

LG 11

Legislation Committee No 3

Proposed Local Government (Wales) Measure

Response from Society of Local Council Clerks

A written response by

The Society of Local Council Clerks (SLCC)

Introduction

The Society of Local Council Clerks (**SLCC**) is pleased to be asked to contribute to this consultation and hopes that the contribution it makes will be helpful and informative to the committee.

The SLCC in Wales- Roles and responsibilities

The Society of Local Council Clerks (SLCC) is the professional body for officers working for Town, Parish, Community and Neighbourhood Councils in England and Wales.

The SLCC was founded in 1972 as a self help group for local council clerks. In the period up to 2001 membership rose steadily to around 2000 while the Society negotiated a basic terms and conditions agreement with the National Association, published editions of The Clerks Manual, provided a quarterly Journal for members and an early version of the Working with Your Council the distance learning course pack.

Since 2001 the development of the Society has accelerated following the National Executive Council's decision to appoint professional officers and to invest in a wide range of new services. Membership has increased by 80% and turnover has increased from around £100,000 to just over £1,000,000. New branches have been established so that there is now a Society Branch in every County in England and Wales. A new modern terms and conditions agreement has been negotiated and a wide range of new services established.

The role of the Town, Parish and Community Council has changed out of all recognition in the years since the Society was founded. The enduring characteristic of the Clerks profession is that Clerks are independent professionals whose business is serving the community. The role now has wide responsibilities whether working for large or small organisations. Clerks work with their council and community but often alone as the sole officer of the Council. The job requires increasing levels of skill and judgement. While it was once primarily an administrative position it has now become essentially managerial with networking, negotiation and project management being key required skills.

Today the Society is a vibrant and purposeful organisation helping Local Council Officers not only to survive, but to develop and grow and to achieve recognition for their work. The formation of the Institute of Local Council Management in 2007 has further raised the profile of this once unseen profession which is now playing a major role in implementing major change in the world of community governance.

Currently it has 3600 members serving in over 4200 councils, of whom 300 members are in 380 Welsh councils.

Services for its members include:-

- Provision of Continuous Professional Development Training Courses
- A comprehensive Conference and technical updating programme
- A professional Institute
- Online/telephone advisory service
- Employment Support
- Negotiation of Terms and Conditions
- Website providing a range of services and advice
- National 'E group' Forum and other specialist E groups
- Online bookshop and in house Publications
- Job finder
- Quarterly Journal
- County Branch Network
- Policy work on key issues affecting the Local Council Sector
- Representation with Government and other External Bodies

The Society has committed itself to working to raise professional standards and to building skills and capacity among its members both to increase their standing and to strengthen the local council sector. It sees itself as an evolving centre of excellence for Community Governance. This is being achieved through a range of programmes including a new professional code of conduct, a Continuous Professional Development programme and partnership arrangements with the Universities of Gloucestershire and Aberystwyth.

We also work with partners nationally and internationally to develop the professional status of clerks. Major partnerships include those with The National Association of Local Councils, One Voice Wales, the Association of Council Secretaries and Solicitors and The International Institute of Municipal Clerks.

The SLCC Team

In considering its response the SLCC convened a small working party to consider the corporate response on behalf of the society to this consultation. The team was made up of the following officers:

Mr James Griffiths

Jim is the Town Clerk to Aberystwyth Town Council.

He is also the Co-ordinating Officer for Wales for the SLCC, in this capacity he sits on the National Training Advisory Group at the Welsh Assembly and is a member of the Welsh Local Government Audit Team within the Wales Audit office.

He is also a member of the One Voice Wales Training Team delivering training on the National Training programme to members.

Mrs Katherine Owen

Katherine is the Town Clerk to Caernarfon Royal Town Council.

As the representative of the Gwynedd Branch she is a member of the National Executive Council of the SLCC, since February 2010 she has also held the position of Vice Chairman of the NEC.

She is a member of the One Voice Wales Training Team delivering training on the National Training programme to members.

Mr Nick Randle OBE

Nick is the Chief Executive Officer of the SLCC.

He also serves on a number of National Committees including the Monitoring and Verification Board for the Certificate in Local Council Administration, The Local Councils National Training Strategy Partnership, The Local Council Legislation Implementation Workgroup.

Mrs Samantha Shippen

Sam is the Town Clerk to Seaford Town Council in East Sussex. She is the External Affairs Officer for England of the SLCC. She is also the immediate past chairman of the National Executive Council of the SLCC and represents the SLCC on a number of national committees.

Mr Jonathan Bourne

Jonathan is the Town Clerk to Wootton Bassett Town Council. He is also the Chairman of the National Executive Council of the SLCC. He is currently one of the longest serving members of the National Executive Council.

Executive Summary

The SLCC holds with the view that the provisions of the Proposed Local Government (Wales) Measure, introduced by the Minister for Social Justice and Local Government on 12 July 2010, would be within the legislative competence of the National Assembly for Wales.

It is the considered opinion of the SLCC that in essence only two parts of the proposed measure will have an effect on the Town and Community Councils sector in Wales and the main thrust of this response will be mainly confined to those relevant parts. Where other sections and the implementation of the measures as suggested will affect the sector, then a suitable response is made.

The two sections that will potentially have the biggest impact on the sector are:

(Part 7)....develop and strengthen the role of community councils in Wales, including enabling them to deliver a wider range of services and actions locally as well as to increase the effectiveness of their representational role and their ability to work in partnership with other bodies.

And

(Part 8).....reform the system for setting allowances for councillors

The SLCC sees any progress within the sector as a positive move and to that end is **Generally Supportive** – with the caveat that any implementation should be proportional to the capacities of individual Town or Community councils in Wales.

