

## Legislation Committee No 3

### Proposed Local Government (Wales) Measure

Response from Conwy County Borough Council



**Gwasanaethau Cyfreithiol a Democraidd / Legal & Democratic Services**  
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Ein Cyf / Our Ref: **ID/SW**

Eich Cyf / Your Ref:

Dyddiad / Date: **27 September 2010**

Dear Madam,

#### **Consultation – Local Government Measure**

The proposed Local Government (Wales) Measure was discussed at a meeting of this Council's Principal Overview and Scrutiny Committee on 13 September, 2010, and I have been asked to respond as follows:

**Q1. 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 Council supports the stated objectives of strengthening the structures and working of local government and the improved engagement with communities, but fears that several of the proposals in the proposed Measure will fail to achieve those objectives and may in fact be counter productive. In general terms it is considered that the level and scope of issues that the Assembly is reserving to itself to dictate or include in statutory guidance may well be a disincentive to better local government. Flexibility should be given so that the objectives can be achieved locally and fit with local needs, rather than being prescribed centrally. Detailed comments on the specific proposals are included in the tables below.

**Q2. How will the proposed Measure change what organisations do currently and what impact will any such changes have?**

Several of the proposals will add an additional level of complexity, prescription and cost that will have an adverse impact on what organisations do currently. Detailed comments are provided in the tables below. Some of the proposals will have a negative impact by removing from local democracy a level of autonomy to

make their own arrangements and decisions; the prime example of this is the proposal for a Welsh Minister to have power to issue statutory guidance (to which a local authority must have regard) in relation to the timing of meetings.

**Q3. Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives?**

- (i) **Broaden and increase participation in local government by permitting steps which will help remove barriers and disincentives to standing for election to local councils (Parts 1 – 2)**

<b>Part 1</b> Strengthening Local Democracy	
<p><b>Chapter 1</b> <b>Promoting and Supporting Membership of Local Authorities</b></p> <p><i>Survey of councillors and unsuccessful candidates for elections as councillors</i></p> <ol style="list-style-type: none"> <li>1. Duty to conduct a survey</li> <li>2. Completion of a survey and publication of information</li> <li>3. Guidance about surveys</li> </ol> <p>4. Remote attendance at meetings</p> <p>5. Annual reports by members of a local authority</p>	<p>(1 – 3) If the intention is to understand why people don't stand for election then the surveying of candidates would not achieve the answers being sought by WAG; the survey would be of people (candidates) who stood for election and would tell WAG little, if anything about why other people did not stand. If the questions are to be prescribed by WAG and the results have to be sent to WAG then it would make sense for Councils to provide names and addresses of candidates in order for WAG to undertake its own survey.</p> <p>(4) Remote attendance at meetings would be costly and likely to be well above the WAG estimated cost of £2000 per authority. The cost of installing new IT infrastructure would be huge and at a time when Council's are being requested to find savings. What happens if there is a breakdown in communication in the middle of a meeting?</p> <p>(5) In general, the Council is in favour of this proposal, mainly because a number of Councillors already provide updates in some form or another to their electorate, e.g. Newsletters, Community</p>

