

Agenda – Equality, Local Government and Communities Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 11 December 2019

Meeting time: 08.45

For further information contact:

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Private pre-meeting

(08.45–09.00)

1 Introductions, apologies, substitutions and declarations of interest

(09.00)

2 Local Government and Elections (Wales) Bill: evidence session 2

(09.00–09.45)

(Pages 1 – 6)

John Bader, Chair, the Independent Remuneration Panel for Wales

Greg Owens, Vice Chair, the Independent Remuneration Panel for Wales

3 Local Government and Elections (Wales) Bill: evidence session 3

(09.45–10.45)

(Pages 7 – 16)

Jess Blair, Director, Electoral Reform Society Cymru

Break

(10.45–10.55)

4 Local Government and Elections (Wales) Bill: evidence session 4

(10.55–11.40)

(Pages 17 – 22)

Huw Rees, Performance Audit Director, Wales Audit Office

Martin Peters, Head of Law & Ethics, Wales Audit Office

5 Local Government and Elections (Wales) Bill: evidence session 5

(11.40–12.10)

Sophie Howe, Future Generations Commissioner for Wales



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6 Papers to note

(12.10–12.15)

(Page 23)

6.1 Correspondence from the Llywydd regarding the Local Government and Elections (Wales) Bill timetable – 4 December 2019

(Pages 24 – 25)

6.2 Correspondence to the Minister for Housing and Local Government regarding the recent scrutiny session on the Local Government and Elections (Wales) Bill – 5 December 2019

(Pages 26 – 27)

6.3 Correspondence from the Minister for Housing and Local Government regarding the consultation on changes to executive governance arrangements in principal councils – 5 December 2019

(Pages 28 – 29)

6.4 Correspondence from the Celestia Action Group regarding fire safety issues in the Celestia development – 5 December 2019

(Pages 30 – 31)

6.5 Correspondence from the Deputy Minister for Housing and Local Government regarding the response to the Committee's report on benefits in Wales – 5 December

(Pages 32 – 40)

6.6 Correspondence from the Future Generations Commissioner regarding additional information following the meeting on 7 November – 6 December 2017

(Pages 41 – 50)

7 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from the remainder of the meeting

(12.15)

8 Local Government and Elections (Wales) Bill: consideration of evidence

(12.15–12.30)

Document is Restricted

By virtue of paragraph(s) ix of Standing Order 17.42

Document is Restricted



Paper for the Equalities, Local Government and Communities Committee

Local Government and Elections (Wales) Bill

Introduction

- 1.1. The Independent Remuneration Panel for Wales is pleased to have the opportunity to comment on the Bill. We have been requested to frame our evidence relating to Parts 4 and 7 of the Bill, however we also have observations in respect of Part 3 – Promoting access to Local Government.
- 1.2. It has been our practice to visit each of the 22 principal councils soon after each election as part of evidence gathering to ensure that we are cognisant with the issues and matters that need to be examined and reflected in our Remuneration Framework. Following the elections in 2017 we met in excess of 450 elected members, all of the leaders, many members of council executives and the chief executives and senior officers.
- 1.3. In subsequent years we meet with the 3 National Park Authorities and the 3 Fire and Rescue authorities.
- 1.4. We also have an ongoing Programme of contact with community and town councils mainly through county council liaison arrangements.
- 1.5. As a result of this ongoing contact we have a comprehensive knowledge of the local government sector in Wales.

Part 3 Promoting Access to Local Government

- 2.1. It is widely recognised that diversity of membership in democratic representation at local level is still at an unacceptable level. We observed that the 2017 intake showed an encouraging increase in newly elected female members and younger people of both genders. However, this was not a universal trend and there remains a significant lacuna particularly in respect of ethnic minority and persons with disability.
- 2.2. We have been encouraged by successive Ministers to play a part within our statutory remit in providing a framework that supports the potential for improving diversity. The elements that are within our statutory functions that contribute to this aim are:
- Financial support
 - The provision of the necessary support to enable members to function efficiently and safely.