Background

Town and Community Councils in Wales are more able than ever to rise to the challenges posed by the proposed Local Government (Wales) Measures and the timing of the proposed measures could almost be described a serendipitous.

The executive officers of all Town and Community Councils (Town Clerks) have never been better poised, trained and prepared to rise to the challenges that some of these measures (if adopted).

The training of Town and Community Council staff has been a direct result of many of the recommendations of the Aberystwyth Report ⁽¹⁾. Councillors are also being trained in a wide range of relative subjects which enable them to deal with the increasing demands placed on them as community representatives. The National Training Strategy which was introduced in September 2006, run by One Voice Wales (OVW) via their National Training Advisory Group (NTAG) is increasingly being seen as the base for further “education” within the sector.

(1) The Institute of Geography and Earth Sciences at the University of Wales, Aberystwyth undertook the survey, *A Research Study into the Role, Functions and Future Potential of Community and Town Councils on behalf of the Welsh Assembly Government in 2003*

Written Response

The consultation consists of a number of questions and it is intended to answer these in the order in which they were asked.

Is there a need for a proposed Measure to deliver the stated objectives of strengthening the structures and working of local government in Wales at all levels and ensuring that local councils reach out to and engage with all sectors of the communities they serve?

The SLCC believes that the Measure should address needs identified in a range of independent reports (e.g. Aberystwyth study, Councillors Commission Expert Panel for Wales report, Independent Remuneration Panel reports) and that it offers scope to improve considerably the overall operation, credibility and efficiency of local government.

The SLCC suggests that there is always a need for any reform or improvement where the intended outcomes are both positive and needed by the sector. Any measures that seek to increase the professionalisation of the sector and make those involved more accountable and able are generally welcomed.

How will the proposed Measure change what organisations do currently and what impact will any such changes have?

Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives?

Those sections relevant to the Town and Community Council sector (and by default the SLCC) have been answered on a question by question basis. All relevant (to the Town and Community Council) sections of the proposed Measure are seen as appropriate.

Those sections of the measure which are not relevant to our sector have not been responded to.

.....broaden and increase participation in local government by permitting steps which will help remove barriers and disincentives to standing for election to local councils (Parts 1 -2 of the proposed Measure);

In principle the SLCC sees each of these proposals as a positive move although they have no direct bearing on the Town and Community Council sector. The provision to -“Introduce a duty on principal councils to provide adequate training, developmental and appraisal systems for elected members” could be seen a very positive move and provision for third sector recognition, co-operation and structure should be part of that training. It is hoped that Town and Community Councillors would be encouraged to undertake training to be more effective community representatives now that the National Councillor Training scheme is up and running. Likewise Town Clerks and other staff should also be encouraged to undertake any relevant training provided by their professional bodies or external providers to enhance their skills and knowledge for the benefits of their councils.

Duty to conduct a survey

The SLCC broadly welcomes the proposal for principal authorities (as we understand the wording) to carry out a survey of election candidates. This is because; particularly regarding community councils, there is very little information available against which to judge the level of diversity amongst councillors. For relatively little cost this would provide a valuable benchmark to inform efforts to attract a wider range of councillors.

Remote attendance at meetings

Regarding enabling remote attendance at meetings, whilst the SLCC does not anticipate these elements of the Measure having immediate relevance to many town and community councils, it is sensible for these provisions to apply to both tiers of local authority for reasons of ‘future-proofing’. However it may be prudent to note that this change may require a change to primary legislation, LGA 1972 Sch 12 para 39(1) requires voting members to be present. Sch 12 para 13 (1) requires voting to be by show of hand unless otherwise provided for by Standing Orders

Annual reports by members of a local authority

The SLCC believes that the wording of this section indicates it is intended to apply to principal authorities (e.g. the wording refers to reports by members of executives) but would welcome confirmation of this. However, should Town and Community Councils wish to fulfil this criteria they should not be hindered from doing so in the interests of accountability and public information.

‘Timing of council meetings’ and ‘Training and development’ (sections 6 & 7)

Again – The SLCC believes the focus here is on principal authorities but would welcome confirmation.

Statutory status of Head of Democratic Services

Since this function also interacts closely with community councils regarding elections, the SLCC welcomes the new statutory status but would suggest that the electoral functions carried out on behalf of community councils should also be included. Furthermore we believe it may be appropriate for community councils, through One Voice Wales, or by direct invitation by the principal authority to nominate a representative onto the proposed Democratic Services Committee.

Family absence for members of local authorities

The SLCC supports this Part of the Measure in the interests of not disadvantaging members that have good reason not to attend meetings (e.g. maternity leave).

(ii) enable the review and improvement of the governance structures introduced through the Local Government Act 2000 so that they better suit the circumstances of local government in Wales (Parts 3 -4);

The SLCC has no particular view on the proposed changes to governance structures of principal authorities.

(iii) enhance the role of non-executive (“backbench”) local authority councillors in the scrutiny of local services (Parts 5 - 6);

The SLCC supports the proposals to enhance and clarify the scrutiny process in local government. Furthermore, we believe there is greater scope for principal authorities to co-opt community councillors or officers onto scrutiny committees as a means of capturing ‘grass roots’ experiences.

