

PROPOSED LOCAL GOVERNMENT (WALES) MEASURE: SUBMISSION BY CARDIFF COUNCIL

Part 1 – Strengthening local democracy

Survey of councillors and unsuccessful candidates for election as councillors (Sections 1-3)

This is not supported by the Council. Equality monitoring of candidates should not be imposed as a statutory duty on local authorities any more than it should be the responsibility of political parties to undertake appropriate monitoring of their own candidates.

Remote attendance at meetings (Section 4)

The Council is concerned about the cost and practicalities of this proposal. If this proposal is not considered to be appropriate for carrying out the formal business of the National Assembly for Wales or UK Parliament Government, then why should it apply to councils?

The proposed Measure is also unclear as to whether this provision would apply to all meetings. The use of technology to assist the remote participation in meetings would impact on the ability of councillors to participate effectively in meetings and in debates. This proposal also raises questions about how exempt information and confidential items would be dealt with as part of remote attendance at meetings and the impact of a breakdown in communications or technology on the effective conduct of business.

Annual reports by members of a local authority (Section 5)

The publication of annual reports by councillors formed part of the recommendations made by the IRP in its Annual Report 2009, which were accepted by the Council in March 2010.

Timing of council meetings (Section 6)

The Council believes strongly that this matter should be determined locally by councils and should not be a matter in which WAG has powers to guide or direct councils.

Training and development of members of a local authority (Section 7)

The Council supports the principle of an annual review that is made available to councillors, but this should not be mandatory or be used as a form of appraisal of a councillor's performance. In addition, the annual reviews should not be undertaken by officers.

Local authority democratic services (Sections 8-21)

The Council recognises the need to provide councillors with appropriate support and facilities to enable them to undertake their role effectively. However, the Council believes that this could be achieved without creating an additional role or post and the formation of separate new committee. The Council does not support the principle that officers (i.e. the proposed Head of Democratic Services) should be able to dictate budget requirements – they should have power to recommend, but not to direct the Council. The Council also supports the provisions in Section 20 of the proposed Measure which ensure that certain functions cannot be delegated by the council.

Part 2 – Family absence for members of local authorities (Sections 23-32)

Whilst the Council supports the principles behind the provisions contained in Part 2 of the proposed Measure, it is concerned about the practicalities and difficulties that this would create for single member wards and their constituents, as this could potentially result in a representational or democratic deficit due to the specified length that councillors will be allowed away from their role as a result of family absences. Whereas the casework of AMs and MPs can be dealt with in their absence for similar reasons by their constituency office or support staff that are directly employed by them, this provision or support is not available to local councillors.

Part 3 – Available Governance Arrangements

The provision to remove the Elected Mayor and Council Manager model is supported. However, the Council does not support the removal of the 'Fourth Option' model as this should be determined locally by councils. There is a need for flexibility and these alternative arrangements should be retained as an available option for councils.

Part 4 – Changes to Executive Arrangements

The Council supports the provisions contained within Part 4 of the proposed Measure.

Part 5 – Local Authority functions: Discharge by Committees and Councillors

The provisions contained within Part 5 of the proposed Measure are, in general, supported by the Council. However, whilst recognising the need for more flexibility around the delegation of decision making powers to members on outside bodies (e.g. in regional partnership working arrangements), the Council believes that those councillors should be able to refer decisions back to their own Council for decision if necessary.

The Council is concerned that, in some instances, local authorities will be tied to particular decisions when members have been outvoted by other parties on an outside body, without there being any provision for local determination about whether or not to participate in a particular decision or project. Consequently, there is a need for clarification and appropriate safeguards to be put in place, which could include provision for local authorities to exercise a veto, where appropriate. In addition, decisions should be subject to scrutiny by a member's own local authority.

Part 6 – Overview and Scrutiny

Joint scrutiny committees (Section 57)

This provision is supported by the Council.

Scrutinising designated persons (Sections 58-60)

This provision is supported by the Council, but there is a need for further clarification of the definition of ‘designated persons’.