Remuneration

- 2.3. Criticism about payments to elected representatives is all too frequent so we make it clear in our Reports that democracy is not cost free.
- 2.4. Payments for councillors is not the only factor to support improving diversity but it is an important one. Many of the new intake in 2017 made it clear that while the payment regime was not the main factor in standing for election, they could not have done so if it was not available. We are aware that at current levels of payment many backbench members struggle financially.
- 2.5. Financial restrictions on local authorities have impacted on the ability for the annual salary of a backbench member to keep pace. The Panel is bound by its statutory limitations to take account of the affordability of its determinations so in the earlier years of austerity the salaries of councillors lost ground against the original benchmark which aligned backbench members' payments to 3/5th of average welsh earnings. More recently we have been able to make modest increases but the current basic salary of £13868 p.a. is more than £2000 lower than it would be against the original benchmark. Realistically, it is unlikely that the original basis will be

reinstated. We continue to examine other methodology to reach an appropriate conclusion in each Annual Report. In reaching our annual determination on salaries we have to balance fairness to the 1254 councillors and the affordability for the 22 principal councils

Provision of appropriate support

- 2.6. We have been and continue to be clear that members should not be out of pocket in carrying out their role and they should not be expected to use their salary to be able to operate efficiently. In the earlier years some councils required members to pay for computer/telephones etc. for council business. We have made it clear that this is inappropriate.
- 2.7. Social media has had a profound effect on the function of a ward councillor. It has changed the perception of many of their constituents and an overwhelming majority of the members we met indicated that it had increased their workload and the demands and expectations of those that they represent. More sinister is the extent of the abuse and threats that are now apparent. We have been clear that it is crucial that councils provide necessary support to safeguard individual members subjected to threats of violence. One of the pleas that we heard many times was to remove the statutory requirement that individual members' home addresses be published. We understand that this is change included in the Bill.
- 2.8. Financial support for caring needs is an important factor in ensuring that individuals are not disenfranchised because they have care commitments or have personal care requirements. The then Welsh Assembly Government introduced a Care Allowance Scheme in 2003, and the responsibility for setting the policy in this respect was transferred to the Panel when it was established. Despite an obvious need from many members who have caring responsibilities the take up has been negligible. One of the reasons for this was the public criticism following the annual publication. Also there is anecdotal evidence of peer criticism. We have changed this financial support from an allowance to a reimbursement of costs so that there can be no suggestion that an individual could "make a profit". We have also changed the arrangements for publication so that no individual is identified. Despite this the take up has not increased significantly. We still believe that this, as part of an overall package, is important in attracting candidates from more diverse backgrounds to stand for election in the future. Despite care costs being a receipted

reimbursement the HMRC has determined that it is taxable income which means that some members claiming it could be out of pocket.

Part 4 Local Authority Executives, Members, Officers and Committees

- 3.1. We note the proposal to make the appointment of a chief executive mandatory for principal councils with specific statutory responsibilities. Our view, although not a matter within our remit, is that this is an appropriate direction. It will provide greater consistency between councils in establishing clarity of the role and duties of those occupying the post.
- 3.2. Clause 61 proposes to amend Section 143A of the Local Government (Wales) Measure 2011 so that the term salary is replaced with remuneration. This change will have implications for our role in considering proposals from councils to change the payment made to its chief executive. The Local Government (Democracy) Act 2013 amended the Measure in respect of the Panel's remit. Section 143A was inserted which requires, in certain circumstances, the authority to consult the Panel and have regard to our recommendations.
- 3.3. The current legislation also applies to the Head of Paid Service in the 3 Fire and Rescue Authorities (usually the Chief Fire Officer). The Bill will need to be clear whether the amendment at clause 61 excludes FRAs.
- 3.4. We administer this element of our function taking account of Welsh Government Guidance which will need to be updated when the Bill is enacted.
- 3.5. Clause 62 clarifies the situation when Welsh Ministers give a direction to an authority that has disregarded the recommendation of the Panel under Section 143A. The Panel supports this as it has been an issue of controversy in the past.

Appointment of Assistants to executive

- 3.6. During our visits in 2017 several council leaders indicated that they would like to be able to appoint deputies or assistants to the members of their cabinets. They considered that it would provide development opportunities for individuals who could be future members of the executive as well as improving the functioning of the cabinet by providing

support to busy portfolio holders. Potentially, it would have a positive improvement in the diversity of cabinets. Clause 63 will provide for such appointments but there are consequential issues for the Panel.

- 3.7. Currently each principal council is allocated a maximum number of senior positions that can be paid. These maxima (or Caps) are set out in our Annual Report and vary according to which of 3 population groups the council is in. It is within our discretion to change the cap so in most cases if the assistants warrant additional remuneration this can be accommodated. However, there is an overriding statutory maximum number of members who can be paid for holding a senior post. This is 50% of the council's total membership and can only be varied with the specific approval of Welsh Ministers. 2 councils would definitely be affected – Isle of Anglesey and Merthyr Tydfil. Both would be unable to appoint paid Assistants unless they withdrew payments from some current senior salary holders. Rather than have individual requests to override the statutory maximum to Welsh Ministers it might be more appropriate for the statutory position to be delegated to the Panel.

