



Association of Council Secretaries and Solicitors (Wales Branch)

Evidence to Legislation Committee No.3 relating to the Proposed Local Government (Wales) Measure

A. INTRODUCTION

1 The Association of Council Secretaries and Solicitors (“ACSeS”) is the professional association for managers of corporate governance (legal, administrative, democratic, scrutiny and standards functions) and statutory monitoring officers and their deputies in local authorities in England and Wales. The Association plays a leading role in developing governance arrangements in local government and works closely with other associations, Government Departments and agencies. The Association provides a network for its members to enable discussion, consultation, training and development on legal and governance matters.

2 The Wales Branch of ACSeS represents Heads of Legal Services and Monitoring Officers for Unitary, National Park, Fire & Rescue, and Police authorities in Wales.

3 The evidence from ACSeS Wales is presented by Kate Berry, Solicitor, and Head of Legal Services and Monitoring Officer, City and County of Cardiff, and Chair of the Wales Branch of ACSeS.

4 The comments from ACSeS Wales will concentrate on more detailed governance issues raised by the proposed Measure. The Association’s comments are presented in the question format prepared by the Committee but the nature of the Association’s comments is such that the bulk of the comments will fall into Section 6 of the Committee’s Questionnaire.

B. COMMENTS ON CONSULTATION QUESTIONS

Consultation Question	Comments from ACSeS
1. Is there a need for a proposed Measure to deliver the stated objectives of strengthening the structures and	It is recognised that there is a need for a Measure to strengthen the working of local government across Wales. ACSeS has been in discussion with Assembly officials over a period of time to identify certain statutory changes that would benefit the structures and working, and is pleased to

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<p>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?</p>	<p>see many of these reflected in the draft Measure. The principle of the Measure is therefore supported.</p>
<p>2. How will the proposed Measure change what organisations do currently and what impact will any such changes have?</p>	<p>ACSeS has concerns that the true costs of some proposals in the Measure will not produce a proportionate benefit to the effectiveness of local government organisations. These concerns are set out in the detailed comments in section 6 below.</p>
<p>3. Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives? <i>In considering this question, the Committee is particularly interested to hear your views on the following:</i> <i>(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);</i></p>	<p>(i) What is proposed in the Measure will not fulfil the objectives of the Assembly.</p> <p>It is felt that the cost of a survey of all candidates is disproportionate to the benefits that the information will produce.</p> <p>In a great part, the candidates for election will be selected by political parties.</p> <p>This, combined with the fact that the survey is of <i>candidates</i> will not discover the information the survey sets out to obtain, namely why individuals do not present themselves <u>as candidates</u>.</p>

Consultation Question	Comments from ACSeS
<p><i>(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</i></p>	<p>'Candidates', by definition, have already declared their willingness and ability to commit to the office of councillor, so the wrong people are being surveyed.</p> <p>The proposed Survey will <u>not</u> pick up the people who have not decided to stand, and will therefore not achieve the aim of the Assembly Government.</p> <p>If there is to be a survey, what is needed is a wider public questionnaire, rather than a survey of candidates.</p> <p><u>Costs:</u> The number of candidates is significantly higher than the number of elected members. There are 1200 Unitary, 8000 town & community elected members across Wales, and in 2008, there were 3248 county/county borough candidates (Source:WLGA).</p> <p>As an example in two authorities:</p> <ul style="list-style-type: none"> - Rhondda Cynon Taff at the last election had 160 Council and 46 community candidates - Conwy had 163 council and 398 community candidates. <p>It is felt that the estimated costs of £1750 per authority are well below what a survey (preparation, printing, postage, candidate inquiries, collation, and publication) would in reality cost a local authority.</p> <p>(ii) Parts 3-4 will, subject to some changes suggested in Section 6 below, achieve this aim</p>

