

## REPORT TO THE CABINET

16.2.16

**Cabinet Member:** Councillor Dyfed Edwards, Leader of the Council

**Subject:** The Draft Local Government (Wales) Bill

**Contact Officer:** Arwel E Jones

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### The decision sought / purpose of the report

The Cabinet is asked to approve observations on the Bill on behalf of the Council.

### Introduction

The Government has published a draft bill and consultation paper on reforming Local Government. All the documents can be seen on the Welsh Government website by following this link:-

[http://gov.wales/consultations/localgovernment/draft-local-government-\(wales\)-bill-consultation/?skip=1&lang=en](http://gov.wales/consultations/localgovernment/draft-local-government-(wales)-bill-consultation/?skip=1&lang=en)

Observations on the bill, that is very broad, were invited from members and senior officers. Below is a first draft of observations on behalf of the Council in response to the draft Local Government Bill.

These observations have been based on the points raised from that and also on the views of the Standards Committee and Corporate Scrutiny Committee. The Audit Committee will consider some elements at its meeting on 11th February and any points arising from that will be reported on further. The observations of the Head of Finance on this report notes some of these points.

The main general observation to be made here is that there is significant concern about the degree of micro-management by the Assembly Government that arise from several of the proposals. In general this is a negative step that militates against councils' own accountability to their local communities.

<b>Part 1: Local Government Areas and County Councils</b>
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<b>(A) Proposals</b>
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1. The Bill proposes a move to 8 or 9 councils in Wales with two options for North Wales. The first choice means two councils (Gwynedd / Anglesey / Conwy and Denbigh / Flint / Wrexham). The second option is three councils (Gwynedd / Anglesey, Conway / Denbigh and finally Flint /
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Wrexham).

The intention is to have the first elections to the new councils in May 2019 functioning as a shadow authority until April, 2020.

2. There are also proposals for the following:-

- a) Removing the preserved councils (for the purposes of the lieutenancy etc)
- b) Allowing councils to decide on their own names
- c) Proposals for funding and accounting arrangements

### **(B) Observations**

The Council's main responsibility is to safeguard the interests of Gwynedd residents and the services provided for them. Because of this, and accepting the reality that change is unavoidable, the responsible thing to do is not to close the door on any possibility that could lead to savings in management, central or back-office costs that could, in turn, reduce the scale of cuts that any council would have to make in the coming years.

However, clarity is needed on the business case for any such change and also on the arrangements for the Welsh Government to meet any transitional costs related to the change.

In addition, the Council does note some important considerations on which it would seek assurances and some questions that need answering prior to amalgamation:-

- a) Ensuring accountable local democracy is crucial in moving ahead and any governance arrangements for the future must include arrangements for ensuring a dialogue on public services at a more local level than that of the current councils. Centralising in larger councils does carry a risk of distancing accountability from local communities and there is a need to improve the accountability and engagement of councils and individual members with residents and communities.
- b) The pattern of public services for the future must include a meaningful role for town and community councils in terms of being responsible for and providing services.
- c) In terms of the accountability of local members, assurances should be sought that the Boundary Commission proposals should not create wards that are too large, making the work of local members in engaging effectively with their communities harder. Specifically, assurances are sought that there will be no more multi-member wards, since such provision can confuse the accountability of local members within their wards.
- ch) Operating a firm Language Policy to support the Welsh Language is crucial for any new council that Gwynedd would be part of in the future, including the following objectives:-
  - to enable everyone who receives or uses the Council's services, or contributes to the democratic process, to do so through the medium of Welsh or English according to personal choice.
  - to promote the use of the Welsh language in the life of the area and to be an anchor for the language in its resurgence throughout Wales.
  - to promote the use of the Welsh language by other public bodies which have dealings with the Council, and to support and promote the use of Welsh by organisations and businesses which provide services for the public in the area of the Council.
  - to establish Welsh as the official internal administrative language in any new council by providing facilities for in-post training to enable staff to develop their linguistic skills in Welsh and English.

- to develop the ability of pupils and students to be confidently bilingual in order that they can be full members of the bilingual society of which they are a part.
- d) Certainty is required on the financial and asset position of every partner in order to assess the sort of financial position that any new council would inherit.

Having considered the above, the Council is of the opinion that any re-organisation must make sense in terms of geography, community and language. Because of this, the Corporate Scrutiny Committee was of the opinion that having three councils across North Wales would be the best solution and that the operating as 2 councils should not be considered.