(iv) develop and strengthen the role of community councils in Wales, including enabling them to deliver a wider range of services and actions locally as well as to increase the effectiveness of their representational role and their ability to work in partnership with other bodies (Part 7);

The SLCC is wholly supportive of Part 7 of the Measure, recognising that it offers scope to strengthen considerably the role of community and town councils whilst also increasing the accountability of councils to their electorates. In our view there is an appropriate balance between these two outcomes. In view of the relevance of Part 7 to the sector served by the SLCC, a greater focus is given in our response to this Part than other Parts of the Measure. Comments on the individual sections of Part 7 are as follows:

Chapter 1 – Community meetings and community polls (Sections 91 – 102)

Section 91 - Convening of community meetings by local government electors

The SLCC supports raising the threshold required to call a community meeting from 6 electors to 10% of the electorate or 50 electors (whichever is the lesser) in order to avoid vexatious actions by a very small number of electors. However it must be asked whether 50 is too low a number in some larger council areas?

Section 92 – Notice of community meeting convened by local government electors

This is supported

Section 93 – Facility for the provision of electronic notices of the convening of community meetings

Supported.

Section 94 – Action following receipt of notice of a community meeting

Supported.

Section 95 – Public notice of community meeting

Supported.

Section 96 – Demands for community polls

This section is supported as it will remove the scope for vexatious calls for community polls, and the consequent cost of holding a poll falling on the community council. Such polls can cost several thousands of pounds and the only way a council could re-coup this cost would be through raising the precept on the community. This section ensures that 10% or 150 electors (whichever is the lesser) would need to demand a poll in order for the community to bear the cost of holding the poll. This is more proportionate than the current arrangements whereby only 10 electors can be sufficient to trigger a poll. However, it must be asked that as this number is 100 more than the proposed number in section 92 (above) -is there a case for consistency?

Section 97- Notice to be given by returning officer following taking of a poll consequent on a community meeting

Supported. The SLCC would wish to be consulted on the regulations relating to the appropriateness of poll questions but in principle supports the approach that polls should be

related to the powers and duties of community and/or principal councils. Again, this avoids costs being borne by community councils for polls on which they have no capacity to act.

Section 98 - Determination of monitoring officer as to the council to whose functions a poll relates
Supported with reservations. Whilst we accept it is the role of the principal authority's monitoring officer to express his or her view on the whether the poll question relates to either or both the community and principal councils, we believe that in the instance of a community calling for a poll in relation to principal authority function, the community should have the right of appeal to Welsh Ministers if it disagrees with the monitoring officer's view. This would provide a fail-safe to avoid the principal authority, through its monitoring officer, being able to frustrate the poll process (possibly on a technicality) where a community has expressed a clear view on, for example, the failure of a principal authority to provide a statutory function within that community.

Section 99 – Consideration of result of community poll by community council
Supported.

Section 100 – Action to be taken following community council's consideration of results of certain community polls

Whilst we support the underlying principle of informing those who convened the community meeting that led to the poll, we believe it should not be necessary to write to each of the (up to) 50 individuals that might be involved. This could be quite onerous for smaller councils. Instead, we feel that posting a notice in some conspicuous place within the community (as per the requirements for posting meeting notices etc.) would be preferable as it would also communicate to all electors what actions the council intends to take in response to the poll.

Section 101 – Consideration of result of community poll by principal council

Supported with reservations. We believe that where a clear course of action has been determined through the wording of the poll question, it should not be open to a principal authority to initiate a consultation exercise, hold an open meeting or carry out research on what action the council should take in response to the community poll. At best this is likely to be wasteful of public funds and at worst could be used to undermine a democratically held poll or be used as a delaying tactic. The wording of the Section 101 should be amended to prevent such a possibility.

Section 102 – Principal council's explanation of its response to a community poll

Supported. We believe it would also be helpful for the principal authority to post a notice in some conspicuous place in the community (e.g. village notice board, post office or library) setting out the action(s) taken consequent to the poll.

Chapter 2 – Organisation of Communities and their Councils

Section 103 – Repeal of existing provisions about establishment and dissolution of community councils etc.

Supported.

Section 104 – Power of community meeting to apply for an order establishing a community council
Supported. The section gives effect to the recommendation of the independent Aberystwyth study, adopted by the Assembly Government, that it should be easier to form a community council where one does not already exist. The Explanatory Memorandum may be slightly misleading in suggesting that it is the community meeting that votes to establish a community council whereas our understanding of the Proposed Measure as drafted is that the community meeting votes on whether or not to hold a poll to establish a council.

Section 105 – Orders establishing separate community councils for communities

We believe there is a typographical error in the wording of this section, i.e. that the last line of paragraph (5) should read “by the order, or by an order under section 27J or 27L below.”

Section 106 – Power of community meeting to apply for an order dissolving its separate community council

Supported. The SLCC agrees with the view held by One Voice Wales and would ideally wish to see the power to dissolve a community council in this way completely removed from statute, being the only form of public body (as far as we are aware), that is subject to such a power. However, we recognise the change to the requirement for a two thirds majority to be a significant step in the right direction.

Section 107 – Orders dissolving separate community councils for communities

Supported.

Section 108 – Power of community meeting to apply for an order grouping its community with other communities under a common community council

Supported.

Section 109 – Orders grouping a community with other communities under a common community council

Supported.

Section 110 – Power of community meeting to apply for an order adding its community to a group of communities with a common council

Supported.

Section 111 – Orders adding a community to a group of communities with a common council

Supported.

Section 112 – Power of council for a group of communities to apply for an order dissolving the group
Supported – but subject to the same caveat mentioned in relation to section 106.

Section 113 – Orders dissolving a group of communities

Supported.

Section 114 – Power of community meeting to apply for order separating community from a group of communities

Supported.

Section 115 – Orders separating a community from a group of communities

Supported.

Section 116 – Power of Welsh Ministers to alter voting threshold in connection with organisation of community councils

Supported. The SLCC agrees with One Voice Wales, we believe it is in the interests of sensible local government for Welsh Ministers to have this power and thus avoid recourse to primary legislation to vary such thresholds. One Voice Wales would expect to be consulted on any changes to thresholds.

