



Cynulliad National
Cenedlaethol Assembly for
Cymru Wales

Local Government and Public Services Committee



The Operation of New Political Management Structures
in Local Government

May 2004



Printed in the UK on paper comprising 75% post-consumer waste and 25% ECF pulp



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Foreword




The Local Government Act 2000 introduced significant changes to the political management arrangements of local authorities that were intended to deliver visible, accountable leadership for a council and the community it serves and transparent and efficient decision-making. In particular, the Act required authorities to replace the old committee system of local government with a system:

- in which a small, clearly identified executive is responsible for providing leadership and taking decisions; and
- where new overview and scrutiny committees review the performance of the executive and seek continuous improvement and development.

The Act set out three initial broad forms of executive: a directly-elected mayor; a leader and cabinet model and a directly-elected mayor with a council manager. A 'fourth option' of adopting a modernised committee structure with enhanced scrutiny powers in place of the cabinet system was also adopted by the Welsh Assembly Government. All four options require an overview and scrutiny function to be run by councillors who are not part of the executive. At present, most Welsh local authorities have adopted a leader and cabinet model and three of the so called 'fourth option'.

The advent of these arrangements has brought about far-reaching structural change within Welsh local authorities, which in its turn is heralding a period of profound cultural change as executive and non-executive councillors and local government officers adapt to new and challenging roles. In June 2003, the newly constituted Local Government and Public Services Committee agreed that it would be timely to establish a review of the early operation of these new arrangements in Wales.

I am grateful to those individuals and bodies that gave evidence before the committee and to those who responded to our initial call to submit evidence. My thanks too to the Members Research and Committee Services



for their assistance with this review. I would like to particularly express my appreciation and gratitude for the warm welcome that was extended to committee members by the local authorities that we visited in the course of the inquiry. It provided a concrete example of the principle of partnership that underpins relations between the National Assembly for Wales and Local Government. I hope that the recommendations put forward in this report are understood to be offered within that same spirit of partnership.

Ann Jones AM

Chair, Local Government and Public Service Committee

May 2004

A photograph of a group of people in a meeting, partially obscured by a decorative wavy graphic. The image shows several individuals, some in the foreground and some blurred in the background, suggesting a professional or collaborative setting. The graphic consists of several overlapping, curved, purple bands that create a sense of movement and depth.

Chapter 1

Introduction



Introduction

1.1 In July 2003, the Committee agreed the following terms of reference:

To consider the operation in Wales of the new political management structures introduced by the Local Government Act 2000, their success in delivering more transparent, efficient and accountable decision-making and to make recommendations to encourage the development of good practice.


1.2 Written submissions of evidence were received from the bodies and individuals listed at Annex 1.

1.3 In addition, oral evidence was taken in Committee from the following:

- Dr Rachel Ashworth, Cardiff Business School;
- Audit Commission in Wales;
- Chief Social Services Inspector for Wales;
- *Syniad*;
- Welsh Local Government Association.

1.4 To further inform our inquiry, the Committee visited a number of Welsh local authorities to see how the new structures were operating in practice. Authorities were selected so as to give a spread in terms of geography, size, political control, scrutiny practice, and the political management model they operated. Members met informally with councillors, cabinet members and officers and observed the following committees in action:

- Cardiff City and County Council – Children and Young People Scrutiny Committee;
- Flintshire County Council – Environment and Economic Well Being Scrutiny Committee; and Overview and Scrutiny Co-ordinating Committee;

- 
- Gwynedd County Council – Corporate Policy and Strategy Scrutiny Committee;
 - Merthyr Tydfil County Borough Council – Principal Scrutiny Committee;
 - Monmouthshire Council - Resources and Customer Services Select Committee;
 - Pembrokeshire County Council – Environment Overview and Scrutiny Committee;
 - Powys County Council - Children, Families and Lifelong Learning Subject Committee.

1.5 We are extremely grateful for the help and hospitality each of these authorities afforded us on our visits, and for the assistance and advice of everyone else who contributed to the inquiry.

1.6 The report and recommendations that follow represent the conclusions the Committee has drawn from the evidence presented to it during the course of its inquiry. We hope that they will be taken forward by the Welsh Assembly Government, the Partnership Council and local government so as to improve the transparency, efficiency and accountability of local political management in Wales.



Chapter 2

Policy Background



Policy Background

2.1 In 1998 the Welsh Office published its White Paper *Local Voices: Modernising Local Government in Wales*¹, which had been preceded by a period of consultation on the document *Modernising Local Government: Democracy and Community Leadership*.²

2.2 The new political arrangements need to be seen in the wider context of the modernisation agenda for local government, of which they are only one part. Other aspects of that agenda include:

- encouraging councils to take a community leadership role, recognising their reduced role in service provision, and providing a power of general competence to assist in this;
- the Best Value regime, superseded by the Wales Programme for Improvement (WPI); and
- reform of elections, including introduction of postal voting, early voting, and electronic voting.

2.3 Thus, the proposals on changes to political management structures emerged from a general commitment by the UK and Welsh Assembly Governments, to developing the community leadership of local authorities and a desire to see a strengthened role for **democratic political leadership** in communities. The existing Committee system was deemed 'inefficient and opaque'.¹ It was argued that councillors attended too many meetings and there was insufficient democratic scrutiny, with many decisions effectively being made within meetings of party groups. Moreover, the confusion of the executive, or leadership, role and the scrutiny role blurred lines of accountability and responsibility as far as the public was concerned. The aim was to define a clear political leadership role for the executive but there would be benefits for non-executive councillors who would have a role in challenging policy, direction and past decisions.

¹ Welsh Office (1998) *Local Voices: Modernising Local Government in Wales*, Cm 4028.

² DTLR (1998) *Modernising Local Government: Democracy and Community Leadership*.