Consultation Question	Comments from ACSeS
<p><i>Wales (Parts 3 -4);</i></p> <p>(iii) enhance the role of non-executive (“backbench”) local authority councillors in the scrutiny of local services (Parts 5 - 6);</p> <p>(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);</p> <p>(v) reform the system for setting allowances for councillors (Part 8);</p> <p>(vi) allow the Welsh Ministers to issue statutory guidance on collaboration between local authorities, and between them and other bodies (Part 9).</p>	<p>(iii)) Parts 5-6 will, subject to some changes suggested in Section 6 below, achieve this aim</p> <p>(iv) No comments</p> <p>(v) No comments</p> <p>(vi) No comments</p>

Consultation Question	Comments from ACSeS
<p>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?</p>	<p>ACSeS has concerns about specific sections of the Measure, which if enacted as drafted would impede the intentions of the Measure. These are detailed in the comments in para. 6 below.</p>
<p>5. What are the financial implications of the proposed Measure for organisations, if any?</p> <p><i>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.</i></p>	<p>There are significant financial implications for organisations in particular areas. While costs are principally matters for others (e.g. WLGA) to comment on, ACSeS feels that it is appropriate for it to comment on some aspects:</p> <p><u>(a) Surveys.</u></p> <p>(To repeat the comment made above): the number of candidates is significantly higher than the number of elected members (1200 Unitary, 8000 town & community) across Wales, and it is felt that the estimated costs of £1750 per authority is well below what a survey (preparation, printing, postage, candidate inquiries, collation, publication) would in reality cost a local authority.</p> <p><u>(b) Remote attendance.</u></p> <p>It is felt that the complexity of the IT system to ensure remote attendance has been extensively underestimated.</p> <p>The ‘remote’ member has (as provided by the Measure) to see members at the meeting, and vice versa, so at each meeting, more than one camera would be needed - to focus on members, and separately on the Chair.</p> <p>The display in the meeting would need to be capable of displaying images of multiple ‘remote’ members.</p> <p>The legislation applies to all meetings including committee meetings held other than in a council Chamber. There is a significant IT requirement, and inevitably a significant cost.</p> <p>The legislation is unclear as to whether this is a duty or</p>

Consultation Question	Comments from ACSeS
	<p>power. Even if this is a power, then the effect of Guidance under this Part may in effect make this a duty. In either event, the Measure will engender an expectation from members that such a facility will be available.</p> <p>Cardiff Council has a system to broadcast its full Council meetings only. It is not a system that allows of remote access by members. The cost of this alone is £21,000 p.a., and requires two members of staff at meetings to operate the system.</p> <p>Wrexham investigated the possibility of a webcast system for transmission of its full Council meetings only, and estimated an annual cost of £19,000 for operating this.</p> <p>These figures do not include any estimate for the provision of simultaneous translation as part of the webcast systems.</p> <p>For a large authority to provide remote access facilities for <u>all</u> its meetings in a variety of locations could more realistically be several hundred thousand pounds.</p> <p>Given these facts, it is felt that estimate of the setup costs of £2000 per authority is wholly inadequate.</p> <p>Further comment is made about the practicality and legality issues of remote access in section C1 below.</p> <p><u>(c) Democratic Services functions</u></p> <p>The figure of £12500 (which presumably includes the cost of administering the committee, and the salary and on-costs of the Democratic Services Officer*) is hugely underestimated.</p> <p>*The view of ACSeS is that a salary figure for Head of Democratic Services should be included here for the reasons set out in section 6 below</p>
6. Are there any other comments you wish to make about	Yes, these are detailed in Section C below, and form the major part of the observations from ACSeS

Consultation Question	Comments from ACSeS
specific sections of the proposed Measure?	

C. COMMENTS ON SPECIFIC PROVISIONS IN THE MEASURE

1. s.4 Remote attendance

1.1 The legislation is not clear as to whether this is a duty or a power. It is inappropriate to leave this to Guidance to clarify the point, as statutory Guidance could be phrased in such a way as to make this a duty, albeit intended (but not expressed) in the Measure to be a power. ACSeS urges that if this remains in the legislation, the Measure should clarify the point.

In either event, the Measure will engender an expectation from members that such a facility will be available.

1.2 The legislation applies to all meetings of a council (full Council and committees) as well as to meetings of the Executive.

