

WLGA BRIEFING

31st January 2017

Welsh Government White Paper: Reforming Local Government: Resilient and Renewed

Background:

The White Paper builds on the policy proposals for regional collaboration outlined by the Cabinet Secretary during the autumn.

The WLGA broadly welcomed the proposals as local government was already collaborating, increasingly on a regional footprint on economic development and city deal bids. Whilst councils were generally supportive of a move to a more regional approach, there was consensus that such an approach needs to be balanced by a commitment to maintain clear local accountability and local democracy. The WLGA therefore argued that core principles of subsidiarity should underpin any regional reforms:

- that **funding should continue to be distributed to the 22 local authorities**, who would then agree the budgets and funding of any regional services;
- **statutory duties should remain with the 22 local authorities**, who would then determine how such duties would be discharged, either jointly or via another lead authority; and
- **local accountability through local councillors' oversight and scrutiny is essential** in holding regional services to account and ensuring that the needs of local communities are being met and outcomes are being delivered.

The WLGA also welcomed the Cabinet Secretary's approach to dialogue and engagement and he has met with the WLGA and regional boards numerous times and with all leaders and chief executives during the summer and autumn. There has also been regional officer engagement events and regional member engagement events during November and December which have fed into the Welsh Government's considerations.

The Cabinet Secretary also announced he was also committed to a number of proposals previously outlined (and supported by local government) in the Draft Bill last year, including the power of general competence, streamlining corporate planning and improvement bureaucracy etc.

As a result, there are very few surprises in the White Paper, other than proposals to consider electoral reform including votes for 16 year olds, allowing authorities to choose their own voting system (first past the post or Single Transferable Vote) and an option for councils to consider a return to the committee system.

In a BBC Radio Wales interview on 31st January, the Cabinet Secretary stated:

'...If things go well, I would like to be in a position to argue for a local government bill in the second year of the Assembly...it's a competitive process around the cabinet table, all cabinet members have pieces of legislation they'd like to take through the Assembly, you've got to be in a strong position to get your bill into the programme. I think we're on track to do that, but the White Paper process will either help that happen or hinder it. I want to work with local government and partners to make sure that we stay on track and can deliver this in the second year.'

The White Paper consultation closes on 11th April 2017.

The Cabinet Secretary made a statement on the White Paper at a plenary meeting in the National Assembly on 31st January 2017. All parties welcomed the Cabinet Secretary's approach to engagement. In response:

- Sian Gwenllian, Plaid Cymru – generally welcomed the approach, but questioned whether the multiple layers of services and governance might lead to confusion and greater complexity. She also welcomed the proposal for PR, but suggested it should be mandated across all 22 councils, rather than an option for local councils.
- Janet Finch-Saunders, Conservative - questioned the inclusion of proposals regarding electoral reform, suggesting it wasn't a priority for the public and that it might be an additional cost.
- Gareth Bennett, UKIP – broadly welcomed most of the White Paper proposals, but expressed concern at links between councillors and communities in planning being stretched currently and called for locally binding local referenda to enhance local democracy.

The WLGA will provide a fuller summary of the plenary debate and comments from other AMs in due course.

Regional Structures:

The Welsh Government considers 4 options:

1. **Mandating prescribed footprints for regional working** – this was the original proposal, whereby WG would specify which services had to be delivered on what footprints i.e. the health board and economic development footprints
2. **Mandating a framework** – whereby WG would specify which services need to be regionalised, but would allow authorities discretion to choose on which footprint.
3. **A framework and a footprint** – some services would be prescribed onto a footprint, and others would be listed as having to be regionalised, but the footprint would be at the discretion of councils
4. **Deliberatively regional** – whereby WG would engage in a deliberative process with local government on a service by service basis.

The White Paper proposes that Option 3 is the preferred approach. This is a more balanced approach compared to the Cabinet Secretary's original proposals as it provides some 'mandation' (as expected) around which services should be regionalised, but importantly allows some local discretion to determine the appropriate footprints for all but economic

development, transport and strategic land-use planning (much of which has evolved onto the regional 'city region' footprints through local government leadership anyway).

