

WLGA Response Proposed Local Government (Wales) Measure September 2010

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities and four police authorities are associate members.
2. The WLGA is a member-led organisation and was established to promote local democracy and the interests of local government. As a result, it has long promoted the pivotal role of the councillor and council in Welsh public life and in the governance of Wales.
3. Overall, the broad policy principles behind the Measure are supported as the Assembly Government is seeking to strengthen local democracy and support and empower councils and councillors in their community leadership roles. However, the general concern is that the Measure is too restrictive and prescriptive, therefore undermines the Assembly Government's stated objectives, effectively curtailing local autonomy and local discretion.
4. The Measure includes a number of new enabling powers which seek to provide increased local discretion and flexibility in local governance arrangements and are therefore welcomed.
5. However, the Measure also includes a range of prescriptive provisions, new duties, new powers that will be restricted by (future) statutory guidance and additional powers of direction for Ministers. Whilst seeking to promote innovation and local democracy, some aspects of the Measure will restrict local choice around local governance arrangements and replace established, effective local practice or constitutional convention.
6. The WLGA believes that local governance, administrative and support arrangements are best developed and agreed locally, ensuring local democratic accountability and appropriateness according to local requirements. Such local discretion should also inform decisions around the appropriate balance of investment in local governance administration and investment in frontline services.
7. The scope of many of the Measure's provisions is as yet unclear, as a number will be subject to subsequent statutory guidance, the level of detail of which we can only of course speculate at this time.
8. A number of the proposals will have a financial implication on councils at a time when resources are being prioritised towards front-line services. The

implementation costs included in the accompanying Explanatory Memorandum are significantly underestimated. The Explanatory Memorandum suggests that proposals broadly included within Parts 1-6 of the Measure (relating to promoting and supporting membership, local authority democratic services, family absence executive and overview and scrutiny functions) would cost authorities approximately £40,000, much of which would be 'absorbed by the authority'. The WLGA however, estimates that a more realistic estimate of the costs of new powers and responsibilities (such as potential additional staffing, remuneration and ICT costs), would be closer to £500,000..

Duty to conduct a survey (Sections 1-3)

9. The proposed duty (sections 1-3) on authorities to conduct a survey of all candidates standing for election to local authorities or community and town councils would be of questionable value both in terms of information provided and return on investment. The Explanatory Memorandum estimates a cost of £1,750 per authority. This would also be an additional burden on electoral officers during and immediately following combined local elections.
10. Information provided from such a survey would not include details of those people who considered standing but opted not to or those who are decided not to stand for election in the first place. The survey would therefore not identify reasons or barriers which proved disincentives to standing for election. Similarly, a significant number of candidates are selected by political parties; this proposed survey would not take into account all those unsuccessful 'candidates' who were not selected by their parties.
11. It is unclear therefore what value the information would provide and how it could inform future policy responses. It is arguable that the survey could be counterproductive being perceived as additional bureaucracy for candidates and raising concerns over motives behind the collection of personal data in the first place.
12. The WLGA has conducted a voluntary post-election survey of elected members in 2004 and 2008, which included much of the detail outlined in the Measure. This information is valuable in determining the profile and potential requirements of elected members rather than identifying barriers to potential candidates.

Remote Attendance at meetings (Section 4)

13. The proposal for remote attendance at meetings, whilst supporting accessibility, would be costly and impractical to introduce, raises potential concerns about confidentiality and would impact on the effective conduct of meetings.

14. The Explanatory Memorandum suggests that such provisions would require an initial investment of £2,000 per authority. However, evidence suggests that this is a significant underestimate; for example a benchmark for just webcasting council meetings would be c£21,000 (Cardiff council spends c£21,000 per annum webcasting its full council meetings and Highland Council in Scotland spends over £22,000). Such webcasting is purely a broadcast of meetings 'one-way', without any reciprocal interaction from an external attendee.
15. The Measure's proposals requires a much more sophisticated and complex system whereby members attending remotely can see and hear all members present, members of the public present and also hear other members attending remotely. This is likely to require significant investment in terms of ICT equipment within each council meeting venue, including large screens and numerous cameras, as well as ongoing technical support and maintenance costs. It has also been noted that a number of councils hold meetings in community venues to enhance accessibility and public engagement, and whilst it may be possible to equip main council meeting rooms, it would be costly to install temporary equipment.
16. The Measure also does not factor in a range of practical considerations linked to remote attendance at meetings relating to the effective conduct of business, many of which have been identified as areas of concern by Monitoring Officers, for example:
 - ◆ how will declarations of interest be managed from remote locations?
 - ◆ What will happen if a video link breaks down mid meeting and before a crucial vote?
 - ◆ How will the authority be able to ensure that 'exempt' information is not viewed by third parties at remote locations?
 - ◆ How does a member with a prejudicial interest 'leave' a meeting when he/she is only present remotely, and how is he/she recalled?
 - ◆ How will a system cope if a large number of members (or even the chair) insist in attending meetings remotely?
17. It is also unclear whether the Remote Attendance provision is a permissive power or duty, as authorities should have regard to statutory guidance.