Job-sharing: executive leaders and executive members

- 3.8. A number of leaders have raised the possibility of operating job-sharing for some of the cabinet portfolios which they believe would widen opportunities and improve the diversity within executives. The difficulty in implementing this to date is the current statutory maximum of 10 members of Executives. The proposals set out in clause 64 would resolve this and allow the Panel to construct appropriate remuneration arrangements to meet an individual council's requirements.

Family absence for members of local authorities

- 3.9. Our Remuneration Framework includes entitlement to remuneration of a member eligible for family absence and mirrors the regulations currently in force. The Panel would amend the Framework to accord with changes to the regulations.
- 3.10. The Committee are advised that our Framework also provides for arrangements for long term sickness of members.

Part 7 Mergers and Restructuring of Principal Areas

Chapter 4: Remuneration arrangements for new principal councils

- 4.1. Whether and when there will be a submission from two or more existing councils is impossible to predict, however it is important that appropriate legislation is in place to manage the process effectively. The process should include the arrangements for the remuneration of the shadow council and the new principal council.
- 4.2. The proposals contained in this section of the Bill are broadly in line with the current remit of the Panel set by the Measure. The main addition is to extend the definition of “relevant authorities” to shadow councils.
- 4.3. In the event of a proposal for a merger, the Panel would examine the proposal to establish whether the new council would fit within the Panel’s Remuneration Framework that was in place at that time or whether it would require bespoke arrangements applying exclusively to the new council.
- 4.4. At this stage we have no concerns about the arrangements set out in clauses 141 to 144.

The Independent Remuneration Panel for Wales

4th December 2019

Agenda Item 3



Local Government and Elections (Wales) Bill Evidence to the Communities and Local Government Committee from ERS Cymru

4th December 2019

The Local Government and Elections (Wales) Bill is an extensive piece of legislation that includes some key areas of reform, specifically over elections. We are delighted to see the inclusion of moves to extend the franchise, changes to the electoral system and the ability for Returning Officers to automatically register voters however we believe it is vital that this legislation is strengthened in some key areas as it progresses through the Senedd.

We have been keeping a close eye on the legislation as it has developed, including responding to the Welsh Government's Consultation on Electoral Reform in Local Government in Wales in 2017.¹

There are some parts of the legislation on which we as an organisation hold no views. As such our response to the Bill is specific to those parts of the legislation on which we do have policy and views.

Part 1- Elections

The extension of the franchise

A principal area of this legislation is to extend the franchise to 16 and 17 year olds and foreign nationals. The extension of the franchise to 16 and 17 year olds is something we have long campaigned for and we are very pleased to see its inclusion in this Bill.

Given the recent passing of the Senedd and Elections (Wales) Bill, it's vital that the franchise is as consistent as possible and it makes utter sense that the same people will be able to vote in both Senedd and local elections. The inclusion of the extension of the franchise in the Local Government and Elections (Wales) Bill also puts pressure on the next UK Government to ensure votes at 16 is enacted for UK General Elections, to ensure an entirely consistent

¹ <https://www.electoral-reform.org.uk/latest-news-and-research/parliamentary-briefings/response-to-the-welsh-governments-electoral-reform-in-wales-consultation/>

franchise across the UK, and that 16 and 17 year olds in England and Northern Ireland will have the same rights as young people in Scotland and Wales.

There are a range of arguments over the extension of the vote to 16 and 17 year olds, from a rights-based perspective, where young people can be employed, pay taxes and get married to those that come from a perspective of citizen engagement. Our perspective is that 16 and 17 year olds are far more likely to be in a school environment where they can receive effective political education and be able to register alongside others.

Our most recent example of the extension of the vote was in Scotland, where turnout for 16 and 17 year olds (75%) in the Scottish Referendum was actually higher than their 18-24 year old counterparts (54%). While they were still less likely to vote than those aged 35 and above,² this kind of engagement from younger voters was clearly something to be celebrated. Indeed, 97% of 16 and 17 year olds who reported having voted in the 2014 Scottish Referendum said that they would vote again in future elections and referendums.³

Research undertaken by Dr Jan Eichhorn at the University of Edinburgh has also shown engagement has extended beyond the referendum. In a survey ahead of the 2015 General Election, a comparison of 16 and 17 year old Scots with their English, Northern Irish and Welsh counterparts showed that Scottish participants demonstrated substantially higher levels of engagement with democracy even beyond voting, for example by signing petitions, and engaging with a greater range of information sources about politics.⁴

This research demonstrates the possible positive effects of votes at 16, which the Welsh Government also point to in the Explanatory Memorandum that goes alongside the Bill. However, we must be very cautious about ensuring that in Wales this is done effectively with extensive political education alongside it. Welsh young people will not have the 'event' of the Scottish Referendum to drive them to the polling station, yet in terms of the next local elections in 2022 many young people will have already had the chance to vote in the Senedd elections in 2021.