The Local Government Act 2000

2.4 The Local Government Act received Royal Assent on 28th July 2000.

2.5 The Act is in five parts:

- Part I- Promotion of wellbeing;
- Part II- Political management arrangements;
- Part III- Conduct of Local Authority members and employees;
- Part IV- Elections;
- Part VI- Miscellaneous provisions.

2.6 *Part II* of the Act contains provisions for new political management structures for local authorities in England and Wales, including local authority executives and executive arrangements. *Section 37* of the Act requires each local authority to prepare, keep up to date and publicise a document known as the council's constitution.

2.7 It sets out three initial broad forms of executive:

- a directly-elected mayor who appoints two or more councillors to the executive (referred to in *Part II* as a mayor and cabinet executive);
- an executive leader, elected by the full council, plus two or more councillors appointed by the leader or the council (a leader and cabinet executive); or
- a directly-elected mayor, with an officer of the authority appointed by the council as a council manager (a mayor and council manager executive).



2.8 However, the Partnership Agreement, *Putting Wales First*, which underpinned the Labour/Liberal Democrat coalition administration in the National Assembly in October 2000, contained a commitment to a 'fourth option' of adopting a modernised committee structure with enhanced scrutiny powers in place of the cabinet system. The Act permits the National Assembly for Wales to specify which local authorities may operate 'alternative arrangements'. *The Local Authorities (Alternative Arrangements) (Wales) Regulations 2001* enacted by the National Assembly allow for this fourth option to be taken by local authorities.


2.9 With this option:

- councils retain sovereignty on matters of policy and finance;
- a politically balanced Board deals with strategic issues and delegated authority from council;
- a 'super' scrutiny committee is established, chaired by a member of an opposition party and not including any cabinet members;
- not fewer than three or more than six further scrutiny committees are created, of each of which up to three Board members may be members (but may not be the Chair); and
- regulatory committees such as planning or licensing or the alternative option of area committees dealing with these functions, are retained.

2.10 All four options require an overview and scrutiny function to be run by councillors who are not part of the executive.

2.11 Under all arrangements, planning, licensing and other 'semi-judicial' matters should be dealt with in a way that ensures that all points of view can be heard and the interested individuals have the right to present their case.

2.12 All the options have a standards committee and procedures to ensure that politicians behave in a manner that is appropriate and ethical.



2.13 Extensive public consultation exercises were carried out by local authorities during 2001 and early 2002, with the majority of authorities in Wales adopting leader and cabinet and three adopting the 'fourth option' of the politically balanced board.

The Full Council

2.14 Under the new arrangements the role of the full council is to

- agree the form of the executive arrangements, along with the standing orders, schemes of delegation and codes of conduct which make up the council's constitution;
- to agree the policy and financial framework; and
- to agree key appointments.

New Roles for Councillors


2.15 Under the new arrangements the role of councillors is defined by whether they have executive responsibilities or not.

Executive councillors

- Executive councillors have the legal ability to make certain decisions for the council without requiring approval of a committee or a council meeting.
- They act as strategic leaders for their council and take a strategic management role, working closely with chief officers and senior managers to monitor and co-ordinate the implementation of council policy and decisions. Forward planning and budget oversight are also part of their role.

Non-Executive councillors

- Non-executive councillors are not able to make individual decisions, by themselves, as a right.

- 
- Non-executive councillors have a role in overseeing and scrutinising how executive members of a council lead the council. This requires reviewing policy development and implementation, contributing to that process and monitoring the outcome. Any decision made by the executive can be 'called-in' by other councillors who can ask for it to be reviewed.
 - Holding councillors with executive responsibilities to account is intended to ensure that 'checks and balances' are in place under the modernised council decision-making structures.

2.16 All councillors, executive or non-executive have roles acting as an advocate for the electorates they represent, as community leaders and as policy advocates.³


Implementation of the Local Government Act 2000 in Wales

2.17 The *Local Government Act 2000* is implemented in Wales through regulations and guidance.

2.18 The Assembly has made regulations:


- regarding proposals for executive arrangements, including alternative arrangements. Although the views of councils putting forward proposals must be taken into account;
- to allow local authorities to change their executive or alternative arrangements within ways contained in regulations;
- to make provision for any function of a local authority;
- to make provision with respect to the ways in which any functions which, under executive arrangements, are the responsibility of the executive, the responsibility of full council or may be carried out by area committees or jointly with another authority;

³ Local Government Information Unit, *Key Facts: What do councillors do?*, September 2003

- 
- requiring a local authority to hold a referendum and to direct a local authority to hold a referendum, including a threshold for triggering referendum for a directly elected mayor and to ensure that local authorities respond to a valid petition in favour of an elected mayor by holding a referendum;
 - with regard to access to information. Executive decisions must be taken in public, although deliberation may take place in private with officer support. However, all documents must be available to the public;
 - Under the alternative arrangements, to require that scrutiny committees should be chaired by opposition members. The Assembly does not have the power to require this for all executive arrangements, although the Welsh guidance specifically recommends this practice.

2.19 Under section 38 of the Act Statutory Guidance was issued in *Guidance for County and County Borough Councils in Wales on Executive Arrangements 2001* which provides guidance to county and county borough councils in Wales on:

- the content and operation of a new constitution including executive arrangements; and
- the process of changing to a new constitution including executive arrangements.



2.20 Non-statutory guidance was issued on *Consultation Guidelines for County and County Borough Councils in Wales 2001*⁴ which provided guidelines for consultation on executive arrangement and *New Council Constitutions: Modular Constitutions for County and County Borough Councils in Wales, 2001*⁵ which provided guidelines for local authorities in drawing up constitutions as required under the Act.

4 (Welsh Assembly Government) *Consultation Guidelines for County and County Borough Councils in Wales 2001*

5 (Welsh Assembly Government) *New Council Constitutions: Modular Constitutions for County and County Borough Councils in Wales, 2001*



Chapter 3

Accountability, efficiency,
transparency and openness of
decision-making in local government



Accountability, efficiency, transparency and openness of decision-making in local government

3.1 We believe that successful executive governance requires councillors to assert political leadership in their portfolio areas and to be visible and accountable to the local population. Decision takers should be held to account for their decisions and decision making should be efficient and transparent, with mechanisms in place to promote a clear understanding of the respective roles of elected members and officers.