## **Part 2: General Competence**

### **(A) Proposals**

1. A power is to be introduced so that councils may do “anything that individuals generally may do” (with some exceptions in comparison with the current arrangements where there must be specific legislation for any action).
2. The intention is that the power will also be relevant to community councils in some circumstances

### **(B) Observations**

1. The Council agrees with the intention to establish a “power of general competence” that would enable us to do more things on behalf of our communities. The only concern on that would be whether the legal provisions around it would make it difficult to implement. More broadly, this does illustrate a failed opportunity to do two things:-
  - Address the constitutional vacuum of having a Westminster Government and local councils with “general competence” while the Welsh Government does not
  - Re-state the relationship between the Welsh Government and local councils to develop a relationship of trust and accountability rather than micro-management and, in order to do so, that the Welsh Government should seek to devolve real powers to local councils rather than the current trend of centralising
2. The Council has been concerned about legislation that would place pressures on community councils particularly the smaller ones but the current proposals seem to allow more freedom for larger councils with greater capacity without placing additional burdens on smaller councils

## **Part 3: Access to Local Government**

### **(A) Proposals**

1. The intention is to make it compulsory for councils to prepare strategies to ensure residents’ engagement in the democratic process.
2. The intention is to make the establishment of “community area committees” compulsory for all councils
3. The intention is to make discussions with other bodies on improving results in response to an “improvement request” compulsory
4. It is intended to make web-casting meetings that are open to the public compulsory

### **(B) Observations**

1. The Council is opposed requirements to prepare documents because the preparation of a document as such does not benefit residents. Maybe the extent to which councils are engaging with residents should be the subject of external challenge by our regulators or particular

attention in the proposed peer review rather than the subject of a strategic document?

2. The “community area committees” do not look very different to the old idea of community fora that the Council has discussed in the past. The Council challenges whether the organisational requirements and the requirement for a statement of priorities adds real value to residents, particularly if their establishment could further complicate local governance arrangements. Having said that, the idea of delegating functions to these committees make them more attractive and perhaps establishing such fora will be more important as councils’ sizes increase. Clarity would also be required about the relationship between these committees and the community council tier.

3. It appears that the idea of an “improvement request” is an effort to ensure dialogue with bodies and groups about improving results. This is an attractive concept but placing it in a legislative framework creates unnecessary work.

4. The Council’s experimentation with web-casting has been partially successful and it can be seen as part of the pattern of democratic services to residents. The Council’s only concern would be that it could lead to centralising where meetings are held and significant implementation costs

#### **Part 4: Council Functions**

##### **(A) Proposals**

1. The proposals set clear expectations on members to answer correspondence, attend meetings and training, hold surgeries and also prepare annual reports with the possibility of a member being referred to the Standards Committee if they fail to do so adequately.

2. Although there is no clause in the bill, the intention is for Ministers to have the power to direct the Independent Panel setting Members’ Salaries and Expenses.

3. There is no proposal in the Bill but Ministers are expected to extend the provision for remote attendance at meetings.

4. There is a suggestion of introducing a system whereby a Council may (by vote at full Council) dismiss a Chief Executive, Finance Officer, Monitoring Officer and Head of Democratic Services as is the case in England at the moment.

5. The Bill introduces a system for giving earlier notice to community groups if councils want to dispose of assets

##### **(B) Observations**

1. This Council has traditionally opposed proposals to tell members how they should behave. However, there has been some concern recently about low attendance levels and the Council is in favour of mandatory annual reports. There is probably room to formalise some of the expectations on councillors but a danger that some elements are inflexible and would be difficult to implement (in terms of practicality and resources) and perhaps much of that could be left to group discipline.

2. The Council has already expressed concern about the risk of inappropriate influence by ministers on the work of the Independent Remuneration Panel. Their independence should be guaranteed.

3. “Remote Attendance” is clearly a good idea in a large area and it will be more so in a larger council area but, once again, there would be costs involved in securing technology that is robust enough to cope.

4. The Council sees no need to change the current arrangements for assessing the performance of a nd dismissing these senior officers. The current arrangements work and there is no need to change to what is effectively and English model.

5. The Council has always been progressive in seeking opportunities to transfer assets to community groups. However, we must be realistic about the capacity of some groups to cope with the trafser of assets or Service elements. The Council’s experience suggests that it would be unwise to think that this is a broad solution to the problem of mantaining assets and delivering Services without substantial support from the Council in the transfer.