Annual reports by members of a local authority (Section 5)

18. This recommendation raises a point of principle: why should councillors have to produce annual reports when Assembly Members and Members of Parliament do not, particularly given the respective staffing and financial support received?
19. Notwithstanding this point of principle, the publication of annual reports presents a number of challenges, despite appearing a relatively

straightforward proposal. The implementation of this recommendation requires careful consideration:

- The production of annual reports would require allocation of additional resources, even if annual reports were only published to websites
 - Who would monitor and approve the content of the report? Feedback has suggested that this could prove a sensitive issue and place additional burdens and pressures on officers should it be alleged that a member included inappropriate or misleading information about his/her contribution throughout the year.
 - Even if information was provided in good faith, there may be opposing personal or political opinions around subjective statements made in a member's annual report.
20. Such a report could be perceived as political communication, and would be particularly sensitive during election years.
21. Whilst the simplest approach for an annual report could be a standardised format for a very basic report on formal activities such as attendance at council meetings, this would not be of value in informing the public or highlighting the valuable role of councillors as it would not highlight the considerable contribution councillors make in their communities.

Timing of Council Meetings (Section 6)

22. The WLGA rejects the proposal that local authorities should have regard to Ministerial guidance 'about the times at which meetings of the authority are held'.
23. Such a proposal is perverse both in principle and practicality; such administrative detail should remain the preserve of locally autonomous bodies and should be agreed by members of those bodies.

Training and Development of members of a local authority (Section 7)

24. The WLGA is a strong advocate of member development, providing support to authorities as well as developing national frameworks for policy and practice and promoting benchmarks for member development and support.
25. Whilst the WLGA welcomes the Assembly Government's ongoing commitment to member development and support, the WLGA does not support the prescriptive nature of the proposals contained in section 7 of the Measure around how authorities should approach member development. The risk of including new statutory provisions around member development, particularly where effective practice already exists, is that it could curtail innovation and encourage compliance.

26. All local authorities currently provide 'reasonable training and development opportunities' for their members, based on members' locally identified needs and priorities. There will be some debate, probably when the statutory guidance is drafted, around the appropriate definition of 'reasonable'. Personal development by definition is however inherently personal to the individual; it is voluntary and any needs must be identified by those individuals concerned and any programmes of development and support designed and owned accordingly, in line with local corporate priorities and balanced against available capacity and resources.
27. Local flexibility and responsiveness to local and, indeed, individual needs allows a more sensitive and sophisticated approach to member development and support than could be achieved through national statutory prescription.
28. There is also inconsistency between the Measure and Explanatory Memorandum, as the Measure proposes a duty for authorities to provide personal development interviews for all members, where the Explanatory Memorandum refers to performance appraisals. The two concepts are fundamentally different, and it suggests a confused understanding behind this element of the Measure.
29. Whilst the WLGA supports Personal Development Reviews as part of its Member Development Charter, there is a range of options for members to express their developmental requirements either through training needs analyses or through discussions with member development champions, group leaders or training officers. Although some authorities are considering the concept of performance appraisal, many members regard the ballot box as the most effective assessment of performance and reference to 'performance appraisal' in the Explanatory Memorandum will do little to encourage those members who are yet to fully commit to their own ongoing personal development.
30. It is unclear also why an executive leader would be exempt from any member development or support. Many leaders champion member development in their authorities and receive member development and support as part of the wider programmes on offer within their authorities. Given the particular challenges of leadership in the modern era, it is wholly appropriate and desirable that leading members' development and support needs are provided for in response to their needs.

Local Authority Democratic Services (Sections 8-22)

31. The WLGA does not support the proposed new duties for a statutory Head of Democratic Services or the statutory Democratic Services Committee.