Section 117 – Organisation of communities and their councils: consequential amendments
Supported.

Section 118 – Transitional provision
Supported.

Chapter 3- Co-option of members of community councils

Section 119 – Requirement of public notice where vacancies in community council membership are to be filled by co-option

Supported. The SLCC is in favour of the greater transparency that this would bring to the co-option process. We would, however, wish to be consulted on any regulations made by the Welsh Ministers under paragraph (5)(c).

Section 120 – Guidance about giving public notice of co-option
Supported – subject to the consultation mentioned above.

Chapter 4- Appointment of Community youth representatives

Section 121 – Appointment of community youth representatives by community councils
Supported. Whilst the age range given for a youth representative (16 to 26) overlaps with the eligible age at which an individual can become a councillor (18), it is recognised that some young people over the age of 18 may prefer to act as a youth representative rather than become a full councillor.

Section 122 – Notice requirements in connection with youth representative appointments
Supported.

Section 123 – Guidance about appointment of community youth representatives
Supported. The SLCC would wish to be consulted on any guidance.

Section 124 – Effect of appointment as a community youth representative
Supported. The SLCC would wish to be consulted on any guidance.

The SLCC fully agrees that the statement –

“Councillors are central to the health and quality of local democracy and the delivery of local services. Most councillors strive to represent their communities to the best of their ability but it is important to have locally elected representatives who can understand the needs of all members of the local community when they take decisions about how local services should be run. Councils and councillors are more effective when they are representative of the communities they serve.”

The SLCC would suggest that this statement is inclusive of Town and Community Councillors as well as unitary members. The statement does not make this clear. Again confirmation on this point would be welcomed.

..... enable the review and improvement of the governance structures introduced through the Local Government Act 2000 so that they better suit the circumstances of local government in Wales (Parts 3 -4);

It is not felt that the SLCC can make any relevant comments on this section but thank the committee for the opportunity to respond.

...enhance the role of non-executive (“backbench”) local authority councillors in the scrutiny of local services (Parts 5 - 6);

It is not felt that the SLCC can make any relevant comments on this section but thank the committee for the opportunity to respond.

...develop and strengthen the role of community councils in Wales, including enabling them to deliver a wider range of services and actions locally as well as to increase the effectiveness of their representational role and their ability to work in partnership with other bodies (Part 7);

The SLCC feels that this is already being realised.

The training of Town and Community Council staff has been a direct result of many of the recommendations of the Aberystwyth Report. Councillors are also being trained in a wide range of relative subjects which enable them to deal with the increasing demands placed on them as community representatives. The National Training Strategy run by One Voice Wales (OVW) and fully supported by the SLCC, is increasingly being seen as the base for further “education” within the sector.

The provisions in Part 7 of the proposed Measure flow from the study commissioned by the Assembly Government and undertaken in 2003 by the University of Wales, Aberystwyth: Institute of Geography and Earth Sciences into community councils in Wales, ‘Research Study into the Role, Functions and Future Potential of Community and Town Councils in Wales’ (“the Aberystwyth Report”).

The Aberystwyth Report presented a comprehensive review of the activities undertaken by community councils across Wales. The report concluded that there were growing pressures for reform to the structure and working practices of community councils. The report noted that some community councils found themselves limited and frustrated by a combination of legislative, financial and administrative constraints.

The SLCC feels that can be mitigated by better and more comprehensive training of both officers and members.

Concerns were also expressed in the report about the inclusiveness of some councils, the low level of contested elections, the procedures for consulting and communicating with local people and the training and expertise of clerks and community councillors.

The SLCC provides a comprehensive training package for its members.

The Aberystwyth Report identified that there was much good practice among community councils with respect to all these areas of concerns, but the pattern of practice across Wales was variable. The report set out a number of proposals for enhancing the role of community councils, should a council wish to take on additional responsibilities. The report also concluded that the existing procedures for establishing a community council were too restrictive and those for dissolving a community council were too lax.

The SLCC notes that these issues have been addressed in the proposed measures.

The Assembly Government published its formal response to the Aberystwyth Report in 2004 and gave a commitment to address issues identified in the review. Many of the provisions in this Part of the proposed Measure are derived from the commitments given by the Assembly Government in its response to the Aberystwyth Report.

The SLCC notes that more than 50% of the recommendations in the Aberystwyth Report have been realised and that the proposed measures go a considerable way to addressing the remainder.

The Assembly Government made a commitment to help develop a new policy framework for community councils which would promote:

- *Working in partnership with other levels of government, with other public sector bodies and with other organisations to further the wellbeing of their areas;*

The SLCC would welcome this initiative- but only where the partnership is agreed by both parties. To make this mandatory would be a regrettable step. Many smaller Town and Community Councils would struggle both from a staffing and a financial aspect if this was made mandatory.

- *Consulting and engaging with local people to ensure that the type and quality of services and actions proposed reflect local needs;*

Within the constraints above the SLCC feels that this already happens.

- *Ensuring that those services and actions are delivered effectively;*

Within the constraints above the SLCC feels that this already happens.

- *Reviewing the procedures by which community councils can be established or abolished to make sure that the procedures are transparent and fully representative;*
- *Encouraging community groups and other local organisations to work for the benefit of their areas;*
- *Improving local representation by encouraging people to vote and stand for election.*

The Assembly Government has brought forward the provisions contained in Part 7 of the proposed Measure with a view to achieving the long-term policy aspirations set out above. The proposals are summarised in paragraph 3.4(d) above, in the section headed Proposals for the Proposed Local Government Measure.