Taking into account the views of the public (Section 61)

The Council supports this provision in principle, but has some concerns about how this is should be undertaken. The mechanism for bringing matters before or to the attention of a scrutiny committee should be determined locally and there is a need for further clarity on this issue in any future guidance.

Reference of matters to Scrutiny Committees and duty to respond (Sections 62-64)

This provision, which is analogous to the call-in process, is welcomed in principle by the Council, but councils may have to put in place mechanisms to prevent abuse.

Appointment of Scrutiny Committee Chairs (Sections 65-74)

This provision is supported and has been a long established practice in Cardiff. The appointment of scrutiny committee chairs should be a matter for decision by full council. However, there is a need for flexibility and the principle of proportionality is supported.

Co-opted Members on Scrutiny Committees (Sections 75-79)

The appointment of co-opted members is a matter that should be determined locally by councils. It is up to councils to decide on their own co-optee appointments and not be directed by the Welsh Assembly Government. The Council believes that there should be a limit on the number of co-optees appointed to scrutiny committees, which should be no more than one third of the committee membership.

Scrutiny Committee Forward Plans (Section 80)

This proposal is supported as forward work programmes are already published by scrutiny committees in Cardiff.

Prohibition of the party whip on Scrutiny Committees (Section 81)

This is supported. However, the chair of the scrutiny committee should only take a decision as to whether a committee member has been given a prohibited party whip on the basis of clear evidence.

Guidance, directions and interpretation (Sections 82-83)

This provision is not supported as any future guidance or directions would potentially be too prescriptive and would set a worrying precedent in relation to matters that should be for councils to determine locally.

Audit Committees (Sections 84-90)

This is not supported by the Council as the existing audit panel arrangements in Cardiff work well with a majority of independent or lay members. The proposed limit on the number of independent or lay members on the audit committee would have significant implications for the current model and operation of the Council's independent audit panel. This specific proposal is therefore not supported as it should be a matter for local authorities to determine locally.

The Cardiff Independent Audit Panel was established in Cardiff in 2002 and currently consists of 4 independent persons who are appointed for a four-year term (including the Chair who is appointed from among the independent members on an annual basis) and 3 non-executive councillors representing the main political parties who are re-appointed annually. The appointment of independent members is made following public advertisement and interview.

Part 7 – Communities and Community councils

The provisions in Part 7 of the proposed Measure to establish new thresholds for community meetings and community polls are supported. The Council believes that it is sensible for safeguards to be put in place in relation to process and to update the legislation in this area of local government.

The Council believes that unitary councils, and not the community, should have the power to choose or amend the name of communities as part of community reviews. The Council also believes that community and boundary reviews should be carried out in tandem, thereby enabling greater flexibility.

With specific reference to Section 132 (grants to community councils) of the proposed Measure, whilst this provision is not opposed in principle, the Council would question the reasons behind the direct provision of financial support to community councils by the Welsh Assembly Government, which would bypass the precept mechanism and may not be applied equitably as the whole of Wales is not covered by a town or community council.

Part 8 – Members: Payment and Pensions

The Council supports the provision contained with Part 8 of the proposed Measure relating to the role and functions of the Independent Remuneration Panel (IRP). However, the Council believes strongly that the IRP should specify or stipulate the actual rate of allowance that should be provided to councillors, rather than the minimum and maximum levels. This would take the decision on setting members' allowances out of the hands of councils/councillors. In addition, individual councillors should retain the right to not take their allowance.

With specific reference to Section 158 of the proposed Measure, there is a need for clarification of what grounds the Welsh Ministers would have for withholding payment to a member of an authority – this is anti-democratic and should be based on legitimate reasons. The Council would emphasise the importance of consultation with local authorities on any guidance to be issued by the Welsh Assembly Government in this area. The Council would also express some concern about the extension of the IRP's remit to cover allowances payable to members of community councils.

Part 9 – General

The Council believes that appropriate provision should be made for the IRP to be able to determine a scheme of members' allowances for local authorities as quickly as possible during 2011 in relation to the 2011-12 financial year, rather than relying on transitional arrangements in advance of the proposed first annual report under the proposed Measure which would apply to the 2012-13 financial year.