Bridgend's individual case is considered in the White Paper, given it is part of the Cardiff Capital City Region but is within a Local Health Board boundary which incorporates part of the Swansea Bay City Region. Although the White Paper doesn't outline clear proposals, it seeks views on Bridgend's partnership circumstances and also the wider issue for other authorities in terms of 'unpicking' existing successful collaborations.

Regional Services:

The preferred Option 3 would mean WG specifies the regional footprint for some services and lists other services that should be regionalised, but allows local discretion upon which footprint.

The White Paper outlines the following proposed services to be regionalised:

- **Economic Development, transport planning and strategic land use planning on the 3 existing WLGA regional footprint** which are broadly coterminous with the 2 economic development regions (Cardiff Capital Region, Swansea Bay City Region and North Wales Economic Ambition Board). The separate Growing Mid Wales and Swansea Bay City Region would be governed by the Central and South West regional board.
- **Education Improvement, additional learning needs, social services, public protection, promotion of the Welsh language and some back-office services, but the footprint would be subject to local discretion**
- The White Paper also **seeks views on whether other services might be regionalised, including housing, waste and community safety and youth justice.**

Regional Governance:

The Welsh Government proposes new, enhanced 'Joint Governance Committees' to oversee regional services, based on the current joint committee model but with have clearer powers and delegations.

There would be separate Joint Governance Committees depending on the footprint and/or services being delivered and would typically be made up of the lead cabinet members for the relevant service areas.

WG intends to clarify powers and delegations, including:

- **Membership** - typically be made up of the lead cabinet members for the relevant service areas
- **Delegation of functions** – prescribed set of functions that must be exercised regionally by local authorities.
- **Voting arrangements** – each local authority would have equal representation and voting powers

- **Funding flows** – WG to provide a mandatory framework how the money would flow from local authorities to Joint Governance Committees (see below)
- **Scrutiny arrangements** – WG will provide a range of options for scrutiny, including local scrutiny, regional scrutiny, regional task and finish scrutiny groups or a mixture. The White Paper proposes that there should be a duty on scrutiny ‘to consider the regional interest as well as the interests of their particular Local Authority’

WG intends to establish **an independent task and finish group**, to include WLGA and SOLACE, to help develop the statutory framework within which the ‘Joint Governance Committee’ will operate.

The Welsh Government is also **seeking views on whether a combined authority model should also be included in legislation as an option** should governance arrangements evolve towards this model.

WG also intends to **revisit the member and officer code of conducts to ensure that they reflect regional as well as local decision-making responsibilities.**

The White Paper also explores ‘**Leadership from Officers**’ in a regional dimension and considers the implications on a range of senior statutory posts. Further clarification is needed however, as the White Paper appears to suggest that councils’ statutory functions would be invested in a single regional statutory officer:

“Delivery of a regional service would be best facilitated if the statutory responsibilities for that regional service fell to a single individual, for example education responsibility would fall to a regional education director. The structure beneath the regional management will be for the Local Authorities and regional management to discuss and agree. It is envisaged that the organisational structures beneath the regional management team will adapt over time. We will examine the existing legislation in respect of statutory officers to ensure it contains appropriate provisions, so that, over-time, clarity can continue to be provided as to how a regional model would work in terms of statutory officers responsibilities.”

Regional Funding and Workforce:

WG proposes a **mandatory financial framework** is developed to ensure expenditure of regional ‘Joint Governance Committees’ is met through pooled contributions from the constituent local authorities.

The amounts to be pooled would be determined by local agreement, which is in line with WLGA’s calls for flexibility and autonomy. WG however suggests that the framework also ‘provides for a default arrangement which would be invoked where local agreement is not reached.’ The detail of this is not specified in the White Paper.

WG proposes that each ‘Joint Governance Committee’ produce a Medium Term Financial Plan and should be required broadly to balance income and expenditure in-year. Consideration will be given as to whether a limited reserves facility would be

practicable.