32. Such proposals have not been included in any previous Assembly Government policy statement and the rationale for their inclusion in the Measure is unclear.
33. The proposals appear to seek to resolve a problem that the WLGA does not recognise and risks blurring and duplication of existing Chief Officer roles. The proposals also carry an additional cost burden on authorities, estimated in the Explanatory Memorandum at £12,500 per authority, which is probably conservative given the proposals may require the creation of a new officer post or at least a regrading of an existing post, additional administrative resources and an additional Special Responsibility Allowance.
34. The 'democratic services' functions defined in the Measure are narrower than those functions already currently performed by Chief Officers, which in many authorities is the statutory Monitoring Officers. The Explanatory Memorandum outlines that Authorities are already performing these functions and this should not require additional resources and only require internal re-organisation. If such functions are already being performed, and are responsive to local needs and circumstances, the added value of introducing it as a less flexible statutory duty, with associated additional costs, is unclear. To separate the monitoring officer from the democratic process seems counter productive and likely to lead to potential tensions, confusion and duplication.
35. Similarly, the role of the proposed Democratic Services Committee could be performed by full council. Should a new statutory committee be introduced, it would be appropriate for the provision to be made for an additional Special Responsibility Allowance over and above existing statutory provisions.
36. The proposal for statutory democratic services functions will therefore reduce local discretion and will not fit with existing structures.
37. It appears that the Assembly Government's rationale for these proposals is to ensure adequate officer support to scrutiny. However, every authority already has a designated scrutiny officer or scrutiny team, often with additional administrative, policy or performance support provided by other officers. Indeed the Measure appears to confuse the separate functions of democratic services and scrutiny. In many authorities, it may not be appropriate to include scrutiny within democratic services as some scrutiny functions are deliberately positioned within or close to corporate policy or performance teams. Enforcing an artificial separation of scrutiny support from policy or performance areas will not be helpful and will possibly weaken the sustainability of approaches to all of these service areas, including scrutiny support, in a time of diminishing budgets.
38. The WLGA supports the view that scrutiny should be provided with support to enable it to fulfil its function. However which officers provide the support,

where they are situated in the officer structure, what other additional responsibilities they may or may not have and the amount of officer support should be determined by individual local authorities in accordance with local priorities.

Family Absence for Members of Local Authorities (Sections 23-32)

39. The WLGA encourages authorities to be responsive to the specific needs of councillors wherever possible in carrying out their business.
40. Whilst the WLGA supports the principle that members should be entitled to appropriate family absence, it is unclear how the proposed provisions would be applied and how they differ in practice from the current flexibility afforded under Section 85 of the Local Government Act 1972 where members have to attend at least one council meeting every six months.
41. It is unclear what arrangements an authority could corporately provide for members who require maternity, paternity or caring leave. The representative role of the elected member is unique and cannot be compared to the professional role of an officer, where colleagues or temporary staff can provide cover.
42. The WLGA would therefore welcome further clarification from the Assembly Government about how such new provisions would be implemented.
43. In practice, many members provide support and some cover for colleagues when required either within the same ward (in multi-member wards) or from within the same group, although this is an informal, voluntary arrangement which relies on goodwill and the capacity of fellow-councillors. Similarly, family, friends or political party supporters often provide some ward support for councillors.
44. A statutory approach to family absence for members will require additional, accompanying statutory amendments, including the disapplication of the existing limit on the size of an Executive (as an additional 'interim' executive member may be required to provide cover) and the power to pay an additional, pro rata Special Responsibility Allowances and therefore disapplying the existing limit on number of payable SRAs.

Available Governance Arrangements and Changes to Executive Arrangements (Sections 33-46)

45. The WLGA agrees with the proposal to remove the "mayor and council manager" option and welcomes the proposal to make it easier for local authorities to change their political models.

Joint Overview and Scrutiny Committees (Section 57)

46. The WLGA supports the proposal to enable the establishment of joint scrutiny committees as this has the potential to strengthen the governance arrangements of collaborative projects or service delivery arrangements. This will also improve the capacity and flexibility of authorities to respond to regional/sub-regional issues and has the potential to simplify structures and processes for the scrutiny of other public sector partners whose geographical boundaries are not coterminous with local authority boundaries.
47. However the practical operation of multi-authority committees will need careful consideration as for example there may be democratic issues and political tensions arising from the potential for elected members having the power to call-in decisions of neighbouring authorities and/or summon executive members of neighbouring authorities to appear before them. We suggest that these issues are recognised and addressed in more detailed guidance.
48. The estimate of costs of £5,000 per committee is probably conservative, given that a joint committee would probably require an additional Special Responsibility Allowance and additional, combined officer support.