Inevitably, meetings are held in rooms other than the main Council Chamber; many are outside the main offices of the Council. The cost of remote access increases dramatically because of this. Examples are:

(a) Rhondda Cynon Taff's area planning committees:

- Rhondda meeting in the Council Chamber (with the new equipment)
- Taff in the old Pontypridd Chamber (without the new equipment)
- Cynon in the Sobell Sports Centre (without the new equipment)

This means that unless the Council incurs additional expenditure to provide the IT equipment in Pontypridd and Aberdare, the area Planning Committees must meet outside their Area and thereby, inconvenience applicants and objections.

(b) Powys area committees which meet in Welshpool, Brecon and Llandrindod Wells

(c) Merthyr Tydfil's Board has held its meetings in divisions of its area

1.3 To ensure the viability of remote access, there must be an adequate and robust broadband system. The Assembly Government will be well aware of concerns of

rural areas in Wales of the inadequacy or absence of broadband in many areas. These are the very areas which will be the most likely to create a demand for remote access.

1.4 ACSeS is concerned about the confidentiality/ security issues of this provision. How can a meeting which is closed to the public (discussing exempt information) satisfy itself that the public is excluded from the remote location? It would be open to a 'remote' member determined to do so (or inadvertently) to allow a protest group or an affected individual or a family member to view the discussion from which the public had been lawfully excluded.

1.5 A difficulty arises in respect of those in remote attendance declaring a prejudicial interest.

- How does such a Member with a prejudicial interest "leave" a meeting on declaring the interest?
- How is the member then called back to the meeting on conclusion of the item?

There is no way of a meeting Chair or the Proper Officer effectively policing this provision.

1.6 There is no provision in the Measure governing the validity or otherwise of a decision taken by a meeting where the connection to a 'remote' member or members is lost. The legislation should specify whether a decision can be taken in the "electronic absence" of a member or members, and if "yes", then the right of a disenfranchised member to complain or challenge should be excluded.

1.7 In the event that 'remote access' remains in the Measure, ACSeS prefers that the Measure provides that the Council can continue to make a decision, with the 'remote' member being treated as absent from the meeting.

This view is taken by ACSeS because of the potential serious consequences to an authority of:

- (a) a failure to take a time-critical decision (e.g. council tax resolution or a decision affecting current litigation, or
- (b) the decision of a regulatory committee (planning or licensing) decision potentially being invalid

2. s.5 Annual reports

2.1 The discussion at the meeting of the Legislation Committee taking evidence from the Minister appeared to assume that s.5(1) requires an elected member to produce a report. The view of ACSeS is that the section requires a local authority to provide facilities for a member to produce an annual report, but a member is not

under any obligation to produce such a report.

The legislation should clarify whether an elected member must, or may, produce an annual report.

2.2 The legislation or the Guidance should clarify that this provision applies to the activities of an individual member, and that it is not an opportunity for party political promotion at public expense . There is an issue of ensuring compliance with s. 2 Local Government Act 1986, and para. 32 of the Assembly’s Publicity Code for local authorities (October 2001), and the Measure should specifically address this matter.

The relevant existing prohibitions are:

“2. Prohibition of political publicity

(1)A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2)In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

(a)whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;

(b)where the material is part of a campaign, the effect which the campaign appears to be designed to achieve

(3)A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves.”

“32 Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to his/her position and responsibilities within the Councillor, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular party or directly attacking policies and opinions of other parties, groups or individuals”

2.3 The Measure should provide that the Authority through the appropriate Proper Officer, is permitted to edit the content of the member’s report, to secure such compliance.

3. s.6 Timing of meetings

3.1 This requires that Councils “must have regard” to guidance from Welsh Ministers about the times of meetings. Does this mean that if Ministers say Councils shall meet at 6 o’clock, then there is no discretion to meet at other times.

3.2 The view of ACSeS is that this provision is unduly prescriptive and should be omitted from the Measure.

4. s.7 Training and development

4.1 The Executive Leader should not be excluded from this provision, which is after all an assessment of a councillor's training/development needs, not of the member's performance.