## **Part 5: Governance Arrangements**

### **(A) Proposals**

1. It is intended to place a duty on councils to ensure good governance including annual self-assessments and holding a peer erview once in every council term.
2. There is a proposal that the Audit Committee should be a Corporate Governance and Audit Committee

### **(B) Observations**

1. There is no problem on the duty for good governance – That should be a natural part of every council’s work. One point that this council has made consistently is the need to reduce the external inspection burden. If the self-assessment and peer review facilitates this, it is to be welcomed subject to the requirements around them not being too onerous and bureaucratic. In addition the proposes system for considering compliants does raise a clear risk of the system being used for malicious intent
2. The idea of placing the responsibility for corporate governance clearly within the remit of a single committee is a good one but more detailed issues such as where to discuss matters should be left to individual councils rather than being set out in statute.

## **Part 6: Community Councils**

### **(A) Proposals**

1. There is a proposal here to place a duty on county councils to consider the training needs of community councils in the area
2. There is a suggestion that the new county councils should implement the recommendations of the Boundary Commission on community council boundaries

### **(B) Observations**

1. The Council is opposed to shouldering any additional burdens particularly at a time of financial constraints, and this suggestion would fall into this category. There is a worrying trend in the draft Bill of making local councils responsible for the conduct of other bodies with separate governance arrangements eg the Engagement Plans of the Fire Authorties and National Park Authorities. This is inappropriate.
2. The Coundary Commission itself should implement the review of community council boundaries. The individual county councils will not have the capacity to do so.

**Part 7: Workforce Matters**

**(A) Proposals**

The Bill talks of giving Ministers the power to give guidance to councils on workforce matters

**(B) Observations**

Workforce planning is clearly a matter of some importance for every council as they look to the future but, once again, it is difficult to see what value guidance from the Welsh Government would add.

## **VIEWS OF THE STATUTORY OFFICERS**

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### **The Chief Executive**

“None of the proposals in this Bill can be implemented until after the Assembly elections in May, 2016. However, it remains important that the Council expresses a view on the content now to seek to influence whatever comes.”

### **The Monitoring Officer**

“The timing of the consultation on the Bill inevitably creates a element of uncertainty in relation to its implementation. Setting aside the issue of the structures of the proposed authorities there are a number of other aspects of the Bill and the wider matters which are in the consultation document which if legislated will have a significant effect on the administration of local government in Wales. The report substantially addresses these main matters. The Standards Committee has considered the possible implications of the arrangements relating to members duties in Part 4. The response in relation to this aspect in the report accords with their views.”

### **The Head of Finance**

“Whilst the Local Government (Wales) Act 2015 prepares the ground for local government reorganisation in 2020, this is the Bill that – when it comes into force – will produce a map of the new local authorities. It will also set new levels of statute on local authorities in terms of their governance arrangements.

The Audit Committee will discuss the financial aspects of the Bill and the Consultation Document at its meeting on 11 February, and I understand that the comments and decisions of the Audit Committee will be reported to the Cabinet for due and proper consideration in the preparation of Gwynedd Council's formal response to the consultation.

Section 16 and Schedule 3 of the Bill relate to the finance of the new Councils. I have no objections to the contents of these parts of the proposed legislation as they are necessary, reasonable and are as expected, putting arrangements in place for amalgamating Council Tax lists, Non-Domestic Rates lists and Council Funds in preparation for the establishment of the new authorities.

The Audit Committee has prepared detailed answers to questions 1.8 to 1.10 in the consultation document. These questions related specifically to business rates and whilst I agree that these matters are important and need to be considered, they are peripheral issues to the main focus of this specific consultation, which is Local Government Reform.

I reported to the Audit Committee that it is essential that the Government puts arrangements in place for the harmonisation of Council Tax levels for the new authorities from 1 April 2020. The new counties include areas that would have had different levels of Council Tax before then. In order to ensure that everyone in the new areas are paying the same level of Council Tax, transitional arrangements must be introduced so that the new authorities do not suffer losses due to Council Tax in some parts of the County being "frozen" until other parts of the new counties (that paid lower Council tax under the old regime), catch up. Such arrangements were put in place for the 1996 local government reorganisation, and the failure to deal with Council Tax harmonization in this Bill is a substantial shortcoming, and the Council needs to draw the Government's attention to this."