- *Make it simpler to set up a community or town council and to set a higher threshold for a community decision to dissolve an existing one.*
- *Require vacancies to be filled by co-option to be widely advertised locally.*
- *Provide a power to enable community councils to appoint non-voting youth representatives.*

The SLCC supports this recommendation.

- *Require unitary authorities to review their community areas every 10-15 years and report to the Local Government Boundary Commission for Wales (LGBCW).*

See next answer

- *Enable unitary authorities to request the LGBCW to conduct these reviews on their behalf and for the LGBCW to be able to charge unitary authorities accordingly.*

Supported with reservations. This should ensure community boundaries are reviewed sufficiently often such that they reflect medium to long term changes in settlement patterns. However, One Voice Wales believes that reviews of community boundaries would be best undertaken by the Local Government Boundary Commission for Wales rather than the principal authority for the area since this would ensure a greater degree of independence and no scope for undue political influence by the principal authority.

- *Provide a reserve power for Welsh Ministers to introduce mandatory charters between county/county borough councils and community councils.*

The SLCC supports fully the inclusion of this chapter within the Measure as it sends a very important message to both tiers of local government regarding the importance of collaboration. BUT-To make this mandatory would be a regrettable step. Some smaller Town and Community Councils would struggle both from a staffing and a financial aspect if this was made compulsory. We feel that encouragement and dissemination of best practice will show those not keen to embrace this ethos that it is sometimes not as onerous a task as many think it is.

We recognise that good progress is being made on a voluntary basis in different parts of Wales and it is hoped that the mere existence of the power will encourage the further development of charters. In our experience, those areas that already have charters in place tend to have better working relationships which support a 'team-based' approach to meeting citizens' needs.

· Provide a reserve power for Welsh Ministers to establish an accreditation scheme for community councils in Wales.

This is a matter that initially seems simple- but having watched the English "Quality Council" scheme in operation it may need a bit of thinking applied before inception.

In essence the suggestion is supported. The SLCC can see potential benefits from introducing an accreditation scheme for community councils but we would wish to be closely involved in setting the parameters for such a scheme. This would be with a view to ensuring that the construction of the criteria is carefully thought through to ensure maximum benefit for citizens, communities and the councils concerned. We also believe that the SLCC and One Voice Wales may have an important roles to play in the designing and operation of the scheme.

· Extend the power of well-being to community councils.

The question must be asked- "What if central govt then give power of general competence to local councils in England, would this not be a better case to argue for now in Wales?"

The SLCC supports fully the extension of the Power of Wellbeing to the sector. This will enable councils to work in more creative ways in order to enhance the economic, social and environmental well-being of their communities. It will be particularly pertinent to supporting the development and delivery of the new community planning process (in which Town and Community councils are now statutory partners). It also provides a mechanism for promoting at the level of individual communities throughout Wales the Assembly's commitment to sustainable development as a central organising principle. In addition it will send a very positive message to potential councillors about the opportunities to improve their community through becoming a councillor.

· Enable the Assembly Government to provide direct grant funding to community councils for particular purposes.

This is in essence a good idea- but needs clarification before any further discussion takes place as the SLCC think that this power will complement other developments under the Measure and allow for the targeted support of particular initiatives. The SLCC does not have an expectation that this will lead to fundamental change in the funding of the sector and sees the accountability of councils to their communities through the precept as an important strength of community councils.

Reform the system for setting allowances for councillors (Part 8);

The proposed provisions will enable the Independent Remuneration Panel for Wales (the "IRP"):

- to alter the types of allowances and the terminology describing the allowances (i.e. what allowances are called).*
- to define the duties and responsibilities which may qualify members to receive allowances.*
- to determine the actual levels of allowances which principal councils must pay to their members, instead of setting maximum levels, if the IRP so desires.*
- to determine allowances for members of community councils, National Park authorities and fire and rescue authorities in addition to county and county borough councils.*

- *The IRP will be placed under a duty to have regard to the impact its decisions may have on the finances of the authorities concerned.*
- *to monitor the implementation and management of the payments made by the authorities affected by its decisions.*
- *to set any index to which any changes to allowances should be linked.*
- *to set different levels of allowances for different authorities.*
- *to determine the publicity arrangements which apply to authorities in relation to remuneration received by their members.*
- *to determine which members of eligible authorities shall be enabled to join the Local Government Pension Scheme.*

The SLCC feels that to allow members of Town and Community Councils to join the LGPS would be a retrograde step and very difficult to administer on a council by council basis. It also feels that the level of membership would dilute the overall effectiveness of the scheme and add an unnecessary level of bureaucracy.

- *to issue guidance to local authorities in relation to any of the IRP's functions.*

The SLCC feels that a nationally agreed rate should be set so that levels of payments to members of Town and Community councils are seen as being equal all over Wales. Those "agreed" levels can then be adopted for individual council use as needed.

The SLCC supports the proposed functions of the Independent Remuneration Panel for Wales with regard to community councillor allowances. The current arrangements for allowances are unnecessarily inflexible and the indices against which allowances have been set have been obsolete for a number of years. It is understood that the powers under this part of the Measure will also enable the outstanding agreed recommendations from the Aberystwyth study regarding allowances to be implemented. We welcome the inclusion in the Measure of the scope for Members to forgo payment of allowances since we know many community councillors will wish to continue not to receive any allowance. However, the principle of councillors being able to be reimbursed, at least in part, for legitimate expenditure is in our view an important component in the drive to encourage a more diverse range of councillors to stand for election. It should also be borne in mind that, since community councils are in the main funded entirely through the local precept added to the council tax, each council will be directly accountable to its local electorate for any allowances paid.