This necessitates a substantial effort to effectively engage young people ahead of both elections, and means there is a specific need for the Welsh Government to be actively involved in the plans for informing young people about the changes to the franchise ahead of the 2021 elections.

We are pleased to see the inclusion of the duty to promote awareness and provide assistance contained in Part 1, Section 4 of the Bill. This duty applies to councils themselves, however we would argue that Ministers should also have this duty in terms of coordinating a central campaign that reaches all attainers and those newly enfranchised.

We have recently been undertaking a project with the Senedd Commission, going into schools across Wales to ask young people what information they need to know ahead of the introduction of votes at 16 in 2021, and asking how best to deliver that information. From that

² <http://blog.whatscotlandthinks.org/2014/12/many-16-17-year-olds-voted/>

³ https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Scottish-independence-referendum-report.pdf

⁴ <https://blogs.lse.ac.uk/politicsandpolicy/votes-at-16-new-evidence-from-scotland/>

research it's clear that young people are ready and willing to engage, but that existing political education provision across Wales is not sufficient to give them the information they need. These findings highlight the need for a comprehensive pan-Wales programme of political education both within and outside of the curriculum. Currently there is a clear tension between the extension of the franchise for 2021 and 2022 and the timeline for the rollout of the curriculum in 2025. This requires specific resources to be developed for both the 2021 and 2022 elections. It makes sense that the Senedd Commission should take responsibility for the 2021 elections, but the Welsh Government will need to step up for local elections in 2022. As a result of this, and the need for the resources in 2022 to be based on what has and hasn't worked in 2021, the Senedd Commission and Welsh Government need to be working together to develop a coordinated approach.

Voting systems for local elections

It is very welcome that legislation on electoral reform has now been introduced in Wales, which includes a move to a more proportional voting system.

We have long seen the problems with the current First Past the Post (FPTP) system in local elections. Disproportionate results are common place under this system, something clear at the 2017 local elections where, in Cardiff, Labour received 39.5% of the vote but 53% of seats and in Conwy where Plaid Cymru received 8% of the vote and 17% of seats, while the Conservatives took 37% of the vote but just 27% of the seats. Ultimately, FPTP forces random results and ensures 'safe' seats are perpetually held by the same person, one of the major blockages to diversity. Furthermore in the last local elections 92 seats were uncontested. Scotland moved to the Single Transferable Vote system in 2007 and at the last election had just 3 uncontested seats. These uncontested wards were on the islands of Orkney and Shetland and on the Kintyre peninsula. This was the first time that any wards had been uncontested since the introduction of STV for Scottish local elections.

Scotland's experience of changing from FPTP to STV offers much to learn from. ERS research by Professor John Curtice following the 2012 local elections in Scotland found that that voter choice expanded, with the average number of candidates per ward increasing from 3.4 in 2003 to 7.1 in 2012 and uncontested seats had been reduced to 0 in the 2007 and 2012 elections.⁵ The number of candidates increased slightly in the 2017 Scottish locals, with 2,572 candidates contesting seats in 354 multi-member wards, giving voters on average a choice of 7.3 candidates.⁶ However, the 2012 report cautioned that STV alone had not been able to make major progress on gender balance and could only do so when coupled with direct positive action.

The permissive PR model contained in this legislation is not unprecedented; the system has been used in New Zealand since the passing of the Local Electoral Act 2001. This has meant since the local elections in 2004 local authorities have had the opportunity to choose between FPTP and STV.

⁵ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/2012-scottish-local-elections/>

⁶ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/democracy-denied-the-2019-election-audit/#sub-section-21>

While it has been used before, permissive PR does not come without its risks but overall is a step forward in terms of legislating upon a new voting system for local elections in Wales.

In terms of those risks, there are real communication challenges in terms of having a patchwork of electoral systems across one election. It is imperative that each local authority moving to the STV system puts in place an extensive communications strategy for the initial vote.

STV is simple for voters - all they have to do is rank as many or as few candidates as they wish in order of preference. The main change that will need to be communicated to voters is that they need to decide on how they would like to rank the candidates on the ballot paper. There is also a need to brief parties and candidates separately about the different requirements and consequences of campaigning under STV. New Zealand's Department of Internal Affairs has developed a webpage with some resources for local authorities on how to use STV, which may offer some insight into the kind of communications that would be required.⁷

There are some aspects of campaigning which will be affected by STV and merit consideration by parties.