4.2 The Explanatory Memorandum (para 3.4) talks about an 'appraisal' system, which is not reflected in the Measure. There is a risk that this will be perceived by members that this provision is an appraisal system, which in turn leads to opposition to this provision. This needs to be dispelled by the Assembly Government.

4.3 It is suggested that the Measure should provide that a member of a regulatory committee is prohibited from serving on that committee until the member has attended the training provided by that member's council.

Many councils already have this provision in their procedure rules. Including this in the Measure will make these provisions enforceable.

5. ss.8-21 Democratic Services

Head of Democratic Services

5.1 While ACSeS recognises the principle of support for non-Executive elected members, the justification for the creation of a separate Democratic Services Committee and Head of Democratic Services ("HDS") is not understood.

5.2 Most Welsh authorities already have a 'scrutiny officer' either by name or by duties, whose function is to support the work of scrutiny committees and their members. To create a separate statutory post from the Head of Paid Service, Monitoring Officer and Chief Financial Officer will blur the existing clear roles of each. The 'democratic services' functions defined in the Measure are narrower than the democratic services functions currently exercised by a Chief Officer. In more than a half of Welsh authorities the relevant Chief Officer is the Monitoring Officer. Creating a "Head of Democratic Services Officer" will inevitably incur a cost, and more importantly in the view of ACSeS, result in a less effective system of administering democratic services.

5.3 The concerns raised by 'backbench' members has been that they feel remote from decision-making in what are now Executive functions; the efforts of councils to counter this concern is to provide support and training to enable the scrutiny role to be more effectively carried out.

5.4 This Measure as currently drafted does not assist that. HDS however is charged with advising members of committees. The regulatory committees - planning, licensing, standards and audit have an existing established pattern of

specialist training for members and where as a consequence, there is no complaint of remoteness from members, and no perceived need for additional support.

5.5 The need therefore is for an enhanced support for members of other committees, and members of the O&S committees of an authority. ACSeS believes that this can be achieved by requiring a council to nominate a scrutiny support officer, with a provision similar to legislation in England (Section 31 Local Democracy, Economic Development and Construction Act 2009):

*“(2) Those functions are—
(a) to promote the role of the authority’s overview and scrutiny committee or committees;
(b) to provide support to the authority’s overview and scrutiny committee or committees and the members of that committee or those committees;
(c) to provide support and guidance to—
(i) members of the authority,
(ii) members of the executive of the authority, and
(iii) officers of the authority,
in relation to the functions of the authority’s overview and scrutiny committee or committees.”*

Since most authorities already have such an officer, (generally ‘scrutiny support officer’) elected members’ concerns can be addressed by building on this role, simply by enacting s.31 (above) in Wales.

Democratic Services Committee

5.6 Similarly, the need for a separate Democratic Services Committee is not understood. The costs of this, and of the HDS, seem unnecessary and will force restructure at a time when local authorities are increasingly under pressure to reduce their costs. There will inevitably be a blurring of roles.

Instead, ACSeS suggests that there should be an obligation on the full Council to consider, on at least an annual basis, a report from the Head of Paid Service and the statutory scrutiny support officer on the issues currently proposed for consideration by the Democratic Services Committee.

5.7 If the Assembly Government does not accept this argument, and if the intention remains to create a Democratic Services Committee, then there must be a provision to allow the payment of Special Responsibility Allowances over and above the existing statutory restrictions on numbers of SRAs.

5.8 The reasoning for the requirement that a local authority must appoint the members of a democratic services committee is not understood:

(a) For all other committees, a Council in its Scheme may set up a committee and its terms of reference, and its size.

(b) Its review of political balance allocates the seats on a committee to a political group (in ss. 15-17 and Sch.1 Local Government and Housing Act 1989, and in SI 1990/1553) – the political group then nominates its members. Some councils, but not

all, will reserve to the full Council the final appointment of names to a committee.
(c) ACSeS submits that there is no justification for outlawing these options purely for the Democratic Services Committee – indeed it creates an inflexible system (i.e. the need for a full council decision, power cannot be delegated) if changes in membership have to be made.