The White Paper flags up that the role of the Chief Financial Officer (S151) and other statutory officers needs to be further explored given potential tensions between local and regional demands. (see above).

The White Paper notes that the workforce is the most valuable asset of the public sector. It also notes that 'no single workforce model has been adopted' by local authorities. The Paper notes that the Public Services Staff Commission will no longer be a statutory body and will close in March 2018, but that workforce matters relating to regionalisation will be brought to the Workforce Partnership Council

Public Service Boards:

The White Paper notes that regionalised local government services will have implications for Public Service Boards, most of which are based on local authority boundaries but also include partners which cover broader boundaries.

PSBs already have powers to collaborate or merge, which some have already done. The White Paper suggests that other PSBs may consider this.

It should also be noted that the White Paper seeks views on amending some limitations and omissions of the Future Generations Act, which currently means PSBs can't cross an LHB boundary and also means that once merged, PSBs cannot 'de-merge'.

Voluntary Mergers:

As expected, WG will encourage and support voluntary mergers of authorities. The detail of any support available is however not included in the White Paper, but it notes that WG will need to seek new powers or amend the Local Government (Wales) Act 2015 as the timetable set out in that legislation has now lapsed.

A Framework for Local Leadership: Shared Expectations

The White Paper reiterates the Cabinet Secretary's constructive rhetoric around building mutual respect and trust between local government and the Welsh Government.

Refreshed Partnership Scheme - The White Paper commits WG to refreshing the statutory Partnership Scheme with local government. It sets out that WG is committed to reduced burdens and bureaucracy and increasing financial flexibility, how the Welsh Government should set the overarching strategy and outcomes that are expected, but that local government will have flexibility to 'operate in ways that best meet local needs'.

However, the White Paper goes further with regards seeking to ensure WG outcomes are achieved: *"Sometimes this will mean delivering outcomes in a consistent way, for example setting minimum standards. On other occasions this could mean creating consistency in governance arrangements to ensure there is transparency in decision making..."*

Power of general competence – this was welcomed by local government in the last Draft Bill. The breadth of this power (if based on the English version) may need to be considered further to allow it to be as flexible as possible, but the power should allow councils to be more innovative and lend or invest money; or setup a company or co-operative society to trade and engage in commercial activity. Use of the power is not restricted to the geographical area of the authority or for the benefit of its residents.

Local Democracy and Councillors:

- **Cabinet member Objectives** - as per the Draft Bill, leaders would have to set and report on objectives of their cabinet members (but reduced now to twice per term rather than annually as originally proposed in the Draft Bill);
- **Group leaders would have a duty to promote good standards of conduct;**
- **'Prescribed performance standards'** - Standards Committees would consider alleged breaches of 'prescribed performance duties' (these duties are not included in the White Paper, but the WLGA expressed concern previously as they were a narrow, traditional set of duties and they also did not apply consistently with expectations placed on Assembly Members).
- **Duty on LAs to produce a public engagement strategy** (with specific reference to engagement in local democratic process).
- **Broadcasting of council meetings to be made statutory and allow members to attend meetings remotely**
- **Councillor correspondence, surgeries and annual reports** – all still included, but the proposed duty to hold surgeries has been revisited although councillors must make clear how constituents can access and communicate with them.
- **Area Committees** – WG has listened to local government concerns around the originally proposed 'Community Area Committees' but instead intends reviewing the flexibilities and powers available to area committees (which councils already have the power to establish).

Performance and Governance:

- **Local Government Measure 2009** – As per Draft Bill, and as welcomed by local government, WG intends to repeal the Measure and the associated improvement and planning duties; this is becoming an increasing issue of duplication and frustration for local government as the Future Generations Act covers much of the same ground. WG has also confirmed that the Measure will no longer apply to Fire and Rescue Authorities and National Park authorities, which also makes sense, as the WLGA had queried why the Measure remained appropriate for these authorities when it was no longer deemed appropriate for local authorities.
- **Good Governance** – As per Draft Bill, councils will be expected to ensure good governance arrangements (as per CIPFA guidelines), this should be underpinned by new Corporate Governance and Audit Committees and self and peer assessment.
- **Local Government Functions** – as previously trailed, WG intends to revoke Section 13 of the Local Government Act 2000 which specifies the allocation of executive and non-executive functions, allowing councils more discretion to allocate council functions
- **Committee System** – WG is also seeking views around allowing councils the option to return to the committee system instead of leader and cabinet model of decision-making in local government. The Localism Act 2011 in England has allowed English councils to do