First off, there is information gathering. On top of familiar campaigning issues (such as local issues and general pattern of support), parties will need to pay attention to the following considerations when deciding on their campaign strategy and, in particular, how many candidates to stand:

- How many people are strong supporters of the party?
- How many people might vote for one of the party's candidates because of personal or other factors?
- How is support for the party, and for individual candidates, distributed throughout the area?
- Are supporters of other candidates and parties prepared to give your candidates transfers? If so, which candidate is most attractive to transfers?

For example, a ward under FPTP where, say, Labour poll 50–55% or so and the rest of the vote is scattered between the other parties would be a very predictable Labour seat to which nobody would devote much attention. But if it were a four-member STV seat, Labour's campaigning efforts might make the difference between winning two seats or three seats. The other parties would also find it worth campaigning, not only to try to deprive Labour of the third seat but also to come top in the race for the non-Labour seat or seats, and to persuade supporters of other parties to transfer their lower preferences in the right direction.

In terms of the practicalities included in the Bill of how a council could move to a new system, it is absolutely right that councils should consult voters and their members of the proposed change.

⁷ <http://www.stv.govt.nz/STV/index.htm>

The required two thirds majority makes sense in terms of ensuring the change in voting system is most likely a cross party move, given it is very unlikely for one party to hold two thirds of seats (the exception to this is in Neath Port Talbot where Labour currently hold 39 of the 64 seats). In terms of current support among councillors for STV, over the summer we contacted councillors in Wales and asked them to complete a survey on their views on proportional representation. There were 318 responses (25% of total councillors in Wales) with 45% in favour and 36.8% against. In an additional question, 42.8% of respondents wanted more information on the issue.

It is also sensible to have a lengthy period of notice ahead of an election and for the requirement to have local authorities not be able to change back to their previous system for two full cycles. This ensures there is an appropriate length of time for electoral arrangements to be put in place and for an effective information campaign to be run around the change.

In terms of the boundary arrangements recommended in the legislation, there is limited information in the Bill itself however we support the recommended district magnitude of around three to six representatives per ward. This is also consistent with the magnitude recommended by the Expert Panel on Assembly Electoral Reform when looking at how STV might work for Senedd Cymru elections.

While we are pleased to see the inclusion of PR in this legislation, and think the particular restrictions around the introduction of it are sensible, there is no denying that our preferred option would be the full rollout of STV for all council elections at the same time. It is clear that the current system is not working effectively and it is likely that, by giving councils the option to do so, most authorities won't do it. Indeed in New Zealand, where this model has been used for 15 years STV has failed to be widely adopted by local authorities with only 11 out of the 67 opting to use the voting system in the 2019 elections.

In their Explanatory Memorandum Welsh Government state "It is appropriate that the council should decide on its voting system, which best reflects the needs of their local people and communities". We would argue that no community is best served by unfair and disproportionate results or uncontested seats.

Realistically the only way to ensure proportional results across Wales and an effective education campaign around a change to the electoral system is for a comprehensive overhaul. It no longer makes sense for FPTP to be used for any election in Wales and we would welcome the Welsh Government introducing STV for all Welsh local elections.

Electoral registration database and moves towards automatic registration

Regulations in this legislation to develop a database of electoral registration information are to be very much welcomed. The move to a single electronic register is long overdue and something that will enable wider modernisation of the registration process. For example, this would facilitate easier identification of duplicates on the register and a process whereby potential voters could much more easily confirm if they are registered or not. It would also facilitate new models of voting, such as the ability for voters to be able to vote in a different polling station.

In terms of the practicalities of making this happen obviously the safety of holding so much data electronically should be of utmost concern. Local Authorities and Welsh Government

should work with cyber security experts and seek advice from the Information Commissioner on how this is best delivered so as to comply with data privacy laws.

The moves to develop a system of automated registration, whereby registration officers can notify potential voters of their impending addition to the register, will go a huge way to simplifying the registration process. According to the latest Accuracy and Completeness estimates from the Electoral Commission, the local government register in Wales was just 81% complete and 89% accurate as of December 2018.⁸ The possibility for this to be combined with information from other government sources, such as the DVLA or passport office or council tax information, has the potential for this move to hugely increase the completeness of the register and ensure the groups less likely to be registered (the young, the private rented sector, BAME groups) can be directly targeted leading to a much more complete register. The Electoral Commission has recently assessed how information from different sources could be used to update the registers.⁹

Election Pilot Schemes

The inclusion of moves to allow Welsh Ministers to introduce pilot schemes for local elections are an exciting development. If used to their full potential, we could see a real move towards testing out ideas that may boost participation. At the last local elections we saw a turnout of just 41%. Would voting on different days (such as over the weekend) or in different places (such as supermarkets) improve this in the future? We just don't know in Wales and ultimately piloting these methods is the best way to test them.