6. Part 2 - Family Absence

6.1 It is assumed that these rules apply to all members including Executive members, **and** that where absences apply to an individual member, that member will continue to be entitled to the basic, and special responsibility, allowance. Parental (max 3 months) and maternity (max 26 weeks) absences can cause problems, particularly in single-member wards, and also in the case of an Executive member.

6.2 To accommodate this, ACSeS suggests that there should be two powers, both of which will need amendment of existing statutory provisions/restrictions, and suggests that if this is accepted, they should be dealt with in the Measure, rather than by subsequent Regulations:

- (a) a power to appoint an additional ‘cover’ Executive member, so disapplying the existing rule limiting the size of the Executive, and
- (b) a power to pay an additional SRA for the period of absence, so disapplying the existing rule limiting the number of payable SRAs

7. Part 6 – Overview and Scrutiny.

Reference of matters to Overview and Scrutiny Committee

7.1 The Legislation Committee questioned the Minister about the control of frivolous or repetitive references under Section 62. He replied that this could be dealt with “through the Monitoring Officer process about what is considered right...”. Mention was made at the meeting about the power to make Guidance in England, and the potential to collaborate with WLGA to develop Guidance.

7.2 ACSeS in consultation with WLGA developed a model process and procedure in October 2009 to deal with references to crime and disorder scrutiny committees, which included dealing with vexatious references. This document could equally be used to deal with “councillor calls for action” under this section.

A copy of this document appears at Appendix 1.

Politically balanced chairs

7.3 ACSeS is concerned about the complexity of the rules in ss.65-74, given that the key principle to be established is that chairs must be politically balanced, and suggests that a more straightforward approach could be adopted. To go to the

excessive detail of these sections is counter-productive to the stated principle of 'innovation' envisaged by the Explanatory Memorandum.

7.4 There will be unintended consequences if these sections are enacted as currently drafted. An illustration of this comes from the existing situation in:

(a) Rhondda Cynon Taff:

“Section 69 applies to the Governance arrangements in RCT. There are 5 Scrutiny Committees: at present the Ruling Group holds 4 of the Chairs and the Leading Opposition Group Chairs the Audit Committee. The Overview and Scrutiny Committee is chaired by the Leader of a small Independent Group. Application of the formula will lead to the Ruling Group being allocated 3 Chairs and the larger Opposition Group 2 Chairs. The small Independent Group will not be allocated any chairs as is the case at present.”

(b) Gwynedd:

“The provisions of sections 65 et seq have been applied to this authority. At present all groups are represented on the Board. The chairs of scrutiny committees have been allocated to 4 of the 5 groups. Applying section 69 it seems that since all groups are represented on the executive and therefore there are no opposition groups the chairs of the scrutiny committees are up for grabs and could in theory all be allocated to the largest group (even a majority group).”

7.5 This issue can be simply resolved by instead using an existing provision in the LA (Alternative Arrangements) (Wales) Regs 2007 which deals with allocation of chairs. Reg.9(5) says: “A local authority ... must allocate the chairpersonships of committees...so as to secure, as far as practicable, that the balance of the political groups in the local authority is reflected by those chairpersonships.”

Forward plans

7.6 The requirement in s.80 for forward plans to be published should (for the avoidance of doubt) allow the committee to consider matters not on the forward plan where there is urgency, and the matter could not have been foreseen when the forward plan was prepared.

8. s.81 - Prohibition of whipping

8.1 ACSeS has long been of the view that the difficulty of enforcing this provision has the potential for bringing this law into disrepute, and on balance, felt that it should not be a statutory provision, and omitted from the Measure.

8.2 As part of the Minister's evidence to the Legislation Committee it was said that “...this is about the Scrutiny element. If this whipping is evident and assessed by the Monitoring Officer these scrutiny decisions should be revisited”

The Measure however provides that the responsibility for identifying the use of whipping is the responsibility of the meeting Chair.