Political Leadership and Faster Decision-Making


3.2 The operation of executive arrangements varies widely between local authorities depending on the pattern of decision-making delegation and the degree to which working practices, councillors and officers have adapted to the new structures. The majority of councils in Wales operate the cabinet and Leader model, while three councils have chosen to run a non-executive council board⁶. The prevailing model is a cabinet or board with the maximum number of members with assigned portfolios (not more than 10). Whilst non-executive boards must reflect the political balance of the full council, in a council operating the cabinet model, the leader is free to choose either a single party cabinet or some other combination.

3.3 A consistent theme in the evidence we received from local authorities was that accountability had improved following the introduction of the new structures, with clearer lines of individual and collective responsibility. As the WLGA put it in its written evidence to the Committee:

Generally, decision-making is quicker and more efficient ...with clearer member 'portfolio' accountabilities and a more strategic and corporate approach than previously.⁷

⁶ Powys County Council, Merthyr Tydfil County Borough Council and Gwynedd County Council

⁷ Written evidence to the Committee from the WLGA



3.4 On the other hand, the perspective of some individual non-executive council members from both ruling and opposition groups, was that decisions now rest in the hands of a small, exclusive number of councillors. Furthermore, the view expressed by community councils was that there had been a reduction in accountability, transparency and openness.

3.5 The Committee agrees, with both the Chief Inspector of Social Services Wales and the WLGA, that there is a positive correlation between clear political leadership and managerial accountability, and successful or improving service delivery.

3.6 Where new executive structures are working well:

- decision making is quicker and more efficient than under the old committee structure, with logical and detailed schemes of delegation;
- there are clearer member 'portfolio' accountabilities and a more strategic and corporate approach than previously; and
- decision takers are being held to account for their own decisions.

3.7 However, in its written evidence to the Committee, the Audit Commission in Wales indicated that executive leadership is less well advanced in authorities where councils struggle to find a sufficient number of capable portfolio members; where there is a lack of clarity or protocols for schemes of delegation; and where the quality of information available to the executive leadership is poor, or officers' reports are insufficiently succinct or direct to allow for well informed, risk based decision making.

3.8 There is an understandable tendency for majority parties to use their most skilled and experienced members to populate cabinet/non-executive boards. Although this provides for strong leadership, it may leave councils unbalanced and at risk of being less accountable and lacking in the robust challenge that can aid strong decision making.

3.9 Local authorities need to plan for the probable loss of valuable experience and knowledge and help members to develop new skills and expertise by, for example, linking accredited training to job



descriptions/competency frameworks for executive councillors. We support the enhanced training and development initiatives for executive members currently being taken forward by *Syniad*, including a proposed leadership summer school for new and re-appointed leaders, as well as similar attempts to equip other members to assume an executive role.

3.10 We recommend that local authorities develop a strategic approach to executive leadership within the authority, for example through succession planning and training, so that the concept of executive leadership is something to be understood by all members and not just those holding political office at a particular time.


Openness and Transparency of Executive Structures

3.11 One objective of the new political arrangements was to achieve greater transparency in the decision-making processes of local government. We feel that more could be done to improve understanding of the decision-making process amongst the public and amongst councillors themselves. Without openness, transparency and the engagement of all elected members and the public, the arrangements cannot be said to be working as they should even if decision-making has speeded up.

3.12 Crucial to the success of executive governance is the relationship between executive councillors and senior officers in the authority. With the new structures have come new roles for councillors and officers alike. The traditional 'constitutional convention' is that 'officers advise, members decide' and that officers serve the council as a whole.⁸ However, the new political structures provide a challenge to this 'traditional' way of doing things.

3.13 Clarifying the relationship, to ensure that executive councillors are publicly accountable for their decisions and that managers are allowed to manage, is vital to the effective operation of executive governance. Making this work in practice means working consciously at the relationship within a framework of clear delegation.

⁸ ODPM, *Continuity or Change? Officers and New Council Constitutions*, Research Report Summary, 2002.




3.14 It should be clear to all what issues are being considered by an executive and when. Relevant information and analysis should be readily accessible and, when decisions are taken, they should be communicated promptly and it should be clear who took them and why. It is particularly important to involve and inform non-executive members, across the party divide, as much as possible.

3.15 Openness and transparency are not simply matters of rules and procedures, but of culture and approach. A confident, strong executive should seek to open itself to challenge and to engage proactively with the public and other councillors. In turn, this will reinforce the legitimacy of executive decision-making. Non-executive members, irrespective of political party, should be able to gain access to cabinet/board decisions at a time when they can potentially exert influence.

3.16 Assembly regulations require that executive committees must meet in public subject only to the exemptions in Part V of the *Local Government Act 1972*. The Guidance states that:

Executive committees, sub committees or any group of Executive members are not prevented by these regulations from deliberating in private, but they cannot conduct any formal business or take Executive decisions during such informal sessions.

3.17 However, in order to prevent the perception of decisions being 'rubber-stamped' that was evident from some responses to the consultation, it is good practice that all cabinet and board discussions are held in open forum so local authorities' cabinet or executive board meetings should be held in public as far as possible.



3.18 We recommend that local authorities underpin their executive arrangements with procedures that maximise openness and transparency in order to ensure that all elected members, executive and non-executive, and the public, are able to inform themselves about all aspects of the executive's work and decisions being taken on their behalf and can influence these at an early stage.



Chapter 4

Holding the executive to account and contributing to the process of policy development



Holding the executive to account and contributing to the process of policy development

4.1 We believe that the overview and scrutiny function should rest at the heart of the decision-making process within a local authority if it is to be effective and offer rigorous and constructive challenge to the executive. Committee chairs, committee members and council officers should all understand clearly their respective roles within the process and should be equipped with the skills and support required to fulfil those roles.