Scrutinising designated persons (Section 58-60)

49. The broad concept of public service scrutiny is very welcome: councillors should be able to scrutinise all matters and services of public concern in their area and this will empower and strengthen the role of the councillor in the local authority. It also increases democratic accountability in relation to the delivery of public services beyond the functions of local authorities and in relation to key strategic partnerships that authorities participate in.
50. However, this should be a power rather than a 'responsibility' or duty.
51. A power would allow councillors to undertake the role as appropriate and proportionate to local priority, risk or in response to local concerns. Despite the commitment of members, scrutiny committees lack the time and capacity to scrutinise all issues and all public services in their areas; it should be remembered that scrutiny members also have other council responsibilities and many have to juggle their council duties with full or part-time work commitments. Therefore a duty carries with it a responsibility that may in reality be unable to be fulfilled and also a potential culpability should a public service fail or an incident occur; councils could be criticised for not carrying out their duty of scrutiny which may have prevented a service failure in another public body.
52. Such a duty will place an expectation on local authorities that will in turn place additional resource requirements on local authority overview and scrutiny functions at a time of significant resource constraints. It is also

unrealistic to expect the scrutiny committees be responsible to monitor the performance of every devolved deliverer of public services.

53. The WLGA would argue that health services and the Assembly Government should be included under the proposed list of bodies subject to local scrutiny to be listed in regulations. This would build on the commitment made by the former Minister for Finance and Public Services that Assembly Government officials involved in LSBs should be subject to local scrutiny.
54. Such a new power of public scrutiny, let alone the proposed duty, will have an inevitable implication regarding officer and member time and commitment, including the possible need to establish new committees or hold additional meetings to include additional business.
55. The estimated costs included in the Explanatory Memorandum of between £10,000 and £30,000 across Wales for public bodies appearing before scrutiny committees is a significant underestimate. Whilst the Explanatory Memorandum suggests that these would be absorbed by public service organisations, it will be an additional burden on individuals and organisations. This estimated cost equates to between £454 and £1,363 per local authority area, which realistically could be exceeded in one evidence session. Providing evidence to a scrutiny committee can be resource intensive, requiring preparation of evidence, attendance at committee meetings by senior officers and supply of supplementary information.
56. When it is considered that each local authority area will have several Overview and Scrutiny committees, plus newly formed joint scrutiny committees, the projected costs are significantly underestimated. If 'public service scrutiny' was introduced as a duty as currently drafted, authorities would have to commit and invest in significant officer resources to provide the relevant support.

Taking into account the views of the public (Section 61)

57. The WLGA supports and promotes public engagement and has recently published a guide "Citizen-centred' Scrutiny" highlighting current practices.
58. However, the WLGA does not support the proposed new duty as it will be a blunt, one-size-fits-all instrument. It also appears that the proposal is based upon misinterpretation as the Explanatory Memorandum incorrectly states that 'existing legislation is restrictive in that it does not enable members of the public to contribute their views to scrutiny committees'. This overlooks a range of innovative approaches undertaken by local authority scrutiny committees in seeking citizen-views as part of their work, some of which are included as examples in the WLGA's above guide.
59. There is also some inconsistency and lack of clarity between the Explanatory Memorandum and the Measure. The Memorandum describes that such a

duty would be 'to consult electors on major issues of policy' (p11), whilst elsewhere in the Memorandum and critically within the Measure, it states that the duty would be to consult on 'any matter under consideration by the committee'.

60. Whilst it may be appropriate and proportionate to consult on 'major issues of policy', it would be inappropriate to impose a general duty on scrutiny committees to consult on 'any matter under consideration by the committee'. Effective public engagement and/or consultation should be targeted, meaningful and done so with a clear rationale. Committees themselves are therefore best placed to assess which issues require public views and when; consulting on every matter or item of business will result in consultation fatigue, administrative burdens and associated costs, potential delays in the scrutiny process and a waste of resources.
61. A duty to consult on 'any matter under consideration by the committee' would place additional workload on committee members and will also require significant additional officer resources.

