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Contact:/Cysylltwch â: Mr. Alwyn Holland



Cyngor Bwrdeisdref Sirol

Blaenau Gwent

County Borough Council

30th September, 2010

Dear Ms Jones,

CONSULTATION ON PROPOSED LOCAL GOVERNMENT (WALES) MEASURE

With reference to your letter dated July 2010. I attach the Council's observations for your attention.

Yours sincerely

A Holland

Constitutional and Deputy Monitoring Officer

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PROPOSED LOCAL GOVERNMENT MEASURE.
OBSERVATIONS OF BLAENAU GWENT COUNTY BOROUGH
COUNCIL

A. Strengthening Local Democracy, Duty to Conduct a Survey.

There will be a duty for councils to carry out a survey of all candidates who stand for election to assess a range of questions for gender, religion, health, etc.

The survey is intended to help inform policy makers about the success or otherwise of initiatives to encourage a wider range of individuals to stand for election to councils. This survey must be carried out within six months of the election. Candidates do not have to respond to the survey, but it can be carried out anonymously.

Observations

It will be a statutory requirement, however, there will be some resource implications to carry out the survey.

The estimated cost of the proposed survey is unrealistic. The estimated cost of £1,750 per authority is well below what a survey (preparation, postage, collation, publication) would in reality cost. The survey of candidates will not discover the information the survey sets out to obtain, namely why individuals do not present themselves as candidates. If there is to be a survey, what is needed is a wider public questionnaire, rather than a survey of candidates.

b) Remote Attendance at Meetings

This can allow attendance via video conferencing or lap tops etc., by members at meeting. This will require the number of members at the meeting place to be greater than the remote attendees and all the appropriate Committee procedures/ standing orders must be in place.

Observations

Appropriate technology and protocols will need to be in place and management of meetings will be more difficult. However, future technology may make processes more easy. There is concern however, that members who are remote will not be able to feel the tone of the meeting and it will make it more difficult to participate. There will be resource implications.

The legislation is not clear as to whether or not this is a duty or a power. It appears that the proposal applies to all meetings of the Council as well as meetings of the Executive. It may be that in the future meetings are held in places other than the Civic Centre. The cost of remote access will increase dramatically. The complexity and cost of the IT system to ensure remote attendance has been extensively underestimated. The “remote” member has to see members at the meeting and vice versa, so at each meeting more than one camera would be needed to focus on members and on the Chair and the display in the meeting would need to be capable of displaying images of multiple “remote” members.

There will be concerns about the confidentiality/ security issues of this provision. How can a meeting which is closed to the public (discussing exempt information) satisfy itself that the public is excluded from the remote location? It would be open to a “remote” member determined to do so (or inadvertently) to allow eg, a protest group or an affected individual to view the discussion from which the public has been lawfully excluded.

How does a Member with a prejudicial interest “leave” a meeting declaring the interest when he is only present remotely? How is he called back to the meeting on conclusion of the item?

c) Annual Reports by Members of the Authority.

Requires Councils to make arrangements to publish annual reports by its members, including Executive members in respect of their activities for the previous year. This should include some kind of condition re content and style.

Observations

This could be carried out by ICT or in paper form. It will be appropriate to set out a protocol and template as to content and style and so should be in a structured and consistent form.

It will require further internal consideration including input from appropriate Officers and Members at Senior level. It should enable individual Members, however to have a higher profile in their Local Wards and should enhance local democracy.

d) Timing of Council Meetings

This would enable the Welsh Assembly to issue guidance about the timing of meetings to accommodate councillors from more diverse backgrounds.

Observations

Councils can already determine times of meetings etc. If there is a genuine need or consensus, meetings can be held as appropriate to relate to individual circumstances.

There is a requirement that Councils “must have regard” to guidance from Welsh Ministers about the times of meetings. Does this mean that if Ministers say Councils shall meet at 6.00 p.m., then there is no discretion to meet at other times. This provision is unduly prescriptive.

e) Training and Development of Members of a Local Authority

Places a duty to secure the provision of reasonable training and development opportunities of their members and make available to all members an annual review of their needs. It also provides an opportunity for an interview with a person considered suitably qualified to advise. This does not include the Leader.

Observations

The Council already carries out a significant training and development role for its members. This may highlight attendance at training events etc by members. In making it a requirement authorities should be able to show members have received training and assist them in their roles.

f) **Head of Democratic Services / Democratic Services Committee**

- a) This requires the Council to designate one of its Officers to be the Head of Democratic Services. The role will be to ensure that Councillors outside the Executive are provided with sufficient support to enable them to carry out their duties effectively, with the necessary administrative and research provision. This will also require the role to provide support and advice to Committees and promote the role of Scrutiny Committees. A further role is to provide support and advice to members in carrying out their role as a member of the authority.
- b) The Council will have to appoint a Democratic Services Committee to review the adequacy of provision by the Council, including staffing etc to discharge Democratic Services function. It must meet at least once per annum.

Observations

- a) Although it is understood the argument regarding separation of powers ie Executive v Scrutiny, it is quite unclear how it would operate in practice.

It does not appear to be prescriptive about the split and how independent the Scrutiny role should be. In small Councils such as ourselves, the resources required for a definitive split with separate research facilities would be difficult and even more so with present and anticipated budgets.

It also relates to all Committees, so it is assumed Planning and Licensing could be included. Executive and Council would be separate. As Planning/Licensing are quasi-judicial and needs 'Legal' advisors and so are slightly different, should this not be reflected?

The real issue is the practicality of operation and where the lines are. In addition there is still the input of Monitoring Officers as part of practical terms.