Effectiveness

4.2 There is no uniform way in which local authorities organise their overview and scrutiny committees as the Guidance makes the precise arrangements a matter of local choice. Local authorities with an executive board have a principal scrutiny committee and supporting subject committees, as required under legislation. Others have between four and seven scrutiny committees, covering a range of different themes, principal services or a grouping of services.

4.3 The Guidance states that the Assembly 'expects that most authorities will have more than one overview and scrutiny committee and that they will meet regularly' but 'as a minimum, overview and scrutiny committees must cover all of the functions of the executive of the authority' (paras. 4.108-9).

4.4 Effective scrutiny will be judged by the extent to which the overview and scrutiny function sits at the heart of the decision-making process within the local authority and offers a rigorous and constructive challenge to the executive. As Dr Rachel Ashworth states in her ESRC Research Report:

Where scrutiny is working well, it is seen to both challenge and influence Executive decision-making and therefore assists in plugging the accountability gap.



4.5 We recognise the diversity of Welsh local authorities and fully support the flexible approach that allows local authorities to devise overview and scrutiny arrangements that they deem most appropriate. However, much of the evidence we received indicates that the role of scrutiny generally needs to be developed and strengthened further. Furthermore, research based on studies of Welsh and English local authorities indicates that executives have been slow to respond to scrutiny reports and recommendations.⁹

4.6 Our inquiry has identified a number of obstacles to effective scrutiny. First, there remain problems of organisational culture in the domination of committees by officers in terms of operation and agenda setting and committee members operating as they would have under the old committee system. Second, in some authorities there is a perception that the overview and scrutiny function is marginalised, with limited support, influence and prestige. This is compounded by a lack of response by the executive to scrutiny committee recommendations and insufficient access to and restricted flow of information¹⁰. Third, there is a lack of clarity about the role of the overview and scrutiny function and how members can best exploit its potential to influence policy and to hold the executive to account.


4.7 On the other hand, where overview and scrutiny is working well, there will be:

- clear links between member-led work programmes and council and executive strategies and priorities;
- appropriate use of the 'call-in'¹¹ power on executive decisions;
- constructive involvement of external bodies and organisations in the scrutiny process;
- early committee involvement in the policy development process in order to influence decisions;

⁹ Ashworth R, *Evaluating the Effectiveness of Local Scrutiny Committees*, ESRC Research Report, 2003

¹⁰ Written evidence to the Committee from Dr Rachel Ashworth, Cardiff University; M Sandford and L Maer, University College London and Local Government Information Unit

¹¹ Call-in means arrangements to support the right of scrutiny committees to review any executive decisions not yet implemented

- 
- tailored information support for committee members;
 - direct engagement by executive members with the overview and scrutiny committees.

4.8 The ‘call-in’ procedure can be useful indicator of the effectiveness of the scrutiny. If it not being used at all, the concern is that committees are wary of challenging the executive. Over-use, on the hand, might indicate its abuse on politically partisan grounds. In its evidence to us, the Audit Commission drew attention to ‘a snapshot survey’ of 10 Welsh councils, which found that, in most cases, there had been limited use of the procedure, with only four councils calling-in more than one executive decision. There was one extreme case where the procedure had been used 25 times. It was suggested that this variation may depend on the limits and criteria set in place to allow a decision to be called-in. It intends to carry out further work in this area and identify if institutional or political party factors have an impact on its use.¹² We look forward to seeing the outcome of this further research. We also believe that, for the call-in procedure to work effectively, committee chairs should not be able to block its use against the wish of the majority of committee members.

4.9 We recommend that local authorities take measures to ensure that the overview and scrutiny function is afforded a central role in both the structure and the ethos of the authority. In order to achieve this non-executive members need to understand their role and have a full appreciation of its potential and importance.

4.10 We recommend that committee chairs should not be able to veto the use of call-in procedures.

¹² Written evidence to the Committee from the Audit Commission



Support and Training

4.11 We endorse the Audit Commission's view that 'Scrutiny members can only start to be effective once they understand their role and the contribution it can make'.¹³ Much of the evidence we received highlighted the importance of relevant training for members and officers in the scrutiny function and adequate induction for new councillors.

4.12 The extent and status of officer support for the scrutiny and overview committees varies between authorities and in some cases scrutiny officers are often not of sufficient status for scrutiny to function effectively. Officer support may range from a single committee clerk to a well resourced support team.¹⁴

4.13 The Guidance states that 'overview and scrutiny in particular will need effective and properly resourced support; and all officers will need training and development to help them support the various member roles effectively and to understand the new structures' (para. 2.36).

4.14 Characteristics of effective support include:

- support officers who are clear in their role and in the advice they give to members and internal procedures that allow support officers to provide advice that is independent of the executive;
- tailored, easily read and understandable briefing that facilitates the effective use of committee time and the delivery of member-led priorities;
- adequate resourcing;
- concise and accessible Scrutiny Good Practice Guides.

¹³ Written evidence to the Committee from the Audit Commission

¹⁴ Written evidence to the Committee from Dr Rachel Ashworth, Cardiff University



4.15 There is a growing perception that scrutiny support officers need to be as independent of service delivery responsibilities as possible. While we fully appreciate the importance of this ‘separation of powers’ principle¹⁵ to effective scrutiny, we also note the reservations expressed in the oral evidence of the Audit Commission which suggested that overly strong support teams within small authorities could prove divisive and take resources away from front-line service delivery.¹⁶

4.16 We note the Guidance which states that ‘It is for local authorities to decide whether to separate officer support (e.g. committee secretariat) between the executive and overview and scrutiny functions’ and that ‘Officers will need to understand the distinct role of overview and scrutiny committees and respect their independence from the executive’ (para. 2.38).