<p>6. Timing of Council meetings</p> <p>7. Training and development of members of a local authority</p>	<p>News article. However, the production of annual reports should be something that is encouraged but not enforced by WAG; it should be a decision for each individual Council.</p> <p>(6) This Council is already flexible with the timing of meetings, partly because of the requirements of the Members' Charter, and this should not be dictated by WAG.</p> <p>(7) Already done as part of the Members' Charter but this Council would be pleased to receive additional funding from WAG to deliver further training.</p>
<p><b>Chapter 2</b></p> <p><b>Local Authority Democratic Services</b></p> <p>8. Head of Democratic Services</p> <p>9. Democratic Services functions</p> <p>10. Duty to adopt standing orders about management of staff</p> <p>11. Local authorities to appoint democratic services committees</p> <p>12. Membership</p> <p>13. Sub-Committees</p> <p>14. Proceedings, etc.</p> <p>15. Frequency of meetings</p> <p>16. Discharging functions</p> <p>17. Termination of membership on ceasing to be member of authority</p> <p>18. Reports and recommendations by Head of Democratic Services</p> <p>19. Reports and recommendations</p>	<p>(8 - 9) This is already the role of the Monitoring Officer. This Council is perturbed that, again, WAG are requesting that Council's find capacity in their restricted budgets; this time for an additional Head of Service. It is likely that there would be confusion with the role of the Monitoring Officer and in this Council would require an unnecessary restructuring of posts, as the Monitoring Officer is currently the Head of Legal <b>and</b> Democratic Services.</p> <p>(10 – 21) The creation of a Democratic Services Committee would be acceptable, if its role was widened, but as they stand the current recommendations would fetter the work of the Council. The Council has a similar Committee (its Constitution and Maladministration Committee) and limiting the role of this Committee solely to deal with the issues set out in section 9 would be a backward step for this Council.</p>

by Democratic Services Committee 20. Local authority functions not to be delegated 21. Head of Democratic Services to be a politically restricted post	
<b>Chapter 3</b>  <b>Interpretation</b>  22. Meaning of “member”	No comment
<b>Part 2</b> Family Absence for Members of Local Authorities	
23. Amendment of Local Government Act 1972 24. Right to family absence 25. Maternity absence 26. Newborn absence 27. Adopter’s absence 28. New adoption absence 29. Parental absence 30. Regulations: supplemental 31. Guidance 32. Interpretation of Part 2	(23 – 32) Agree in principle

- (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)**

<b>Part 3</b> Available Governance Arrangements	
<i>Mayor and council manager executive</i> 33. Abolition of mayor and council manager executive  <i>Alternative arrangements</i> 34. Authorities to replace alternative arrangements with executive arrangements 35. Consequential provision etc.	(33 – 35) Does not affect Conwy County Borough Council so no view is offered
<b>Part 4</b> Changes to Executive Arrangements	
<b>Chapter 1</b>  <b>Adopting a different form of executive</b>  <i>General provisions</i>	

<p>36. Power to adopt a different form of executive</p> <p>37. Proposals for adopting a different form of executive</p> <p>38. Contents of proposals</p> <p>39. Referendums</p> <p>40. Timetable for implementation of proposals: no referendum</p> <p>41. Timetable for implementation of proposals: referendum</p> <p>42. Publicity for proposals</p> <p>43. Implementing proposals</p> <p>44. Action if referendum rejects change</p> <p><i>Interpretation</i></p> <p>45. Changes of executive arrangements requiring approval in a referendum</p> <p>46. Interpretation</p>	<p>(36 – 46) No comment</p>
<p><b>Chapter 2</b></p> <p><b>Other variations of existing Executive Arrangements</b></p> <p>47. Power to vary the existing form of executive</p> <p>48. Proposals for varying the form of executive</p> <p>49. Contents of proposals</p> <p>50. Implementing proposals</p> <p><b>Chapter 3</b></p> <p><b>Supplementary</b></p> <p>51. Powers under which executive arrangements may be varied</p> <p>52. Forms of executive</p> <p>53. Consequential provision etc.</p>	<p>(47 – 53) No comment</p>

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

<p><b>Part 5</b> Local Authority Functions: Discharge by Committees and Councillors</p>	
<p><i>Area Committees</i></p> <p>54. Area covered and membership</p> <p><i>Exercise of functions by Councillors</i></p> <p>55. Exercise of functions by Councillors</p>	<p>(54) No comment</p> <p>(55 – 56) this proposal is supported as it brings decision making closer to the</p>