Part 3 – Promoting Access to Local Government

Public participation in local government

We welcome the new duties on local authorities to encourage local people to participate in decision making. Methods such as participatory budgeting and citizens' assemblies could be great tools to boost engagement by local authorities.

As an organisation we have developed extensive research on the merits of deliberative democracy and better engagement, and are excited by the potential for councils to adopt such measures within these duties. In Scotland, ERS is part of the 'Our Democracy' coalition running a campaign called 'Act As If You Own The Place' where communities come together at events to redesign their local democracy so it works better for them.¹⁰ The ERS has also been involved in running Citizens' Assemblies at the UK level¹¹ - one in 2015 on devolution and one in 2017 on Brexit - and in Scotland, where we are on the stewarding group of the Citizens' Assembly of Scotland, which is looking into the short and long term challenges facing the country and how best to deal with them.¹²

⁸ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/accuracy-and-completeness-electoral-registers/2019-report-2018-electoral-registers-great-britain/national-estimates-accuracy-and-completeness>

⁹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/changing-electoral-law/a-modern-electoral-register/modernising-electoral-registration-feasibility-studies>

¹⁰ <https://ourdemocracy.scot/>

¹¹ <https://citizensassembly.co.uk/>

¹² <https://www.electoral-reform.org.uk/what-happens-at-the-citizens-assembly-of-scotland/>

Petitions are also a good way to engage the public, as the Bill highlights, however it's fundamental that transparent mechanisms are put in place within the process, so petitioners can see the decisions undertaken following their petition and the reasons why a petition may or may not have been taken forward.

We remain concerned that the legislation may lead to a patchwork of effectiveness at local authority level, replicating what we are already seeing. Some local authorities are better than others at engaging and using deliberative processes and there is a risk that this legislation will perpetuate that. The Welsh Government should develop guidance on the kinds of methods they expect from local authorities and hold their effectiveness to account. In their Explanatory Memorandum to the Bill Welsh Government report that the legislation “enables decisions about the future of local government to be rooted in a renewed democracy, driven by active citizenship and transparent political decision making”. We are not convinced that the public participation strategies alone will do this.

We are also concerned that this duty may be papering over some of the fundamental reasons many people don't engage with local government. The recent Welsh Government evidence synthesis on democratic renewal highlighted concerns around the electoral system as a discouraging factor for engagement and turnout, alongside wider trends around disengagement, a lack of diversity and a lack of political education.¹³ Addressing these fundamentals should not be forgotten when developing strategies around engagement.

Part 4 – Local Authority Executives, Members, Officers and Committees

Job sharing: executive leaders and executive members

We are pleased to see the inclusion of measures around job sharing for executive positions in a local authority. There are major benefits to job sharing of executive leaders and members' roles, including increasing the diversity of members' perspectives and expertise, and reducing the barriers to members with additional requirements being able to take on these roles.

This is something that has been proven to work in Swansea Council, which currently holds three shared positions, enabling members to share workloads, public visits and make the role much more suited to themselves.¹⁴

There is a direct link between job sharing and diversity, with members with additional requirements typically being women (who are more likely to be in charge of, for example, childcare or other caring responsibilities, or to have to juggle other work commitments), yet the sharing of roles should not be seen as something just available to women.

¹³ https://gov.wales/sites/default/files/statistics-and-research/2019-03/democratic-renewal-evidence-synthesis-to-support-local-government-electoral-reform_0.pdf

¹⁴ <https://www.swansea.gov.uk/Cabinet>

Job sharing was also recommended by the Expert Panel on Assembly Electoral Reform for the Senedd, but has yet to be enacted. This is an area where local government is clearly taking the lead and it is promising to now see that in legislation.

Standards within local government

Our work has shown areas of huge concern around the abuse and harassment of those in elected office. Standards Committees within local government have the potential to be an appropriate response, if they are representative, diverse, transparent and accountable.

Of 121 politicians that took part in our survey on abuse and harassment in 2018, 21 reported that this was either from another politician or within their party.¹⁵

As the recent issues with the Senedd's Standards Commissioners' resignation have shown, it is vital that these committees include expertise on abuse and harassment within politics. They should also be careful not to replicate the lack of diversity in local government, ensuring a diverse range of voices on each committee. Furthermore, transparency and accountability must go beyond an annual report, with clear and regular updates on issues and decisions.

There is clearly a role for group leaders to play in tackling these issues too, but the legislation as it stands is unclear in terms of which steps they are expected to take to promote and maintain high standards. Further clarity on this should be sought, with an idea of what penalties could be expected if group leaders fail to comply.