It is felt that Town and Community Councils can "adopt" those areas of the measure and incorporate them within their individual standing orders or financial regulations.

In addition, Welsh Ministers

- *will be given a power to direct that a local authority should withhold allowances from a member or members as described in the direction.*

Such direction could not be issued without first consulting the IRP.

- *will also have a power to direct the IRP to reconsider any report produced by it, but Welsh Ministers would need to explain why. The IRP may decline to change its proposals/decisions, but would be required to provide their reasons for so doing. The Welsh Ministers could not overrule the IRP.*

(vi) allow the Welsh Ministers to issue statutory guidance on collaboration between local authorities, and between them and other bodies (Part 9).

It is not thought that this measure is directed at the Town and Community Council sector- However, anecdotal evidence would indicate that some unitary authorities have been reticent to

openly embrace the concept of collaborative or Charter working. It is felt that this is seen by some as a sign of weakness and potential loss of control.

However, without exception, those authorities who have taken the step and evoked the charter ethos have been surprised how effective this shared working (and cost) has been.

What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?

What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.
The SLCC does not think that there are any major financial implications in the introduction of the measure if managed within the spirit of the consultation

The Welsh Assembly Government makes the following comments regarding the potential outcomes on each section.

Communities and community councils (Part 7)

Option 1 - Do nothing

Doing nothing would generate no tangible costs, but would mean that many of the circumstances set out in the Aberystwyth Report in 2003 and considered to be detrimental to good governance at the local level would persist. The role of community councils would not be developed or strengthened; their ability to deliver a wider range of services and actions locally would be inhibited.

8.49 Retaining the existing arrangements would mean community councils remain vulnerable to campaigns for their dissolution from well-organised groups of local residents. Conversely, the existing thresholds for establishing a community council where none exists are considered to be unnecessarily high and a barrier to the establishment of councils in those areas. No new community councils have been set up in the last five years, leaving some 115 community areas without a council.

8.50 The thresholds for staging a community meeting and then triggering a community poll are relatively low. This can lead to an unrepresentative group of well-organised local people triggering a poll of voters on an issue which may not generate widespread interest – with all the expense which a poll entails. Where a poll has been staged and the proposition approved, the current legislation does not require a principal council to respond in any way to the poll even if the council itself is responsible for the issue which was the subject of the poll.

8.51 The Assembly Government does not keep records of co-option figures in the 735 community councils across Wales, but the Aberystwyth Report commented upon the perception of community councils being “closed-shops”, which can promote a suspicion which can undermine a council’s standing locally. Doing nothing would retain the potential for some community councils to avoid making efforts to find candidates for a by-election and instead make use of co-option procedures to recruit new council members who were friends or from the same limited social background and networks as the existing councillors. Community councils need not feel under any obligation to try to broaden participation or engage with under-represented groups such as young people.

8.52 Doing nothing would mean that the perceived gap in the existing legislation which enables principal councils to avoid their existing duty to review their community areas would continue. Eight councils in Wales have sought a direction from Welsh Ministers for the LGBCW to do their community reviews. The legislation places responsibility for the reviews on principal councils, but omits to include a timeframe for undertaking the reviews. When councils fail to carry out reviews the LGBCW has had to step in, but may do so only after being directed by Welsh Ministers. In this circumstance the cost of the review falls on the LGBCW (which ranges from £8,000 to £25,000 per review – see Option 3 below) as there is no power to charge the principal council concerned.

8.53 The Assembly Government considers that charters should continue to develop on a voluntary basis between principal councils with their community councils. There is, however, no power currently available to the Assembly Government to require reluctant councils to come together, address the issues and agree a charter for the benefit of their areas.

8.54 The Assembly Government believes that the proposed national accreditation scheme is needed to provide assurance to principal councils and electors as to the capability of community councils both in the community planning context and the delegation of services.

8.55 Not extending the power of well-being to community councils would inhibit the ability of community councils to respond to the Assembly Government's aim of strengthening the role of community councils, including enabling them to deliver a wider range of services and actions locally. Another constraint is the existing legislation which prevents the Assembly Government from providing direct grant funding to community councils for any purpose.

Option 2 – Minimal changes

There is only limited scope to use existing powers available to Welsh Ministers, guidance or the dissemination of good practice to address the issues identified for action in this Part of the proposed Measure.

The procedures for dissolving and establishing a community council are set down in legislation (the 1972 Act), as are the thresholds for convening community meetings and staging community polls. The policy aims (more difficult to abolish community councils; easier to establish them) can only be achieved by amending the existing primary legislation.

The same applies with several of the other policy aims covered by this Part. The legislative gap concerning community reviews and the LGBCW cannot be addressed other than by primary legislation. The Assembly Government encourages community councils to increase the effectiveness of their representational role and their ability to work in partnership with other bodies. This aspiration is constrained by the lack of clarity about the extent of community councils' powers and their not being able to access direct grant funding for specific purposes from the Assembly Government.

Community councils could be guided as to advertising vacancies to be filled by co-option and to engage with young people in their area, but there would be no obligation on them to follow such guidance and guidance by itself would be unlikely to bring about substantial change in the short to medium term.

The Assembly Government believes that charters should be developed, in the first instance, on a voluntary basis. The Welsh Ministers wish to have a reserve power to require the adoption of charters in the kind of circumstances described above in paragraph 8.53 but are hopeful (on the basis of evidence of collaboration so far) that exercise of the power will not be necessary.

Welsh Ministers do not envisage that the proposed national accreditation scheme would be mandatory but believe a reserve power is needed to allow them to give the scheme statutory backing should it be found that this would be beneficial.