It is the view that a separate Scrutiny Officer can be established by amending present staff duties and is this unnecessary. The role needs to be specific as the duties set out are unclear and in addition there will be an increased cost.

- b) I do not know what purpose a Democratic Services Committee would perform as performance and resources required would be part of operational management.

If it is to assist the performance of the Democratic process, then it may have some worth. The activity could be carried out as part of other Scrutiny arrangements in the same way as Crime and Disorder provisions and is not needed. In addition would it attract an additional SRA.

Overall, however, it would appear that the role of Head of Democratic Services and the Committee could have a serious influence as to how the Council operates the Democratic processes and could have resource implications.

PART 2 - Family Absence For Members Of Local Authorities

A. These areas relate to making available to all members entitlement to maternity, newborn, adoption and parental absence to support Councillors and those wanting to stand for election who may have family responsibilities.

Observations

The principles are to provide similar 'Conditions of Service' to Councillors as to staff. Members may have a view as to some of the requirements and further details need to be provided to assess the impact on the Community if individual Councillors are absent on Maternity/Paternity leave for some time.

In order to accommodate this proposal, there will be a need for two powers, both of which will require an amendment to current statutory provisions/restriction, namely

- a) a power to appoint an additional cover Executive Member, so disapplying the existing rule limiting the size of the Executive and
- b) a power to pay an additional SRA for the period of absence, so disapplying the existing rule limiting the number of payable SRA's.

PART 3 & 4 - Available Governance Arrangements and Changes To Executive Arrangements.

- a) **Part 3.** Abolishes the Mayor and Council Manger, Executive model and replaces alternative arrangements with Executive arrangements.

Observations

This has no input for the Council

- b) **Part 4.** This relates to making changes from one form of Executive arrangements to another more easy and is procedural. In reality this means a change from a Leader and Executive model to an elected mayor and would require a referendum.

Observations

This is a procedural matter unless there is overwhelming pressure to consider an elected mayor model.

PART 5 - Local Authority Functions: Discharge By Committees And Councillors

- a) The specific provision relates to establishment of Area Committees and delegation of powers to discharge functions in that area.

Observations

We do not presently have Area Committees so this would be a political requirement.

- b) Allows the Council to delegate decision making to members of the Executive or other councillors on an outside body.

Observations

At present there is no single member decision making but members do represent the Council on outside bodies. This may need consideration for Joint Committees, Partnerships etc.

PART 6 - Overview And Scrutiny

There will be provision of Joint Scrutiny Committees with other councils. A provision to require councils to enable the public to express their views to committees.

Will allow 'Councillor Call for action' to enable any councillor to refer a matter to a Committee, not just for Crime and Disorder. Executives will have to respond to views of Scrutiny Committees. Chairs must be given on the basis of proportionality of Groups on the Council.

Co-opted members will be limited to $\frac{1}{3}$ of the Membership and can allow voting rights.

Requirement to publish forward work plans. Prohibits the application of whipping at meetings.

Observations

Major change would be Chairs on political balance and numbers and right to vote of co-optees.

We can use protocol re councillor call for action as a template for individual member requests.

The Council already operates an annual future work programme and this is being revamped. The issue of Joint Scrutiny is firmly part of collaboration arrangements, particularly Partnerships. This element will formally enable Joint Scrutiny to be established.

Prohibition of Whipping

There are difficulties in relation to enforcement. The provision in S81 (4) – Chairman’s responsibility has not been previously suggested by the Assembly Government. It is difficult to see how an “opposition” chair can clearly determine the directions issued by another political group.

Is this being applied to all levels of Government?

Audit Committees

This requires the establishment of Audit Committees to make reports on the administration and conduct of the council financial affairs.

The change is that at least one member must be a lay member. One member could be an Executive member, but not the Leader. The Chair can be anyone but not an Executive Member but is not based on proportionality. It must meet at least once per annum.

Observations

The Council has a full Audit Committee operating 6 times per annum. The questions are Membership of Executive and Lay Members who cannot be more than $\frac{1}{3}$.

Section 86(1) provides that the Committee shall appoint its Chair. No other local government committees are subject to this requirement. The appointment of the Chair should be left to the usual practice of the relevant local authority.

PART 7 – Community Councils

A number of the changes relate to establishing and disbanding community councils and changed processes to do and is a legalistic process including a poll.

If no election – Councils can co-opt but will now have to advertise. It can also appoint up to 2 youth representatives.

A community review is required every 15 years. Community Councils will have a power to promote well-being. Enables WAG to pay grants to Community Councils which they cannot do at present.

They will establish Charter Agreements between Principal and Community Councils, if they are not voluntarily in place. Introduces Regulations to establish national accreditation of quality schemes.

Observations

No comments as they are generally legal/ procedural arrangements it is intended to establish a Charter by the end of the year.

Members acknowledged that currently legislation allows a Member to become a Town/Community Council Member even though they don't live within the ward boundaries.

PART 8 – Members Payment & Pensions

This relates to making the Independent Remuneration Panel responsible for determining allowances for all Councils plus Community Councils, Fire and Rescue Authorities and National Parks. They will be able to determine all allowances for Councillors, which councils will have to follow and requires publicity arrangements in relation to payments on an annual basis.

Observations

This just extends the power of the Panel to make all decisions re allowances etc and has no further impact and would be supported.

PART 9

This gives WAG the powers to produce statutory guidance on all aspects of the Councils powers and duties under the Measure including collaboration between Welsh Improvement Authorities.

Observations

No comment on this, as it is the usual 'catch all'.