Areas missing from the Bill

We are disappointed to see a number of proposed changes to local government missing from this Bill, particularly around provisions to increase diversity in politics at a local level.

Local Government is one of the weakest levels of government in terms of diversity. At the 2017 elections just 28% of those elected were women.¹⁶ 33% of wards had no female candidates at all.¹⁷

This Bill does not address this and we think this is a missed opportunity.

The specific omissions we are concerned about with this legislation include the lack of an Access to Elected Office Fund and quotas to ensure gender balance.

An Access to Elected Office Fund was a specific recommendation from the Unpacking Diversity: Barriers and Incentives to standing for election to the National Assembly for Wales report commissioned by the Senedd's Remuneration Committee, which we also endorsed in our New Voices report in 2018.¹⁸ Access to funding has often been cited by

¹⁵ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/new-voices-how-welsh-politics-can-begin-to-reflect-wales/#sub-section-12>

¹⁶ <https://www.electoral-reform.org.uk/latest-news-and-research/publications/new-voices-how-welsh-politics-can-begin-to-reflect-wales/#sub-section-8>

¹⁷ <https://www.bbc.co.uk/news/uk-wales-39721534>

¹⁸ <http://senedd.assembly.wales/documents/s77244/Unpacking%20Diversity.pdf>

underrepresented groups as one of the major barriers to engaging in politics and we are discouraged that the legislation does not endeavour to address this. An Access to Elected Office fund needs to be established by the Welsh Government to offer targeted support to people with disabilities, people from ethnic minorities, people from the LGBT community and people on a low income.

It is also clear that the only guaranteed way to boost diversity is to include measures to promote positive action. The Atlas of Electoral Gender Quotas argues that “gender quotas have proved to be the single most effective tool for ‘fast-tracking’ women’s representation in elected bodies of government...Out of the 37 countries that as of November 2013 have more than 30 per cent or more women in the lower houses of parliament, 30 (81 per cent) use some type of gender quota”.¹⁹ This has strong support from groups such as WEN Wales, who have a reach of 34k people in their coalition. They recommend legally binding candidate gender quotas and can share expertise from around the world in how to achieve this.

A move to a Single Transferable Vote based electoral system would provide the greatest opportunity for the use of gender quotas integrated into the electoral system. The Expert Panel on Assembly Electoral Reform recommended the linking of gender quotas to the STV system.²⁰

As we stated in our response to part 1 of the Bill, our preferred option would be for a wholesale reform of the voting system in Wales and the Welsh Government should explore legislating on integrated gender quotas to go alongside this.

Conclusion

As we have identified in our evidence above there are some areas of this Bill which contain really exciting plans for reform. The extension of the franchise in particular could change the way young people engage with politics at a local level. Furthermore, plans to change the registration system could lead to a much more complete register and remove barriers for under represented groups.

Yet, more needs to be done to strengthen the changes to the voting system and ensure wholesale reform there. In addition measures around improving transparency and engagement need to be much more developed, with serious consideration to how such strategies could look and to ensure their effectiveness.

We remain very disappointed that so little has been done in this legislation to improve the diversity of our elected representatives, a fundamental challenge facing local democracy.

¹⁹ <https://www.idea.int/sites/default/files/publications/atlas-of-electoral-gender-quotas.pdf>

²⁰ <http://www.assembly.wales/NAfW%20Documents/About%20the%20Assembly%20section%20documents/Expert%20Panel%20on%20Assembly%20Electoral%20Reform/A%20Parliament%20that%20Works%20for%20Wales.pdf>

We hope that the Welsh Government and Members of the Senedd will take our comments seriously and use them to ensure the Local Government and Elections (Wales) Bill is as strong as it can be as it progresses through its legislative journey.

For further information please contact:

Jessica Blair

Director, ERS Cymru

Agenda Item 4

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Mr John Griffiths AM
Chair of Equality, Local Government &
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National Assembly for Wales
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Reference: AC/170/caf

Date issued: 5 December 2019

Dear John

Consultation on the Local Government & Elections (Wales) Bill

1. Thank you for your letter of 22 November 2019 in which you invite views on the Local Government and Elections (Wales) Bill. I understand that you would like comments particularly in relation to the provisions of the Bill that concern the role of the Auditor General. In the time available, I can only provide preliminary views, but I hope that they are helpful. My colleagues will provide further views and clarification at your session on 11 December 2019, and we will provide a further submission by 3 January 2020.