8.3 The provision in s.81(4) –chairman’s responsibility – has not been previously suggested by the Assembly Government. It is difficult to see how an ‘opposition’ chair can clearly determine the directions issued by another political group. Presumably failure to exercise this function correctly could render the chair liable to:

- a Code complaint or civil proceedings from an aggrieved member accused of observing a party direction, or
- a Code complaint from another member, or member of the public, for failure to make such a finding.

It is suggested that this provision be omitted.

9. ss. 84- 90 Audit Committees

9.1 Section 86(1) provides that the committee shall appoint its Chair. No other local government committees are subject to this requirement, and ACSeS submits that there is no good reason to have such a provision here, and suggests that the appointment of the Chair be left to whatever is the usual practice of the relevant local authority.

10. s.124 – community youth representative

10.1 Consideration should be given as to whether regulations allowing a youth representative to be treated as a community council member, are sufficient, or whether the overwriting of prohibition of appointment/voting under the age of 18, should more appropriately be covered in the Measure. Section 79 of the Local Government Act 1972 provides that a person must be over 18 to be a member of a local authority, and this provision does not appear to have been disapplied in the Measure.

APPENDIX 1

Local Crime and Disorder Referrals: Guidance for Councillors

1 Introduction

1.1 The implementation of sections 19 and 20 of the Police and Justice Act 2006 in Wales has given local councillors the power to refer local crime and disorder issues to the(insert name) Scrutiny Committee. These new powers strengthen the ability of the Committee to scrutinise key partners in relation to community safety, as from 1st October 2009.

1.2 As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents. The Local Crime and Disorder Referral (referred to as a **LCDR** in the remainder of this guidance) provides an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.

2 How should I normally attempt to resolve a crime and disorder issue in my area?

2.1 Local issues can be resolved in a number of ways by councillors on behalf of their residents, including:-

- Informal discussions with officers or other councillors
- Approach the relevant Neighbourhood Policing Team or monthly local Partnerships and Communities Together (PACT) meeting
- Local Anti-Social-Behaviour Groups
- Formal discussions with officers and councillors
- Write a formal letter to the Executive Board Member on behalf of constituents

- Ask a question at Full Council
- Submit a motion to Full Council
- Public meeting
- Petition
- Complaint
- Freedom of Information request
- Communication with local MPs
- Web or email based campaigns

2.2 This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the(insert name) Scrutiny Committee.

3 What is a Local Crime and Disorder Referral?

3.1 In order for the Committee to accept a LCDR as an agenda item for discussion at one of their meetings, the issue:-

- **must** concern crime and disorder and may include anti-social behaviour or other behaviour adversely affecting the local environment, such as the misuse of drugs, alcohol or other substances, **and**;
- **must** affect either all or part of a councillor's electoral area or it must affect someone who lives or works in that area.

3.2 A councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that an LCDR is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

3.3 A councillor may wish to use this process, for example, where multi-agency discussion and work has taken place in relation to a hotspot area at a local Anti-Social Behaviour Group but the action taken is not seen to be working. Despite complaints to the appropriate agencies, problems continue to occur at the hotspot area.

4 How and When should I make a LCDR?

4.1 A flowchart showing the process is provided at **Appendix 1**. A councillor may initiate the process by completing the form at **Appendix 2**. Further copies are available from Democratic Services. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to Democratic Services, who will log each request to track its progress and forward a copy of the form to(insert name) (The Proper Officer) and the relevant scrutiny officer.

4.2 The Proper Officer will confirm whether or not the referral satisfies the requirements outlined in section 3 above to enable it to be placed on the agenda for discussion at a meeting of the Committee. Nevertheless, the Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful.

4.3 Assuming that the referral meets the requirements in section 3 above, the member should still be careful to ensure that the timing of the referral is not premature and that all other potential remedies outlined in section 2 above have been exhausted, before a referral is made to the Committee. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined in section 5 below. If the Proper Officer believes that the referral is premature, he/she will advise the member accordingly.

5 What happens when my LCDR comes before the Committee?

5.1 It is up to the members of the Committee to decide whether, and in what form, to take the matter further. The Committee will use the following criteria to decide whether or not the referral is appropriate to be considered by Committee:-

- Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?