4.17 We agree that it is for authorities to decide how to organise the support provided to committees, but it is imperative that skilled and independent officer support is available. We welcome *Syniad’s* proposal to facilitate the re-establishment of a Members’ Services Officers Network which will foster the spread of good practice between authorities.


4.18 We recommend that all local authorities should have dedicated officer support teams for scrutiny, but recognise that it is not possible for all. All local authorities should, however, have strong and well-resourced support provision for scrutiny which reinforces the ‘separation of powers’ principle between the executive and scrutiny and overview function.

Policy Development Role

4.19 The degree to which scrutiny committees are involved in effective policy development and the extent to which it informs cabinet decision-making can be seen as one of the key measurements of successful scrutiny. Evidence from the UCL Constitution Unit to the review stated that the ‘interchange with members of the public and outside bodies is one of the

¹⁵ ODPM, *Implementing the 2000 Act with Respect to New Council Constitutions and the Ethical Framework: Baseline Findings from a Long Term Evaluation*, Local and Regional Research Programme Summary, 2003. See also, Written evidence to Committee from Professor Peter John, Birkbeck College, University of London.

¹⁶ Oral evidence to the Committee from Audit Commission in Wales.



advantages of the new system in regard to the policy development role of non-Executive members'.¹⁷ However, some councils still only take evidence from their own officers, while other councils, although inviting external witnesses in, often do not interact with them in way that moves policy development forward.

4.20 A number of councils have set up separate policy forums/advisory panels to support the cabinet in this role. However, the Audit Commission identified risks emerging from this approach including a lack of clarity about the split of responsibilities for policy forums and scrutiny which can lead to tensions and duplication of effort.

4.21 We feel that the policy development role of the overview and scrutiny committees is not clearly defined and therefore not well understood by many non-executive councillors who are expected to participate in it.

4.22 We recommend that the Welsh Assembly Government and *Syniad* develop a model of good practice for policy development by overview and scrutiny committees, building on evidence of success in local authorities. The relevant section of the Guidance should be strengthened in the light of such evidence.

Political Composition and the Party Whip

4.23 Where party groups exist, overview and scrutiny committees must reflect the political balance of the full council, in accordance with sections 15 and 17 and schedule 1 of the *Local Government and Housing Act 1989*. However, academic research studies have found that minority parties often feel excluded from the decision making process and party politics has an impact on the scrutiny role in most councils.¹⁸ Our evidence points to some concerns about the effectiveness of committees in challenging decisions due to political composition and the fact that in some cases chairs and vice-chairs are members of the ruling group.

4.24 Assembly Guidance states that 'Where there is a majority group, councils might consider it appropriate to have all or some of these

¹⁷ Written evidence from the Constitution Unit, UCL.

¹⁸ Ashworth R, *Evaluating the effectiveness of local scrutiny committees*, ESRC Research Report, 2003.



committees chaired by members outside the majority group' (4.112). Paragraph 4.123 of the Assembly Guidance states that the use of the party whip is a matter for political parties. It also endorsed the recommendation of the 1999 pre-legislative Joint Parliamentary Committee report on the Draft Local Government (Organisations & Standards) Bill that council constitutions could incorporate a rule that whipping should be declared.¹⁹

4.25 We strongly support paragraph 4.111 of the Guidance in encouraging an inclusive attitude on behalf of authorities towards the composition of overview and scrutiny committees and paragraph 4.112 which recommends that where a majority group exists, all or some of the committees should be chaired by members outside the majority group.


4.26 We recommend that the Welsh Assembly Government strengthens the Guidance relating to political balance on overview and scrutiny committee and, if necessary, explores, with the Wales Office and Office of the Deputy Prime Minister, the possibility of amending the *Local Government Act 2000* to include a requirement for chairs of overview and scrutiny committees in Wales to reflect party balance as far as is practicable.

4.27 We recommend that the party whip should not be used in the business of overview and scrutiny committees. If used, its use should be declared.

4.28 At present, should a local authority in Wales wish to alter its internal structure of overview and scrutiny committees it is required to submit its proposals to the Welsh Assembly Government for approval. With the new political arrangements now established we consider this requirement unnecessarily restrictive on the freedom and flexibility of local authorities to organise their own business.

4.29 Furthermore, should a local authority in Wales wish to alter its basic structure, for example to a different type of executive arrangement, or to the alternative arrangements available, it is not at present possible without a petition being submitted by its electors to the Welsh Assembly

¹⁹ Joint Parliamentary Committee on the *Draft Local Government (Organisations & Standards) Bill*, Report, July 1999 HL Paper 102-I, HC 542-I, TSO 27 July 1999.



Government. This might need to be followed by a referendum on the proposals. We consider this requirement unnecessarily restrictive on the freedom and flexibility of local authorities in Wales, as local authorities in England are able to change their structure more easily.

4.30 We recommend that the Welsh Assembly Government amends the *Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002*²⁰ so that local authorities have the freedom to reform their political management structures and overview and scrutiny arrangements as they see fit.

²⁰ *Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002* (No. 2880 (W.276))



Chapter 5

The role of non-executive councillors



The role of non-executive councillors


5.1 We believe that non-executive councillors provide a lynchpin in the successful operation of the new political arrangements in local authorities. They provide the vital 'check and balance' in the new council decision making structures through the overview and scrutiny of the council leadership. In order to carry out this function properly non-executive councillors need a thorough understanding of what their role is and must be properly equipped in terms of training and officer support to carry it out. If this is successful, non-executive councillors will feel empowered and engaged as leaders of their communities.