Appointing persons to chair committees (sections 62-74)

62. The WLGA does not have an agreed position in relation to the proposed duty regarding proportional allocation of scrutiny chairs. Some WLGA members agree with the proposal for proportional allocation of scrutiny chairs, whilst others believe that such decisions are best made locally based on local discretion.
63. It should be noted however that the proposals would mean that independent members or small political groups in some authorities would, in future, be excluded from chairing scrutiny committee meetings despite their relevant experience or expertise. This would have an impact on at least one authority where a current serving chair would be excluded from future political balance calculations.

Co-opted members of overview and scrutiny committees (sections 75-79)

64. The WLGA recognises that co-opted members can and do make a valuable contribution and in several authorities co-opted members have played an active role on local authority scrutiny committees in a non-voting capacity (as well as statutory co-optees on education scrutiny committees or equivalent who already have voting powers).
65. The proposed power as framed is an enabling power rather than a duty, allowing authorities to choose to co-opt members and allowing them to confer voting powers. However, the power could be too prescriptive as authorities should have regard to statutory guidance or Ministerial powers of direction. The WLGA would therefore not support this approach.

66. A key strength of local authority overview & scrutiny is its legitimacy derived from the democratically elected mandate of councillors, who also have non-executive powers. There are a number of potential risks around introducing voting rights for co-opted members these include: an undermining of the role of the elected member, a loss of the direct link (through the ballot box) between membership of the scrutiny committee and the local community and the potential to upset political balance. The WLGA also notes that co-opted members with voting powers do not feature on National Assembly scrutiny committees.
67. The argument that scrutiny committees could be strengthened by co-opted members with voting rights does not take into account the fact that the expertise, knowledge and skills of potential co-optees could just as easily be utilised by scrutiny committees through appointing them as expert advisors or as expert witnesses in a way which would not undermine the democratic legitimacy of the scrutiny process.
68. The WLGA also notes the comments of the independent Centre for Public Scrutiny in its response to the Assembly Government's earlier consultation on political structures and scrutiny: 'In our view, expert advisers are best appointed to work with committees informally and should not be co-opted as members of committees as this could compromise their position as 'independent experts'....We consider that there is a significant risk of conflicts of interest arising where co-optees are brought onto committees to examine decisions made by their own organisations.'
69. The WLGA does not support the proposal that Welsh Ministers be given a power to direct co-option as this will significantly weaken the democratic basis of overview & scrutiny committees and further undermine the role of the elected member. This proposal also strongly impinges on local autonomy and local determination as the determination of the local authority's committee structure and committee membership should be a matter for the authority concerned.
70. Although the Explanatory Memorandum does not provide the rationale for this proposal, it was included in the original policy consultation where the circumstances in which this power might be used were described as 'if this seemed necessary to ensure the cooperation of outside public bodies'. The WLGA argued that this was inappropriate as it effectively provides an incentive for public sector bodies not to co-operate in the scrutiny process in the knowledge that they would be given a role as a co-opted member as a reward.
71. The WLGA does not support the proposal that co-opted members could also be given the power of 'call-in' as this will further undermine the democratic legitimacy not only of the scrutiny process but of the executive system of political management. Although not referenced in the Measure, there is

potential scope for this to be included in future statutory guidance. The notion that unelected representatives could delay the decision of an executive body made up of democratically elected members will serve to weaken the democratic mandate of local authorities and break the link between elected members and the communities they represent. This proposal causes more concern when taken in conjunction with the section of the consultation relating to 'Reference Back of Executive Decisions' where it is stated that the Assembly Government supports the general point that guidance should be clarified and strengthened "with a strong disposition towards allowing call-ins in all circumstances except where there are clear and exceptional reasons for doing otherwise.

Forward plans and other information (section 80)

72. The WLGA supports the publication of forward plans and notes that many local authorities already publish forward plans or equivalent as a matter of course.
73. However, forward plans are inevitably only current at their time of publication and the changing face of local services, funding and pressures requires that business is responsive and updated accordingly. Any guidance therefore should ensure that there is sufficient flexibility for executives to be able to respond to changing / emerging issues or priorities as appropriate

Prohibition of whipped votes and declaration of party whips (section 81)

74. Scrutiny committees already operate without undue influence from party politics and 'whipping' is not a common feature of scrutiny committee meetings. It is therefore unclear why a statutory prohibition is necessary. Similar prohibitions do not apply in other levels of government.
75. The main concerns with this proposal are that it is in practice not only impossible to enforce but that it risks bringing the law into disrepute. The proposal to place the onus on scrutiny chairs places a significant burden on those individuals, who will not be in a position to objectively determine whether members from other groups have been given directions prior to the meeting. Given the significance of this responsibility, any such decisions by a chair would need to be based on clear evidence, however, it is unlikely that robust evidence to support any allegations or suspicions of whipping would ever be available.
76. As a result, this provision could be used by other members, members of the public or external bodies either vexatiously or legitimately to question the legitimacy of properly made scrutiny decisions, where it could be alleged that 'whipping' occurred when a number of like-minded members, who were from the same group, voted in a particular way, even though they voted independently based on the evidence presented to them.

