Executives to account. It would be useful to include crime and disorder in these provisions as this is an area that could benefit from joint scrutiny, particularly in the light of recent Home Office proposals on regional Community Safety Partnerships.

Section 61 – We have opted not to include a provision for petitions within our constitution; this has helped us to ensure that meetings remain business like. We are not sure why section 61 is required; it appears to duplicate section 62, which introduces duties along the lines of a Councillor Call for Action (CCfA). It is difficult to comment further in the absence of more detailed guidance.

Section 62 – We note that CCfA has existed in England for around a year. Our understanding is that there have been relatively few instances in which these powers have been used. The main effect of this provision will be to formalise what happens in practice. Further guidance is required to ensure consistency in dealing with issues that have already been considered or contact that borders on the vexatious. We are disappointed that there

appear to be no plans to issue such guidance.

Sections 65 to 74 – Our committee chairs are appointed by the Council. This system works well and we see no reason to change it. Chairs are often selected on the basis of ability and/or track record. The effect of these proposals would be to emphasise political difference; we do not consider that this would promote effective scrutiny. It could also have the unintended consequence of encouraging Members to form new political groups in an effort to secure a committee chair. It is disappointing to note that this scenario has already occurred in one local authority in Wales.

Section 75 to 79 – We do not agree that non-councillor co-optees should be able to vote. Such an approach would undermine the status of councillors and the democratic process and would reduce public confidence in local authorities. We trust that guidance will not fetter local choice in this area.

Section 80 – We already publish forward plans and were under the impression that this is already a legal requirement.

Section 81 – We agree that it is not appropriate to apply a political whip at meetings. However, we are not convinced that it is fair to expect the chair of a meeting to determine whether or not a whip has been applied.

Section 82 – The structure of scrutiny committees should be determined at a local level. Structures vary significantly across Wales, with some authorities opting for lead scrutiny committees, separate overview and scrutiny boards as well as variations in the number of committees themselves. This does not appear to be causing significant problems. We are particularly concerned that the Measure would create a power to direct on committee structure. This would not be appropriate and would represent a significant break with the Assembly Government's general approach to local government.

Section 84 – We are not convinced that it makes sense to introduce a separate Audit Committee. This work is currently undertaken by our Corporate Governance Committee. We do not consider that it would be an effective use of public money to create a committee with such a narrow remit

(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);

We consider that community councils have been largely ignored by successive governments and we welcome the current administration's interest in reforming them. We consider that this issue should be dealt with through a separate Measure. As currently drafted, the effect of the proposals would be to fossilise nineteenth century boundaries whilst simultaneously imposing twenty-first century expectations. We agree that co-options should be advertised openly.

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

We are broadly in agreement with the proposals in Part 8. The current arrangements whereby Members have to vote on their own levels of remuneration are unsatisfactory.

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

The power to issue guidance was not included in the Local Government (Wales) Measure 2009 and we acknowledge that the increased emphasis on collaboration does need to be addressed in this manner. We note, however, that this is the ninth piece of guidance that the Assembly Government is committing itself to produce in the proposed Measure. The Assembly Government does not have a good track record of producing guidance in a timely manner and we would suggest that some consideration is given to how resources will be prioritised to tackle this task.

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

Many of the issues that the Measure seeks to address are rooted in the culture of organisations, one of the key themes of the Beecham Report. Legislation is a blunt instrument and whilst it can help to set the general framework within which organisations operate, it does not have a good track record as a mechanism for enforcing cultural change. A historic example of this was the attempt to enforce Compulsory Competitive Tendering, which resulted in central and local government entering into a fruitless game of “cat and mouse” rather than local government embracing the private sector or providing good quality services at lower cost.

5. 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.

We do not consider the assumptions made in the Explanatory Memorandum to be reasonable. For example, the Memorandum suggests that it would only cost £5000 to establish a joint scrutiny committee (with the costs to be shared by local authorities). Given that the chair of such a committee would receive remuneration of £9708 this would seem to be an underestimate.

Similarly, the current estimate of £35,000 for the proposed survey would seem to be too modest. The cost of the survey will depend on how many people stand for election, how rigorous the Assembly Government wishes to be in following up questionnaires and the eventual response. It is probable that at least 10,000 questionnaires will need to be mailed out across Wales. If the proposed Measure is enacted as written, we do not think that we would be able to undertake a survey for £1,750 (we estimate that we would need to mail out and process around 750 questionnaires).

The flawed nature of the assumptions made in the Memorandum leads us to believe that the costs of implementing the proposed Measure have been underestimated. Furthermore, in the current financial climate, we would question whether any increased spending on process costs sends the right message to the electorate. By 2012, when the Measure is due to take force, our customers will almost certainly be paying more tax (be it local or national) for reduced levels of service. We accept that the amount of money, compared with overall spending, is small, but it would give the impression that public services are not focussed on efficiency or the very real needs of our customers.

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

We understand that the Assembly Government has experienced a number of delays in bringing this Measure forward. Given the sheer breadth of issues that the Measure now covers, however, it may be useful to consider whether or not it could be broken down into a number of separate pieces of legislation.