Understanding the Role of the Non-Executive Councillor

5.2 The new overview and scrutiny role of non-executive councillors requires the review of policy development and implementation, contributing to that process and the monitoring of outcomes. Holding councillors with executive responsibilities to account is the key to ensuring 'checks and balances' are in place under the modernised council decision making structures.²¹

5.3 We concur with the Audit Commission which said in its evidence that there is a case for reviewing the role of non-executive councillors. In their submissions, many local authorities agreed that the role of non-executive councillors is still developing and that they are on a 'learning curve'. Indeed, some local authorities reported a more serious difficulty in terms of 'poor morale' with non-executive councillors feeling that they are unable to influence the system and are distanced from the work of the Council. Other respondents, including community councils, reported an increasing feeling of disempowerment and disengagement from the process by non-executive councillors. A particular concern was that in some councils some non-executive members did not sit on any overview and scrutiny committees. There is also a feeling that contact with officers and access to information is less than it had been under the old system. Whilst some negative attitudes on behalf of non-executive councillors and other stakeholders such as

21 Local Government Information Unit, *Key Facts: What do Councillors Do?*, September 2003.



community councils, can be attributed to a natural response to a period of transition, we see a clear need for action to assist ascent of this 'learning curve'. We are also sure that this requires something more proactive than hoping that the local elections in June 2004 will deliver cultural change with a new intake of councillors.

5.4 Some local authorities have already introduced initiatives to facilitate non-executive councillors in their new roles. These include:

- call/contact centre for following up councillors' queries;
- a non-executive/cabinet liaison system;
- developing the role of non-executive councillors with regard to area/neighbourhood committees;
- ward profiling and local financial incentives.²²

5.5 A further imperative role for non-executive councillors is the monitoring of the delivery of policy and strategies, the community plan and the improvement plan of the council. One example of 'empowering' non-executive councillors to undertake this role is the development of detailed 'ward profiles' to inform councillors' contributions to the development of wider authority strategies.

5.6 We recommend that the Welsh Assembly Government engages in discussions with the WLGA to promote dissemination of good practice by local authorities in terms of initiatives for facilitating non-executive councillor engagement and empowerment.

5.7 We recommend that all non-executive councillors should sit on at least one council committee so that they have some role in the overview and scrutiny function, or in regulatory matters.

²² Written evidence to the Committee from Newport City Council; Pembrokeshire, Denbighshire, Carmarthenshire & Gwynedd County Councils; Torfaen County Borough Council and oral evidence from Audit Commission to Committee, 19 November 2003.

The 'Sub-Local' Level

5.8 The Guidance notes that:

area committees can have an important role to play in bringing decision making closer to local people and in helping give local people a say in the way in which a council works. Area committees or forums can take many forms and undertake a variety of roles. For example, they can be made up of councillors, representatives from other public, private and voluntary sector bodies in the area and local people or they can be made up of councillors only. Area committees can be purely advisory and consultative bodies or they can have delegated functions and budgets (para.4.74).²³


5.9 It also suggests roles for area committees and forums, including:

- advising the executive or overview and scrutiny committees on matters of interest in their area;
- assisting all councillors in listening to and representing their communities;
- playing an important role in partnership building between the council, other local public, private and voluntary sector organisations and local people; and
- developing area community strategies as part of the wider community planning process.

5.10 Before the new political arrangements, around a third of councils had some kind of area-based member structure in Wales and England. The Audit Commission estimates that this has risen to around half although only a third of these have actually devolved responsibilities and/or budgets to these committees or forums.²⁴

²³ The Guidance distinguishes between 'area committees' made up of councillors only and 'area forums' meaning a committee of councillors and non-councillors (i.e. co-opt additional non-voting members).

²⁴ District Audit, *New Political Arrangements: A Snapshot*, Bulletin, 2002



5.11 Research carried out in English local authorities in 2001 found that there was evidence that 'sub-local' bodies were helping the development of a community leadership role and the representational role of local government.²⁵ However, the study found that 'local authorities expressed concern that this role would not develop if area working were considered a compensatory role for 'non-executive councillors' and there needed to be a clear link between sub-local bodies and the executive and scrutiny functions. We agree wholeheartedly that the sub-local level should not be used as a 'dumping ground' for non-executive councillors but should be developed in a way that is meaningful to both the locality and the local elected members.

5.12 We acknowledge that the diverse character of local authorities in Wales, particularly in terms of population and geography, means that it is important that they are able to decide on the sub-local arrangements that best suit local circumstances.


5.13 We recommend that all local authorities prepare a decentralisation strategy that defines the role of the 'sub-local' level in the business of the council and its input into the executive and scrutiny functions.

Member Development

5.14 We endorse the view from the Audit Commission and the Chief Inspector of Social Services in Wales, that **good scrutiny is about ensuring that councillors understand what it means and are equipped to do it.** A wide range of respondents suggested that training and development opportunities be provided to help councillors understand scrutiny and their other new roles.

5.15 An important example of where such improved understanding is necessary was underlined by the evidence of the Chief Inspector for Social Services in Wales to us in relation to the **corporate parenting** role of local authorities. The local authority as a whole has corporate responsibility for looked after children and there is a general responsibility for local authorities to act as good corporate parents across all the functions of the

²⁵ Sullivan H et al, *Area Committees and Neighbourhood Management*, Joseph Rowntree Foundation, Findings, 2001.



authority. However, the nature of the responsibility depends on whatever role councillors have (executive or non-executive). A non-executive councillor's role is to monitor and scrutinise the effectiveness of the local authority's management structures in meeting children's needs.

5.16 We commend *Syniad's Member Development Modular Programme*, its exploration of the feasibility of other specific support for re-elected and newly elected members and its plans to commission and produce nationally available induction materials which can be adapted for local use such as:

- e-learning materials on knowledge and skills acquisition;
- materials to support locally delivered training and development;
- fully developed training modules for external delivery;
- regional and national induction sessions.


5.17 We recommend that local authorities encourage and support their elected members, both new and re-elected, to avail themselves of the training and support supplied by *Syniad*.

5.18 We recommend that local authorities liaise with and provide feedback to *Syniad* in order to identify new training needs and the most effective means of delivery.



Chapter 6

Opening up the decision making process to the public and establishing clear accountability for decisions in the minds of the voters



Opening up the decision making process to the public and establishing clear accountability for decisions in the minds of the voters

6.1 We believe that open and accessible government and transparent decision-making are the key to proper accountability and robust democracy. In order for this to be achieved, it must be clear to the public who is responsible for making decisions and how and when those decisions are made. Local authorities should be as innovative as possible in exploring the best means of disseminating information and engaging the public.