so, although few have. It is not clear why this proposal has been included in the White Paper, as there have not been any calls from any local authorities in Wales and the [latest WG evaluation of the Cabinet system in 2015](#) concluded that the arrangements were working well (although scrutiny could be improved) and that it provided clear accountability. It is also not clear how compatible this model would be with the proposed 'Joint Governance Committees'.

Community Councils

WG plans to commission a comprehensive review of the Community Council sector before it announces any fundamental structural reforms. However, in the meantime, WG plans to undertake action to support the sector, including:

- Producing a toolkit to support Community Councils in working through what is required in taking on new services and assets
- Re-energising ties between Community Councils and Local Authorities
- Facilitating the creation of clusters of smaller Community Councils
- Commissioning the Local Democracy and Boundary Commission for Wales to draw up guidelines for Local Authorities to secure consistency in the manner in which community reviews are conducted.
- Supporting Community Councils to raise awareness of and encourage participation in Community Council elections, and to increase diversity
- Making the General Power of Competence available to community councils which meet certain requirements;
- Placing a duty on Community Councils to consider and plan for their training needs, and
- Ensure citizens are kept informed and have the right to make representations on any business conducted at a Council meeting

Elections and Voting

Under the Wales Bill, the National Assembly would gain competence over local and National Assembly electoral arrangements. The White Paper suggests that proposals the Welsh Government would consider are;

- a review of postal voting procedures and the use of all-postal elections, electronic voting,
- electronic counting of votes,
- voting at places other than polling stations, and proposals to hold elections on different days.
- Proposals will be brought forward to remove entitlement to personal fees for returning officers.
- How a single electronic register for Wales might be developed. This would include looking at issues such as; data sharing, automatic voter registration, and greater access to register information by Local Authority staff.

The White Paper reiterates the Cabinet Secretary's previous commitment **move local elections to a five-year term.**

Other proposals include:

- **Requiring candidates to make clear whether they were or are members of a registered political party**, whether they were formally selected to stand for that party or not.
- **All candidates would also be required to publish election statements to a central website** to allow voters easily to access information on the manifestos of all candidates.
- **prevent Assembly Members from also serving as Councillors concurrently.**
- **Votes for 16 year olds**
- **Proposals to allow local authorities to choose their own voting system (first past the post or Single Transferable Vote (STV)).** Any council that decided to introduce a new voting system would have to keep it for the next two ordinary elections - The WLGA does not have a position on proportional representation as it has not been considered as a Welsh government policy since 2003 (following the publication of the Sunderland Commission) and will be seeking member councils' views. Plaid Cymru, the Liberal Democrats and UKIP all included STV for local elections in their 2016 Assembly manifestos. It is likely therefore that views on this proposal will vary from political party, and councils and councillors may express different views. STV has been used in Scottish local elections in 2008 and 2012 (see the [Electoral Reform Society report](#) into the 2012 election). Whilst the White Paper argues that STV has some merit, there are a number of implications to consider including confusion of the public with different electoral approaches in different areas, different electoral systems for community council (which would remain first past the post) and local authority elections being held on the same day which would increase confusion and create complication and burden for electoral administrative staff, and the general impact on a more complex and resource-intensive electoral system on elections staff. Other than councils needing to retain a changed voting system for the next two ordinary elections, the White Paper is silent on councils' decision-making process on such matters, and whether a local referendum should be held (as per the national referendum on the Alternative Vote in 2011) or whether a two-thirds majority should be needed vote in council (as per the super-majority provisions on the Assembly should it vote for change to its own electoral arrangements, as per S8 of the Wales Bill).

For further information:

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