

## Legislation Committee No 3

### Proposed Local Government (Wales) Measure

#### Response from Gwynedd County Council

#### PROPOSED LOCAL GOVERNMENT (WALES) MEASURE.

#### RESPONSE TO CONSULTATION QUESTIONS FROM GWYNEDD COUNCIL

1. *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?*

**Response:**

Existing legislation hinders certain steps that could be taken to improve and strengthen local democracy. So, for example, it is not currently possible to hold committee meetings via video link, although many of our Councillors would appreciate this facility given the large geographical area of the Council and the distance between Council Offices. Similarly the requirement in existing legislation that Councillors should set their own allowances is not considered conducive to local democracy. Legislation is needed in order to remove these and other restrictions and for this reason we agree that there is a need for a proposed measure. The important general point, however, is that the nature of the measure should be permissive rather than prescriptive to enable the local determination of the best arrangements.

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

**Response:**

As one of only two Councils currently operating alternative arrangements, the proposed measure will have a substantial impact on the way that Gwynedd Council operates by forcing it to replace alternative arrangements with executive arrangements. Whilst this will bring the operation of the Council into line with all other Councils in Wales, we believe that the most appropriate time to commence any new arrangements will be when the new Council commences its term following the 2012 local government elections. We would urge the committee to have particular regard to the timing of the commencement of this provision so as to ensure that changes are not brought into effect in the period leading up to the election.

The provisions expanding the duties of Scrutiny Committees to scrutinising designated persons will have an impact on the ability of the committees to carry out their functions. Increasing the duties of committees at a time when resources are dwindling is likely to place a strain on the scrutiny function with the possible consequence that resources will be spread too thinly to enable the work to be carried out with sufficient thoroughness. This could be remedied by making these proposals discretionary rather than mandatory.

The proposals regarding Audit Committees on the other hand, are likely to have the effect of restricting the work currently carried out by the Council's Audit Committee since the committee, in line with Cipfa guidance, looks at internal governance as well as financial controls.

3. *Are the sections of the proposed Measure appropriate in terms of achieving the stated objectives, namely*

*(i) **broaden and increase participation in local government** by permitting steps which will help remove barriers and disincentive to standing for election to local councils*

**Response:**

The sections on strengthening local democracy and family absence will go part way towards achieving the objectives, particularly proposals such as remote attendance at meetings. However, we fear that some of the proposals might be counter productive, e.g. a requirement on every member to produce an annual report and the detailed provisions about the operation of the Democratic Services Committee. For this reason we believe that an annual report should not be obligatory, but should be a matter for each councillor's discretion.

It is unlikely that the survey of members and candidates will, of itself, help to remove any barriers and it will simply add to the administrative workload of the Council.

The proposals in the measure on guidelines from the Assembly on the timing of meetings seems a little incongruent and it is difficult to see how much value it would add given the general expectation that councils should be doing everything they can to facilitate the wider participation in the democratic process. The timing of Council meetings should not be a matter for central guidance but should be left to local discretion since proposals which might work in an urban area will not necessarily be welcomed in a rural area with long travelling distances. We wish to see this clause removed from the Proposed Measure.

The proposal for a Head of Democratic Services to provide support to non-executive members appears to be based on the perception that currently officer support is geared towards the executive. Whilst we welcome the principle of ensuring support for members of the executive and non-executive members alike, the manner in which it is proposed to be implemented, with a separate Head of Democratic Services post, is likely to require reorganisation in most authorities leading to increased costs. Independence is clearly important but the creation of a statutory post is an inappropriate and clumsy way of securing this.

*(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.*

We have no further comments to make on these proposals.

*(iii) **enhance the role of non-executive** (“backbench”) local authority councillors in the scrutiny of local services.*

**Response:**

Regulations enabling two or more local authorities to establish joint scrutiny committees could lead to more effective use of resources in scrutinising regional or cross boundary issues, but there would need to be safeguards on political balance on such committees. However, excluding crime and disorder matters from the remit of a joint committee could be unduly restrictive.

We believe that powers to grant certain delegated powers to local members will be useful, but we are concerned about the imposition of a duty to scrutinise designated persons which could weaken the non-executive’s power to scrutinise generally, especially when coupled with the new “Councillor Call for Action” powers. We believe that the ability to scrutinise other providers of public service should be a power rather than a duty, bearing in mind that circumstances differ in different parts of Wales.

In respect of Audit Committees we doubt whether the provisions as they stand in the proposed measure will achieve the stated aim of ensuring that Councils establish Audit Committees in line with Cipfa guidance since the remit proposed in the Measure is too narrow. The guidance recommends that committees should consider governance matters as well as the financial arrangements. This could be achieved by widening the remit to correspond to Cipfa guidance or by removing the restriction in clause 88 which prevents the committee from exercising any other functions.

The inclusion of a lay member on the Audit Committee, we believe, goes beyond that which is required to achieve the aim of a properly functioning committee. This is a committee which is established to govern the internal regulation of the Council. The rationale for including a non-elected member is difficult to understand and could serve to undermine rather than strengthen local democracy.

*(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.*

**Response::**

We welcome the extension of community councils powers. However, bearing in mind that the Councils do not, in the main, have a body of professional officers to support them, care should be taken in the imposition of any duties on community councils. This is particularly true regarding the model charter where the Minister has the power of direction. In Gwynedd there has been good co-operation and transfer of responsibilities between the county council and a group of community councils in one part of the county. Additional responsibilities should not be imposed on community councils without strengthening the supporting arrangements and ensuring that appropriate structures and processes are in place.

**(v) reform the system for setting allowances for councillors.**

**Response:**

We welcome this proposal and consider that the sections of the proposed measure will achieve the stated objectives.

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

**Response:**

Clearly, ministers may feel the need to issue such guidance because of frustration with the lack of progress on collaboration in particular areas. The key here is that this needs to be seen clearly as a last resort and there must be an agreed process for a dialogue with authorities before such guidance is given. The cultural, geographical and linguistic position of authorities should be considered before any guidance is published.

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

**Response:**

The main barrier will be financial (please see next section). In order to make certain provisions work well and to achieve the policy aims, resources will need to be devoted to them, e.g. Councillor call for action.

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

**Response:**

There will be financial implications to many of the sections and the costs analysis in Part 2 of the Explanatory Memorandum does not adequately recognise this. The survey of candidates and councillors requires each local authority to conduct a survey and the amount of £1,750 is unlikely to be sufficient to meet staffing costs. It is likely to be more cost effective if such a survey were to be carried out centrally by the Welsh Assembly Government. The estimate of £5,000 p.a. for setting up Joint Overview and Scrutiny Committees or Audit Committees is a vast underestimate since it takes no account of items such as allowance for the chairs. Recent work in this Council on costs of Scrutiny Committees show that one Scrutiny Committee meeting five times a year has a cost of £27,000.

The proposal which is likely to lead to the greatest expenditure for this Council is the proposal for the Independent Remuneration Panel for Wales to set councillor allowances. At the present, the Panel sets maximum allowances and this Council has historically paid less than the maximum. It is inevitable that when the Panel sets allowances, they will do so on the basis of parity across Wales which will lead to substantial increase in allowances paid within this Council. A calculation of the difference between the allowances paid in Gwynedd and the maximum sums sets by the Panel shows a shortfall of £300,000.

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

**Response:**

No.