Improving Transparency

6.2 The Guidance states that 'one objective of the Act is to achieve greater transparency in the decision-making processes of local government. **It should be clear what policies, strategies and decisions are being considered, when and by whom**' (para.5.1). **We strongly endorse this view.**

6.3 In their submissions to us, a number of local authorities reported little evidence of an increased interest by the public in the work of the council and suggested some reasons for this:

- accountability is still not clear;
- lack of public understanding of new executive arrangements or scrutiny function; and
- no forum to discuss issues of local importance.

6.4 However, many responses to our consultation outlined initiatives being taken by councils to engage the public such as allowing for public questions



at cabinet meetings, citizens' panels, holding committee meetings outside the civic offices, the appointment of a communication officer and user friendly leaflets with agenda and committee membership available at meetings.²⁶

6.5 We recommend that the Welsh Assembly Government, the WLGA and local authorities co-operate in order to promote the dissemination of good practice by local authorities for the improvement of public understanding of the new political arrangements and increased engagement with the public.²⁷

The Audit Function

6.6 Effective corporate governance is a prerequisite for excellent public services and the improvement of governance arrangements will provide accountability and transparency in decision making and, in turn, support public confidence in local government.


6.7 In its evidence to us, the Audit Commission reported that less than half of councils had dedicated audit committees. Overall it found that 'the audit function in political management arrangements is variable' and often there is a lack of transparency and clarity in the relationships between the committees that carry out the audit function and other parts of the council structure.²⁸

6.8 We strongly endorse the Guidance in encouraging the appointment of audit committees (para.3.22). It states:

An audit committee shall be a committee of the authority and shall have powers delegated to it as agreed by the authority. It is recommended that no Executive members belong to the audit committee but councils may wish to appoint non-councillors, who would not have a vote. It is also recommended that, where political

26 Written evidence to the Committee from Gwynedd County Council, Carmarthenshire & Ceredigion County Councils, Cardiff & Newport City Councils, Ynys Mon County Borough Council.
27 N.B. Para.5.10 of the Guidance states that 'The Assembly has wide ranging powers under section 22(9) of the Act to make regulations governing the provision of information to the public and will review the need to use these powers if it finds that good practice is not being observed.'

28 Written evidence to the Committee from Dr Rachel Ashworth, Cardiff University; M Sandford and L Maer, University College London and Local Government Information Unit



groups operate, the authority appoint as chair of the committee a councillor who is not a member of the controlling political group.

6.9 Committees carrying out the audit function should operate in a non-partisan way and should be constituted in such a way that this is assured. In Scotland, the Scottish Executive, in association with CIPFA, is developing written guidance on *Audit Committee Principles in Local Authorities*. This does not require local authorities to set up separate Audit Committees but is intended to furnish local authorities with a matrix of principles which they may utilise as benchmark for audit standards.

6.10 We recommend that the Welsh Assembly Government strengthens the existing Guidance with regard to the audit function in the light of good practice elsewhere.

6.11 We recommend that local authorities, with the support of the WLGA, review whether their audit function fulfils the required standards of transparency and clarity in its relationships with other parts of the council structure.



Annexes

List of written responses received

County and County Borough Councils

- Caerphilly County Borough Council – *Cllr Lindsay Whittle, Leader*
- Carmarthenshire County Council - *Cllr Meryl Gravell, Leader*
- Ceredigion County Council – *Owen Watkin, Chief Executive and Overview and Scrutiny Coordinating Committee*
- County Council of the City and County of Cardiff
- Denbighshire County Council – *Ian Miller, Chief Executive*
- Flintshire County Council – *Philip McGreevy, Chief Executive*
- Gwynedd County Council
- Isle of Anglesey County Council – *Huw Jones, Head of Services*
- Monmouthshire County Council - *Mr Peter Evans, Democratic Services Manager*
- Neath Port Talbot County Borough Council – *Ken Sawyers, Chief Executive*
- Newport City Council - *Cllr Sir Harry Jones, Leader*
- Pembrokeshire County Council – *G H James, Director of Support and Cultural Services*
- Rhondda Cynon Taf County Borough Council – *Paul Lucas, Legal and Democratic Services Officer*
- Torfaen County Borough Council – *Paul Matthews, Assistant Chief Executive Officer*
- Wrexham County Borough Council – *Trevor Coxon, Chief Legal & Administration Officer*
- Cllr Bill Philpin, Pembrokeshire County Council
- Cllr Graham Simmonds, Caerphilly County Borough Council
- Cllr Kevin Etheridge, Caerphilly County Borough Council
- Independent Group, Isle of Anglesey County Council
- Independent Group, Wrexham County Borough Council
- Local Authority Officer



Town and Community Councils

- Aberdyfi Community Council – *Avril Richards, Clerk to the Council*
- Betws Community Council – *Cerith W Griffiths, Clerk to the Council*
- Blaengwrach Community Council – *W Edward Morgan, Clerk*
- Brawdy and District Community Council – *M M Lavis*
- Burton Community Council - *Peter Horton, Clerk*
- Carmarthen Town Council – *Steve Anderson, Town Clerk*
- Carew Community Council - *Stephanie Edwards, Clerk*
- Cefn Cribwr Community Council – *Neville Granville, Clerk*
- Ceulanamaesmawr Community Council – *Goronwy Wyn Jones, Clerk*
- Crucorney Community Council
- Cwmaman Town Council – *David Davies, Town Clerk*
- Eglwysbach Community Council – *Shan Roberts, Clerk*
- Gorslas Community Council – *Delyth M Jones, Clerk*
- Gowerton Community Council – *W J Arnold, Clerk to the Council*
- Gresford Community Council - *Maurice Paddock, Clerk*
- Grosmont Community Council – *R J B Wilcox, Clerk*
- Haverfordwest Town Council – *Jane Clark, Town Clerk and Financial Officer*
- Johnston Community Council – *Michael J Cole, Clerk and Treasurer*
- Llanbedrog Community Council – *Mair Williams, Council Clerk*
- Llangattock Vibon Avel Community Council – *Roy G Nicholas, Clerk to the Council*
- Llantilio Crossenny Community Council - *Roy G Nicholas, Clerk to the Council*
- Llantilio Pertholey Community Council – *Neil Chambers, Clerk*
- Llangyfelach Community Council - *D Jenkins, Clerk*
- Llantwit Major Town Council - *Ann H. Thomas, Executive Officer*
- Llchwyr Town Council – *A W Davies, Clerk to the Council*
- Maelor South Community Council – *Eileen M Edwards, Clerk*
- Maesteg Council – *Joan Fielding, Clerk to the Council*
- Manafon Community Council – *Rosemary Davies, Clerk to the Council*