Option 3 – Introduce an Assembly Measure– SLCC Preferred option

The proposed Measure will enable Welsh Ministers to achieve their policy objectives with regard to community councils.

The combined effect of the provisions in this Part of the proposed Measure will be to develop and strengthen the role of community councils in Wales, including enabling them to deliver a wider range of services and actions locally as well as to increase the effectiveness of their representational role and their ability to work in partnership with other bodies.

Costs and benefits

The changes to the rules for community meetings, community polls and the dissolution and establishment of community councils are all designed to ensure that the expression of local views is as representative as possible. The proposed changes amend the various thresholds needed to trigger certain follow-up action. The processes for dissolving and establishing community councils are in place already, as are the procedures for community meetings and polls, and these will remain essentially the same. There will be no new or additional costs arising from the changes.

Lowering thresholds for establishing community councils may encourage more campaigns for their establishment in those areas where they do not exist, but the cost of establishing and maintaining a community council would be a key issue for local people to consider, since the cost would fall to them by way of the local precept. Raising the threshold for dissolving a community council has no cost implications.

The changes to rules for community meetings and triggering community polls are likely to make such meetings and polls less likely, but these are such comparatively rare events that any cost savings (the hire of a venue, the cost of notices) are negligible. The duty placed on the principal council to respond to a community poll has no necessary costs; the duty extends, in the first instance, no further than requiring a response and then only if the principal council is responsible for the issue concerned. The provisions requiring the advertising of vacancies to be filled by cooption will entail potential additional costs to community councils as they will be required to give public notice of vacancies and to invite expressions of interest. The cost would be about £5 per notice.

The provisions about community reviews and the LGBCW will involve no additional costs if a principal council has been carrying out its existing duty and undertaken the community review at regular intervals. In this circumstance, the cost is already being met by the council (and provision is made for this in the local government revenue settlement provided by the Assembly Government). If a council has been avoiding its legal duty and has relied on the LGBCW to undertake the review, doing that in future would mean that the council will be faced with reimbursing the costs incurred by the LGBCW. The cost of a review ranges from about £8,000 to £25,000 depending on the size of authority, the number of communities and the complexity of issues presented. There would be an equivalent saving to the LGBCW since it could now be reimbursed for costs incurred.

There are no costs associated with the “reserve” powers in respect of charters and a national accreditation scheme. The administrative cost of developing charters currently is negligible as they generally develop as part of the regular interaction between a principal council and its community councils. It may well not prove necessary to exercise the “reserve” powers if councils continue the encouraging trends in working together and the Assembly Government and partners are successful in developing a voluntary accreditation scheme. If it is considered that either “reserve” power needs to be used, the costs would be assessed in light of the circumstances at the time. No additional costs are envisaged from the provisions for the appointment of youth representatives, extending the power of well-being or enabling direct grant funding of community councils. These are enabling powers and there are no costs associated with the powers themselves. It will be for community councils themselves to weigh up whether there were any cost implications if they decide to appoint youth representatives or use the power of well-being. The Assembly Government would need to assess the cost implications if it were considering proposals for direct grant funding for specific purposes.

Members’ payments and pensions (Councillor Allowances) (Part 8)

Option 1 – Do Nothing

This option would mean leaving the existing structure for determining the remuneration of councillors as it is. The administrative cost of supporting the IRP with its current restricted remit is £30,000 per annum, funding which is provided by the Assembly Government (see Option 3 below). Responsibility would continue to be fragmented between the IRP, the Welsh Ministers and councils themselves. The fragmentation inhibits the development of consistent and informed policy-making in relation to the range of issues for all the different types of authority affected. Responsibility for decisions is not always clear and the councils themselves are left to vote annually on their schemes of allowances, a situation the vast majority would prefer not to have responsibility for.

The current system of remuneration for councillors, covering allowances of various types, pensions and other payments, has not kept pace with the many developments in recent years in local government, especially in terms of the leadership, governance, scrutiny and regulatory duties incumbent upon a councillor.

The Assembly Government considers that the remuneration system needs to be kept under regular review to ensure that councillors receive appropriate recompense for the responsibilities they carry.

The Assembly Government considers that the IRP would be the appropriate body to take on these responsibilities. That view has also been expressed by local authorities, the WLGA and the IRP itself, but the existing legislation restricts what the IRP can do.

Option 2 – Minimal changes

An alternative option might involve enabling the IRP, via regulations made by the Welsh Ministers, to make recommendations to councils about certain allowances whilst giving the Welsh Ministers the responsibility for setting other allowances. Further, the Welsh Ministers could make regulations which make provision for a council to establish and maintain a panel which has functions specified in the regulations in relation to allowances and pensions. Such arrangements would exacerbate the fragmentation of responsibility for the remuneration system and further inhibit the ability to develop consistent and informed policy- and decision-making across the range of remuneration issues.

Option 3 – Introduce a Measure – SLCC Preferred option

Responsibility would be vested in a single body, the IRP, which is already in existence and has built up expertise and experience in the issues concerned. The IRP is independent of Welsh Ministers and local government, and extending its remit would enable decisions on remuneration to be taken in a detached and informed way. A single body would be able to consider all the issues consistently and, if they so wished, undertake a comprehensive review of the remuneration system across local government in Wales.

It would also be appropriate for the IRP to have its responsibility extended to include setting allowances etc. for members of community councils, National Park authorities and fire and rescue authorities in Wales.

Most of these organisations have expressed a desire to have the powers of the IRP extended to cover their areas.