- Has the committee considered a similar issue recently – if so, had the circumstances or evidence changed?
- Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the LCDR should be taken into account
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community)?
- Is this an issue currently being looked at by another form of local scrutiny?
- And, as with all scrutiny, does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the member's ward?

5.2 If the Committee decides not to accept the LCDR it must inform the councillor of the decision and the reasons for it.

5.3 If the Committee decides to accept the LCDR, it must decide how it intends to take the matter forward and include the LCDR in its work programme. This could include:-

Before holding a formal hearing:-

- Asking the relevant responsible authorities to respond to the LCDR

- Setting up a research or task and finish group to undertake a more in-depth review.

At a formal hearing:-

- Asking for further evidence and/or witnesses to be brought to a future meeting. The committee has the power to invite representatives from partner authorities to attend, where relevant, and to request information.

5.4 Any discussion in Committee would be based on how to achieve the outcomes that the councillor bringing the referral had specified. The discussion would explore potential solutions, and the item may end with the Committee recommending that certain action be taken by the relevant responsible authorities. It should be pointed out that discussions at committee will not necessarily resolve the issue immediately. However, the process can act as a spur for councillors and responsible authorities to work together to jointly develop policies to overcome the problem.

6 Potential outcomes from a LCDR

6.1 Following a formal hearing, there are a number of potential outcomes from the Committee meeting:-

- The Committee could determine not to make a report
- The Committee could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue
- The Committee could write a report and make recommendations on the LCDR to the relevant responsible authority.

6.2 Once the Committee has completed its work, the councillor who made the referral will receive a copy of any report or recommendations made. The reply will also be printed on the Council's website (unless there are reasons why the committee treats the matter as an exempt item, in which case the report will not be made public).

7 Timescales for dealing with a LCDR

7.1 Once a LCDR has been assessed as meeting the requirements outlined in section 3.1, the item will be included on the next available Committee agenda, unless the councillor agrees to postpone or withdraw the referral on the basis that it is premature.

7.2 In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened. Should a LCDR hearing result in recommendations to the Executive Board or responsible authorities, they will be requested to make a response to the recommendations within 28 days and 2 months respectively.