- Milford Haven Town Council – *D B Griffiths, Clerk and Financial Officer*
- Mold Town Council - *Fred Boneham, Clerk and Finance Officer*
- Monmouth Town Council - *Ann Webb, Town Clerk*
- Mostyn Community Council – *Michael R Thomas, Clerk and Responsible Finance Officer*
- Penrhyndeudraeth Town Council – *Gwyn Jones, Council Clerk*
- Ponthir Community Council – *Chris Thomas, Clerk*
- Pyle Community Council – *Margaret Jones, Clerk to the Council*
- Rosemarket Community Council – *Peter Horton, Clerk*
- Tenby Town Council – *Andrew Davies, Financial Officer/Clerk to the Council*
- Welshpool Town Council – *K A S Fletcher, Town Clerk*
- Whitford Community Council – *Astley Jones, Clerk and Financial Officer*
- Cllr Anne Sizmur
- Society of Local Council Clerks – *Sandra Bushell, Regional Training Manager and Co-ordinating Officer for Wales*

Academics


- Dr Rachel Ashworth, Cardiff Business School, Cardiff University
- Dr Peter John, School of Politics and Sociology, University of London
- Mark Sandford/Lucinda Maer, Constitution Unit, University College London
- Professor Gerry Stoker, Evaluating Local Governance, University of Manchester

Miscellaneous

- Audit Commission in Wales - Dr Clive Grace
- John Hudson
- Local Government Information Unit
- Milford Haven Branch of the Labour Party
- NASUWT - National Association for School Masters and Union of Women Teachers
- Graham Williams, Chief Social Services Inspector for Wales

Summary of recommendations

- 1** We recommend that local authorities develop a strategic approach to executive leadership within the authority, for example through succession planning and training, so that the concept of executive leadership is something to be understood by all members and not just those holding political office at a particular time (para 3.10).
- 2** We recommend that local authorities underpin their executive arrangements with procedures that maximise openness and transparency in order to ensure that all elected members, executive and non-executive, and the public, are able to inform themselves about all aspects of the executive's work and decisions being taken on their behalf and can influence these at an early stage (para 3.18).
- 3** We recommend that local authorities take measures to ensure that the overview and scrutiny function is afforded a central role in both the structure and the ethos of the authority. In order to achieve this non-executive members need to understand their role and have a full appreciation of its potential and importance (para 4.9).
- 4** We recommend that committee chairs should not be able to veto the use of call-in procedures (para 4.10).
- 5** We recommend that all local authorities should have dedicated officer support teams for scrutiny, but recognise that it is not possible for all. All local authorities should, however, have strong and well-resourced support provision for scrutiny which reinforces the 'separation of powers' principle between the executive and scrutiny and overview function (para 4.18).



6 We recommend that the Welsh Assembly Government and *Syniad* develop a model of good practice for policy development by overview and scrutiny committees, building on evidence of success in local authorities. The relevant section of the Guidance should be strengthened in the light of such evidence (para 4.22).

7 We recommend that the Welsh Assembly Government strengthens the Guidance relating to political balance on overview and scrutiny committee and, if necessary, explores, with the Wales Office and Office of the Deputy Prime Minister, the possibility of amending the *Local Government Act 2000* to include a requirement for chairs of overview and scrutiny committees in Wales to reflect party balance as far as is practicable (para 4.26).

8 We recommend that the party whip should not be used in the business of overview and scrutiny committees. If used, its use should be declared (para 4.27).

9 We recommend that the Welsh Assembly Government amends the *Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002* so that local authorities have the freedom to reform their political management structures and overview and scrutiny arrangements as they see fit (para 4.30).

10 We recommend that the Welsh Assembly Government engages in discussions with the WLGA to promote dissemination of good practice by local authorities in terms of initiatives for facilitating non-executive councillor engagement and empowerment (para 5.6).

11 We recommend that all non-executive councillors should sit on at least one council committee so that they have some role in the overview and scrutiny function, or in regulatory matters (para 5.7).



12 We recommend that all local authorities prepare a decentralisation strategy that defines the role of the 'sub-local' level in the business of the council and its input into the executive and scrutiny functions (para 5.13).

13 We recommend that local authorities encourage and support their elected members, both new and re-elected, to avail themselves of the training and support supplied by *Syniad* (para 5.17).

14 We recommend that local authorities liaise with and provide feedback to *Syniad* in order to identify new training needs and the most effective means of delivery (para 5.18).

15 We recommend that the Welsh Assembly Government, the WLGA and local authorities co-operate in order to promote the dissemination of good practice by local authorities for the improvement of public understanding of the new political arrangements and increased engagement with the public (para 6.5).

16 We recommend that the Welsh Assembly Government strengthens the existing Guidance with regard to the audit function in the light of good practice elsewhere (para 6.10).

17 We recommend that local authorities, with the support of the WLGA, review whether their audit function fulfils the required standards of transparency and clarity in its relationships with other parts of the council structure (para 6.11).



Further Copies

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