Costs and benefits

The provisions in this Part of the proposed Measure would not in themselves lead to any increase in the remuneration paid to councillors. The remuneration of councillors currently accounts for about 0.5% of a principal council's budget. There is no reason why the proposed changes should alter that proportion. The proposed Measure introduces a new requirement on the IRP, which, in taking its decisions, will be required to take into account the financial implications of their decisions for the council in question. The changes also rationalise the process by which decisions are taken on remuneration and make it more transparent.

The IRP is already in existence so there will be no new set-up costs; the IRP's administrative costs may increase in line with its extended remit. Its current budget is £30,000 per annum (provided from the budget of the Social Justice and Local Government department of the Assembly Government). These may have to rise to about £50,000 per annum, to be provided from the same budget as at present. No other costs are foreseen as a result of the provisions in this part of the proposed Measure.

Are there any other comments you wish to make about specific sections of the proposed Measure?

Whilst the matter is not addressed by the proposed measure the following matter needs urgent review and if WAG could bring pressure to bear on the appropriate bodies it would be seen as a most positive move. Many of the proposed measures will involve the payment of bills for various actions. The issue outlined below needs attention to allow many of the proposed measures to succeed.

Recently it has become clear that cheques are becoming a cumbersome and in some cases an expensive way (some invoices settled by cheque carry a premium for this facility) for Town and Community councils to settle their accounts.

Other methods of payment used by some Town and Community Councils utilise an account which issue a card for facilitating the payment and no physical signing of anything to do with that specific payment is needed.

Internet banking is utilised by some account holders but again no physical signing of any forms or other paper is needed.

The issue is whether section 150(5) of the Local Government Act 1972 can be interpreted so as to permit local councils to use facilities such as telephone or internet banking.

Section 150(5) provides:

“Every cheque or other order for the payment of money by a parish or community council shall be signed by two members of the council”.

Traditionally the words “cheque or other order for the payment of money” has been understood to mean cheques and other similar instruments and at the time of the 1972 Act this was still the only method of payment available to most local councils.

As is highlighted in recent communications the position has moved on and it is the case now that internet and telephone banking is being increasingly seen as offering efficiencies and advantages above traditional banking methods.

The words “other order for the payment of money” is not defined in the 1972 Act. It has an accepted meaning and possibly an evolving meaning. The purpose of the section is that the instrument that authorises payment is properly authorised by the signature of two members of the Council. It seems to me that this can be properly achieved by setting up a system under which the members sign a document which authorises an internet or telephone transaction. It would preferable to see a properly drafted proforma being used rather than the invoice being signed as it is thought it should be explicit that the signatories are signing an order for payment.

I am not sure how the Welsh Assembly Government (WAG) would go about tackling the issue of S150(5) of the LGA 1972 as this is primary legislation except that they may be able to regulate to define the meaning of "other orders for payment" in the absence (and in advance) of any interpretation by the Courts. The Audit Commission are privately sympathetic with the situation local councils in both England and Wales now find themselves in i.e. *“trying to use restrictive primary legislation drafted in the 1930's when cheques were basically the only non cash financial instruments available to local authorities to pay bills AND COULD BE PHYSICALLY SIGNED BY TWO*

MEMBERS in an age when electronic payments and internet transactions, authorised by pin numbers, pass words and credit cards, are now the norm.

This requirement (signing by two members) was limited to parish, town and community councils whilst principal authorities were free to delegate the responsibility to designated officers. Is it not about time that Town and Community Councils were granted the same privileges?" *

There was a Community Empowerment, Housing and Regeneration Bill due to be introduced into Parliament during 2008/2009 which could have provided an ideal vehicle for the repeal of S150(5). This matter fell by the wayside . There is a hope however that this may be picked up in the Localism Bill this Autumn.

Any chance that WAG officials could, using the appropriate channels, seek the repeal and substitution of "Regulations to be made by the Secretaries of State for England and Wales"? It might be an idea worth suggesting and one which, I believe, would have the support of the Audit Commission as well as NALC and SLCC.

The view of the Audit Commission is that ***"this issue seems to be gaining some momentum for change now, it is probably timely for me to reiterate the Audit Commission's established position. The Commission's support for a review of the law in this area is a matter of record and we would welcome the opportunity to respond to any formal consultation by CLG".****

They do, however, wish to stress that ***"in supporting the legitimising of access to modern banking methods by local councils, and do not see this as a one way street and would not wish to see any dilution of the current level of control required in respect of an individual's access to a council's funds. This means that the internal control and capacity issues raised by any relaxation proposals would have to be adequately addressed". ****

It is hoped, that after years of trying to make the case in England, that WAG will achieve what CLG has not yet addressed the realisation that paper based cheques are on the way out and internet banking and electronic payments are the most efficient and cost effective way to conduct local councils financial affairs. If that means giving delegated authority to Clerks/RFO's to operate internet accounts and purchase goods on line just like principal authority officers then so be it.

NOTES: It would bode well for the whole sector if WALES could be seen to "sort this out". It is NOT an insurmountable problem and can only benefit the ever increasing importance that the sector is occupying.

The SLCC would agree with the following statement made by One Voice Wales and would agree with the suggested action to remediate:

There are a number of instances where the text of the Measure refers to local authorities but does not clarify whether this refers to both principal authorities and Town and Community councils. We believe this requires clarification, e.g. the wording of the section on production of annual reports by councillors reads as though it is referring to principal authorities but since it mentions 'local authorities' could be interpreted as referring to both tiers. This reinforces a comment made by One Voice Wales at the time the LCO was being considered, i.e. that there is a need at some point to review the terminology used to describe local government in Wales. For example, the terms unitary authority, principal authority, local authority, county council, and county borough council are frequently used interchangeably, something which does not make it straightforward for citizens to understand local government structures.