56. Consequential provision	community
<b>Part 6</b> Overview and Scrutiny	
<p><b>Chapter 1</b></p> <p><b>Overview and Scrutiny Committees</b></p> <p><i>Joint overview and scrutiny committees</i></p> <p>57. Joint overview and scrutiny committees</p> <p>58. Scrutinising designated persons</p> <p>59. Notifying designated persons of report or recommendations</p> <p>60. Designated persons</p> <p><i>Taking into account the views of the public</i></p> <p>61. Taking into account the views of the public</p> <p><i>Powers of councillors</i></p> <p>62. Reference of matters to overview and scrutiny committee etc</p> <p>63. Duty to respond to overview and scrutiny committee</p> <p>64. Provision consequential on sections 62 and 63</p> <p><i>Appointing persons to chair committees</i></p> <p>65. Provision in standing orders about appointment of persons to chair committees</p> <p>66. When appointments to be made by committee</p> <p>67. When appointments to be made by non-executive group</p> <p>68. How appointments to be made in other cases</p> <p>69. Appointments to be made by political groups</p> <p>70. Failure to make appointments in accordance with section 69</p> <p>71. Changes in composition of executive</p> <p>72. Occasional vacancies in committee chairs</p> <p>73. Appointment provision determined by authority</p> <p>74. Supplementary provision and interpretation</p> <p><i>Co-opted members of overview and scrutiny committees</i></p> <p>75. Committees: limit on number of co-opted members</p> <p>76. Sub-committees: limit on number of</p>	<p>(57 – 61) This proposal is supported, in principle. Joint Overview and Scrutiny Committees with neighbouring Councils would enable effective collaboration; especially in relation to joint projects.</p> <p>(62 -64) This Council has, in effect, introduced ‘Councillor Call for Action’ through its topic selection process. It is important that the process is managed properly. Supported in principle.</p> <p>(65 – 74) This appears to be an overly complicated set of provisions. Agree, in principle, but think it is important that the Opposition has a key role to play, regardless of the size of the group. For example, in Conwy County Borough Council the Leader of the Opposition is appointed as Chair of the Principal Overview and Scrutiny Committee, and we would offer our model as a suggestion for good practice.</p> <p>(75 – 79) The Code of Conduct, as it stands, is too onerous for co-optees and a simpler version should be applied</p>

<p>co-opted members  77. Voting by co-opted members  78. Sub-committees: political balance  79. Guidance and directions about co-option  <i>Provision of information</i>  80. Forward plans and other information</p> <p><i>Restricting party control of committees</i>  81. Prohibition of whipped votes &amp; declaration of party whips</p> <p><i>Overview and scrutiny committee structure</i>  82. Guidance and directions</p> <p><i>Interpretation</i>  83. Interpretation of this Chapter</p>	<p>to co-optees and Town and Community Councillors</p> <p>(80) This Council's Forward Work Plan encompasses the whole democratic process and is offered as an example of best practice. We would not want any guidance issued by WAG to restrict us from what we're doing now.</p> <p>(81) This would be impossible to regulate and should be removed from the Measure. Also, it appears incongruous that party 'whipping' is permitted in the Houses of Parliament and at the National Assembly, but should be prohibited at local level.</p> <p>(82) WAG should pay attention to the Council's Corporate Assessment Report and should only offer advice if there are any issues identified in such a report that warrant amendment to procedures.</p>
<p><b>Chapter 2</b></p> <p><b>Audit Committees</b></p> <p>84. Local authorities to appoint audit committees  85. Membership</p> <p>86. Proceedings etc</p>	<p>(85) The power to elect a lay member to the Audit Committee should be a decision for the Council; not a dictat from WAG. If the reason for appointing a lay member is to add an element of independence then we would question the role of our appointed external auditors.</p>

87. Frequency of meetings 88. Discharging functions 89. Termination of membership on ceasing to be member of authority 90. Interpretation etc	
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- (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)**