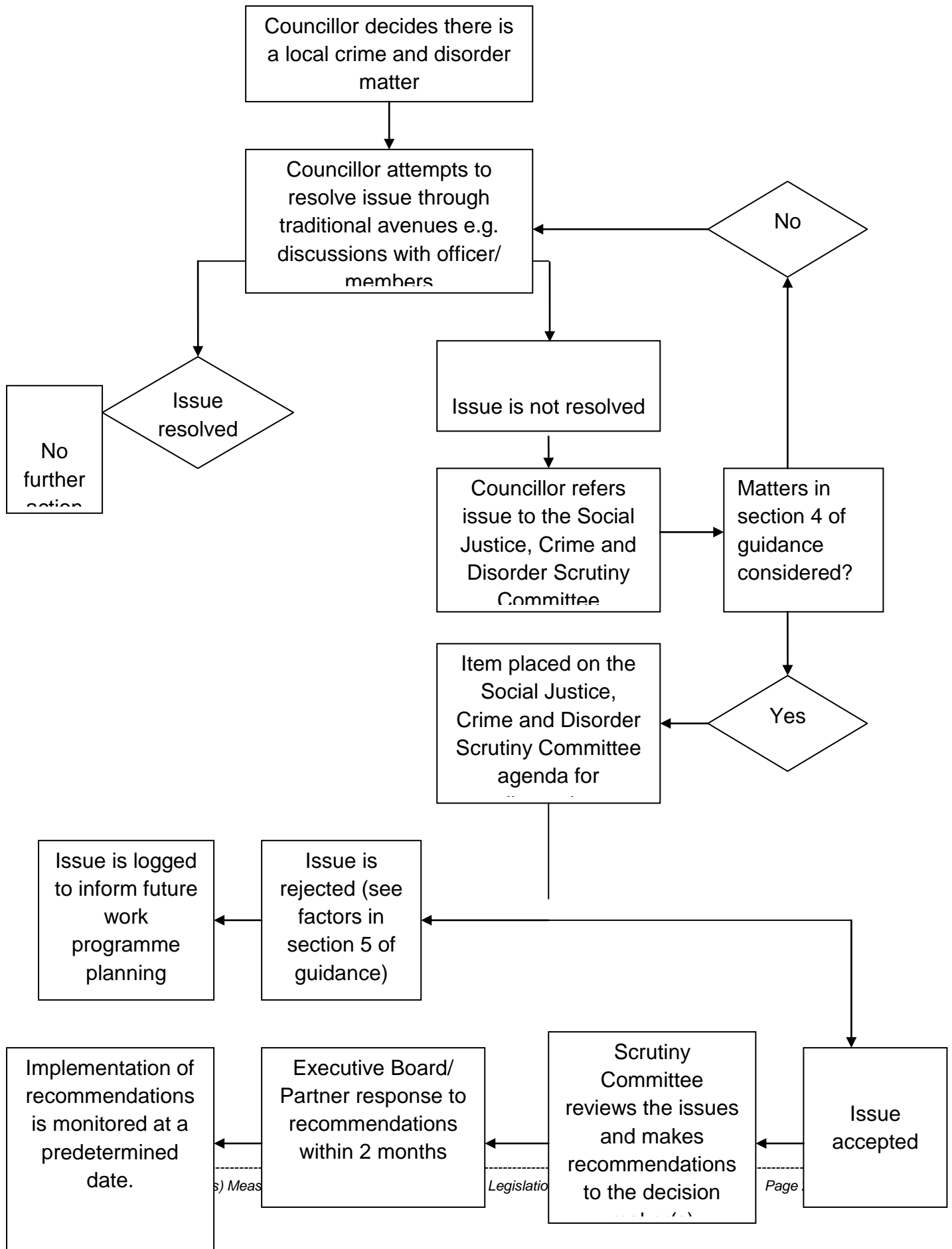
7.3 The Committee will monitor implementation of any recommendations on a regular basis as part of its forward work programme.

8 Review of this Guidance

8.2 This guidance is based on a model prepared and approved by the Association of County Secretaries and Solicitors (ACSeS) in October 2009. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly.

Appendix 1

Flow Chart for Councillor Local Crime and Disorder Referral



Appendix 2

COUNCILLOR LOCAL CRIME AND DISORDER REFERRAL

For the attention of:(name and title of Proper Officer)

From: Councillor _____

Ward: _____

Contact details:

Telephone: _____

E-mail: _____

SUBJECT	
<p>Details:</p> <p>Please briefly explain what the issue is and how it affects your ward</p>	
<p>Action taken to date:</p> <p>Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date)</p>	<ul style="list-style-type: none"> • Informal discussions with officers or other members • Approach the relevant Neighbourhood Policing Team • Formal discussions with officers and members • Write a formal letter to the Executive Board Member on behalf of constituents • Ask a question at Full Council • Submit a motion to Full Council • Public meeting • Petition • Complaint • Freedom of Information (FOI) request • Communication with local MPs • Web or email based campaigns • Additional actions and further detail:

	<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>Expected Outcome</p> <p>Please describe the outcome you hope to gain via this referral</p>	
<p>Papers attached:</p> <p>Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received.</p>	

The following criteria will be taken into consideration when the Committee decide whether to progress with your LCDR:

- ◆ Have all reasonable attempts have been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
- ◆ Has the committee considered a similar issue recently – if yes had the circumstances or evidence changed?

- ◆ Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the LCDR should be taken into account.

- ◆ Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?

- ◆ Is this a case that is being or should be pursued via the Council's corporate complaints procedure?

- ◆ Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?

- ◆ Is the issue part of a personal agenda (an issue of genuine local concern should have an impact on the local community)?

- ◆ Is this an issue currently being looked at by another form of local scrutiny?

- ◆ And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in your ward?

Please consider whether your referral might be considered premature by the Committee. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, he/she will advise you accordingly.