77. This proposal therefore carries a real risk of delaying council business and ultimately undermining the credibility and the legitimacy of properly made democratic decisions, and has been identified as a significant area of concern by Monitoring Officers who will ultimately be responsible for investigating alleged breaches of this new prohibition.

Guidance and Directions (Section 82)

78. Whilst it is recognised that it is appropriate to have accompanying statutory guidance regarding a 'local authority's overview and scrutiny structure', it should be a matter for local choice how best to structure internal governance arrangements according to local resources, capacity and priorities. The WLGA therefore does not support the additional Ministerial powers of direction over an authority's overview and scrutiny structure.

Communities and Community Councils (Part 7 - sections 91-143)

79. Much of Part 7 of the Measure relates exclusively to provisions regarding community and town councils powers and responsibilities, however, the WLGA has views on the following proposals:

Community Meetings and community polls (sections 91-102)

80. The WLGA does not have strong views on the proposals regarding community meetings; however, it does support the proposals to revise the threshold for demanding a community poll.
81. However, further work needs to be undertaken and clarified in guidance about the calling of community polls and community meetings, in particular the relevance and legitimacy of subject matter, the geographical scope of subject matter (i.e. is it specific to a local community, or does it impact on a wider policy matter or service delivered on a pan-authority/regional basis) and potential frequency that such matters and processes should be considered. For example, it would be appropriate that unitary councils should have the power to choose or amend the name of communities as part of community reviews.
82. The costs of organising, administering and responding to a community poll and meeting are significant. Other processes and opportunities for community involvement are already available, such as formal consultation processes, public meetings or councillor calls for action, and it would be inappropriate for community polls to be triggered when such mechanisms had already been used.

Welsh Ministers' power to pay grant to community councils (section 132)

83. Community and town councils already have powers to set precepts and some receive funding from principal authorities where agreed services have been

delegated. Such funding arrangements are best agreed locally, where issues of 'double-taxation' can be mitigated. The risk of an additional central grant direct from the Assembly Government could further cloud clarity and transparency over the funding for specific agreed services.

Model Charter Agreements between local authorities and community councils (sections 133-136)

84. The WLGA does not support the proposed provisions on points of principle and practicality. The WLGA supports the concept of voluntary charters between local authorities and community and town councils, however, such charters have to be fit-for-purpose and designed to meet local needs and circumstances. Indeed, some authorities and community and town councils agree that their relationship is constructive and mature enough and does not warrant a formal charter.
85. It would therefore not be appropriate for the Assembly Government either to prescribe a model charter nor direct other tiers of government to adopt it. The imposition of an artificial partnership 'agreement' on two or more organisations will do little to aid relations should these have been problematic in the first place. Relationships between the two tiers are bilateral and need to be developed in partnership rather than as a result of direction from another tier of government.

Members: Payments and Pensions (Sections 144-163)

86. The WLGA supports the proposals relating to the Independent Remuneration Panel and members payment and pensions.

Guidance about collaboration between Welsh improvement authorities (section 164)

87. The WLGA believes the proposed insertion of a requirement that authorities 'must have regard to any guidance issued by the Welsh Ministers' is inappropriate.
88. Under the Local Government (Wales) Measure 2009, local authorities already have a duty to consider and exercise powers of collaboration to assist them in the exercise of their powers and duties of improvement.
89. In considering exercising powers of collaboration, authorities must balance a range of competing local factors including policy priorities, capacity and resources, workforce engagement, issues of governance, assessment of risk and potential impact on communities as well as the likely proportionate 'improvement return' on any collaborative venture. Collaborative activity therefore needs to satisfy locally agreed business cases balancing the collective needs and risks of two or more parties and the result of

constructive dialogue and agreement, rather than the result of arbitrary coercion through nationally prescribed guidance.