<b>Part 7</b> Communities and Community Councils	
<b>Chapter 1</b>  <b>Community Meetings and Community Polls</b>  91. Convening of community meetings by local government electors 92. Notice of community meeting convened by local government electors 93. Facility for the provision of electronic notices of the convening of community meetings 94. Action following receipt of notice of the convening of a community meeting 95. Public notice of community meeting 96. Demands for community polls 97. Notice to be given by returning officer following taking of a poll consequent on a community meeting 98. Determination of monitoring officer as to the council to whose functions a poll relates 99. Consideration of result of community poll by community council 100. Action to be taken following community council's consideration of results of certain community polls 101. Consideration of result of community poll by principal council 102. Principal council's explanation of its response to a community poll	(91 – 102) At present only 6 electors are required to call a community meeting. If the number rose to 50 electors it could cause difficulties for rural communities. This Council feels the present arrangements for 6 electors to call a community meeting should remain, but the number should be increased to request a community poll, to ensure that the Community Councils do not incur unnecessary costs. The principal council should only be obliged to provide facilities for electronic notices of community meetings if the issue is significant enough to warrant its involvement.
<b>Chapter 2</b>	



<p><b>Organisation of Communities and their Councils</b></p> <p>103. Repeal of existing provisions about establishment and dissolution of community councils etc</p> <p>104. Power of community meeting to apply for an order establishing a community council</p> <p>105. Orders establishing separate community councils for communities</p> <p>106. Power of community meeting to apply for an order dissolving its separate community council</p> <p>107. Orders dissolving separate community councils for communities</p> <p>108. Power of community meeting to apply for an order grouping its community with other communities under a common community council</p> <p>109. Orders grouping a community with other communities under a common community council</p> <p>110. Power of community meeting to apply for an order adding its community to a group of communities with a common council</p> <p>111. Orders adding a community to a group of communities with a common council</p> <p>112. Power of council for a group of communities to apply for an order dissolving the group</p> <p>113. Orders dissolving a group of communities</p> <p>114. Power of community meeting to apply for order separating community from a group of communities</p> <p>115. Orders separating a community from a group of communities</p> <p>116. Power of Welsh Ministers to alter voting threshold in connection with organisation of community councils</p> <p>117. Organisation of communities and their councils: consequential amendments</p> <p>118. Transitional provision</p>	<p>(103 – 118) Regarding the dissolution of Community Councils, the majority of members agree with the consultation proposal requiring two thirds of attendees voting for dissolution. However, a minority considered that a simple majority should be kept.</p>
<p><b>Chapter 3</b></p>	

<p><b>Co-option of Members of Community Councils</b></p> <p>119. Requirement of public notice where vacancies in community council membership are to be filled by co-option</p> <p>120. Guidance about giving public notice of co-option</p>	<p>(119 – 120) Agree</p>
<p><b>Chapter 4</b></p> <p><b>Appointment of Community Youth Representatives</b></p> <p>121. Appointment of community youth representatives by community councils</p> <p>122. Notice requirements in connection with youth representative appointments</p> <p>123. Guidance about appointment of community youth representatives</p> <p>124. Effect of appointment as a community youth representative</p>	<p>(121 – 124) Agree with the proposals if the decision on whether to appoint a community youth representative lies with the community council. If the community youth representative is under 18 years of age will they be subject to the full ambit of the Code of Conduct? It is submitted that the complexity and somewhat onerous nature of the Code of Conduct is something that prevents people from taking part in local government.</p>
<p><b>Chapter 5</b></p> <p><b>Reviews of Community Areas and Electoral Arrangements</b></p> <p>125. Reports about discharge of a principal council's function of keeping community areas under review</p> <p>126. Reports about discharge of a principal council's function of keeping electoral arrangements for communities under review</p> <p>127. Exercise of functions by the Local Government Boundary Commission for Wales on behalf of principal councils</p> <p>128. Sums payable in respect of reviews carried out by the Local Government Boundary Commission for Wales</p>	<p>(125 – 128) Support – this is already done.</p>
<p><b>Chapter 6</b></p>	

<p><b>Community Councils' Powers to Promote Well-Being</b></p> <p>129. Community councils' powers to promote well-being  130. Modifications of enactments preventing or obstructing a community council from exercising their well-being power  131. Transitional provision</p>	<p>(129 – 131) Support, providing any work undertaken by the Community Councils fits in with the principal council's strategy. It would encourage joint working.</p>
<p><b>Chapter 7</b></p> <p><b>Grants to Community Councils</b></p> <p>132. Welsh Ministers' power to pay grant to community councils</p>	<p>(132) Support</p>
<p><b>Chapter 8</b></p> <p><b>Model Charter Agreements Between Local Authorities and Community Councils</b></p> <p>133. Power to set out model charter agreement  134. Directions requiring the adoption of model charter agreements  135. Guidance about model charter agreements  136. Consultation</p>	<p>(133 – 136) This Council would welcome the opportunity to work in collaboration with Community Councils but would not wish to be dictated to as to how this should be achieved.</p>
<p><b>Chapter 9</b></p> <p><b>Schemes for the Accreditation of Quality in Community Government</b></p> <p>137. Schemes for the accreditation of quality in community government  138. Accreditation of quality in community government: criteria  139. Accreditation of quality in community government: applications  140. Accreditation of quality in community government: fees  141. Accreditation of quality in community government: removal of accreditation  142. Applications for accreditation of quality in community government: delegation of functions  143. Accreditation of quality in community government: consequences</p>	<p>(137 – 143) Support, in principle, because if the aim is to give more powers to community councils then they should be able to reach a certain level of accreditation. A minority of Members felt it was imposing too much responsibility on community councils – especially the large number of small community councils.</p>

**(v) Reform the system for setting allowances for councillors (Part 8)**

<b>Part 8</b> Members: Payments and Pensions	
<p><i>The Independent Remuneration Panel for Wales</i></p> <p>144. The Panel</p> <p><i>Principal functions of the Panel</i></p> <p>145. Functions relating to payments to members</p> <p>146. Functions relating to members' pensions</p> <p>147. Relevant authorities, members etc.</p> <p><i>Reports by the Panel</i></p> <p>148. Annual reports</p> <p>149. First annual report</p> <p>150. Subsequent annual reports</p> <p>151. Consultation on draft reports</p> <p>152. Directions to vary draft reports</p> <p>153. Administrative requirements in reports</p> <p>154. Publicity requirements in reports</p> <p>155. Publicising reports</p> <p><i>Payments by relevant authorities</i></p> <p>156. Compliance with Panel's requirements</p> <p>157. Members wishing to forgo payments</p> <p>158. Withholding payments</p> <p><i>Enforcement</i></p> <p>159. Directions to comply with requirements</p> <p><i>Supplementary</i></p> <p>160. Guidance</p> <p>161. Power to modify provision about Panel</p> <p>162. Interpretation of Part 8</p> <p>163. Consequential amendments</p>	<p>(144 – 163) No comments</p>

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

<b>Part 9</b> General	
<p>164. Guidance about collaboration between Welsh improvement authorities</p> <p>165. Orders and regulations</p> <p>166. Procedure applicable to certain orders under section 130</p>	<p>(164 – 172) No comments</p>

167. Guidance and directions 168. Interpretation 169. Consequential amendments and repeals 170. Power to make supplementary provision 171. Commencement 172. Short title	
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**Q4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?**

Specific barriers are set out above in relation to specific proposals. In general, this Council considers the increasing level of intervention by the Assembly in local government in Wales as a particular barrier to implementation of innovative local solutions to local issues.

**Q5. What are the financial implications of the proposed Measure for organisations, if any?**

The financial implication of introducing remote attendance at meetings is massively understated. It is likely that the cost would run into tens of thousands of pounds – far more than the £2000 estimated. The additional cost of creating an additional Head of Service post is inappropriate, particularly at a time when this Council is seeking almost £22 million savings over the next three years. Given the financial crises that Authorities will be facing over the coming years, any proposal that increases Authority expenditure should not be pursued at this time, unless there is a demonstrable efficiency saving to be generated as a consequence.

**Q6. Are there any other comments you wish to make about specific sections of the proposed Measure?**

This Council considers that much of the bureaucracy and Assembly intervention being proposed in this Measure is likely to act as a disincentive to people wishing to participate in local democracy, will stifle innovation and will make Authorities less flexible and able to adapt to local emerging issues.

Yours faithfully,

Iwan Davies  
**Acting Corporate Director**  
**Monitoring Officer**