Performance assessment arrangements: performance requirements

2. I welcome the Bill's intended improvement of performance assessment arrangements. The duty to keep performance under review, provided by section 88, appears to me to be a more realistic and coherent approach than the improvement principles and duties set out in the Local Government (Wales) Measure 2009.
3. My predecessor and colleagues at the Wales Audit Office have long had concerns at the onerous complexity of the 2009 Measure. The numerous functions and principles imposed by the 2009 Measure have led to performance improvement work being seen as burdensome and bureaucratic by some authorities. At the same time, it is not clear that the performance improvement requirements of the Measure have actually led to improvement in authorities' performance, though it is difficult to identify particular effects given the complex environment that local government operates in, especially with reductions in funding. It is clear that legislation is needed to repeal the requirements of the 2009 Measure and to replace them with more realistic and coherent requirements.

4. I would also note that the current Bill is much more realistic and proportionate in this respect than the November 2015 draft local government bill.

Self-assessments

5. While acknowledging the benefits of encouraging greater self-awareness, I am somewhat sceptical about whether the requirements of section 90 in themselves will improve the quality of self-assessment. The experience of the “Best Value Reviews”, which authorities were required to do under the Local Government Act 1999, and more recently of the 2009 Measure, demonstrates the potential weaknesses in the approach. These were a lack of consistent objectivity and rigour; a reluctance to be critical and a tendency to be superficial in gathering and assessing evidence of performance; and shortages of the necessary skills and capacity to undertake comprehensive assessments. I have no reason to believe that the appetite and capacity for objective self-appraisal have increased in the past decade, and I am also not convinced that new requirements in themselves will lead to an improved situation.
6. The new provisions for self-assessment are, however, more streamlined than the requirements under the 1999 Act and the orders and guidance made under that Act and are more coherent and comprehensive than the requirements of the 2009 Measure. This should be helpful in connecting performance assessment with the audit consideration of arrangements for securing economy, efficiency and effectiveness (required by section 17(2)(d) of the Public Audit (Wales) Act 2004).
7. Finally, it would be helpful if there were a deadline for producing self-assessments in respect of each financial year: perhaps four months after the end of the year. Without a deadline, it would seem that a self-assessment for a financial year could be undertaken at some indefinite time in the future.

Panel assessments

8. I also have some reservations about whether panel assessments (section 91) will achieve Welsh Ministers’ intended objectives. As panel members are to be appointed by the councils that they are to assess, there is a risk of self-interest undermining the objectivity of the panel members. I am also concerned that the supply and availability of appropriately skilled panel members may be rather limited given the number and timing of panel assessments required in any given year. I note that section 93 provides for the Welsh Ministers to make regulations concerning the appointment of panels. Such regulations could be used to set appropriate requirements in terms of skills, knowledge and experience of panel members. I am nonetheless sceptical that a sufficient pool of suitably qualified and capable potential panel members will be available.

Special inspections

9. The Bill's provisions for special inspections by the Auditor General (sections 94 to 99) appear appropriate in themselves. While these new provisions seem generally similar to the special inspection provisions of the 2009 Measure, as the focus of the inspections is to be assessing whether councils are meeting the performance requirements of section 88, rather than the various requirements of Part 1 of the 2009 Measure, these new provisions are necessary. And the clearer focus of the new provisions should be helpful in scoping and delivering inspections.
10. I am, however, concerned at how, under section 128 of the Bill, the receipt of a report of a special inspection is to be the first condition (along with the alternative of an abolition request) for Welsh Ministers making restructuring regulations. I realise this is not a simple trigger, as the fourth condition is that the Welsh Ministers must be satisfied that, unless they make restructuring regulations, effective and convenient local government is not likely to be achieved in the area. Nevertheless, with such a link to restructuring regulations, I think that there is a real danger of the arrangements compromising the Auditor General's independence and so undermining wider audit effectiveness and public trust and confidence in the management of public money.
11. This is particularly likely in a case where the Welsh Ministers request an inspection in relation to a council about which there has been speculation as to the possibility of restructuring. Having received a request, the Auditor General may be put in an invidious position: be seen as the agent of Welsh Ministers in facilitating change against local opposition or side with local interests against the wishes of Welsh Ministers.
12. I also do not think that the conditions set out in section 128 are sufficient or helpful in providing a sound basis for deciding on restructuring regulations. Aside from special inspection reports (or abolition requests), there is only consultation, notice and the Welsh Ministers' judgement. Focus on these conditions seems likely to lead to neglect of consideration of broader relevant matters, such as the views of the population of the area.
13. With the inclusion of special inspections as a condition for making restructuring regulations, undertaking a special inspection may become a rather difficult process. There is the possibility of reduced co-operation and extensive challenge of the inspection process, which may extend to judicial review. This would cause the Wales Audit Office to incur significant costs.
14. I am also concerned that the fee provisions in section 100 of the Bill include a strict prohibition on fees exceeding the full cost of the activities to which they relate. This adds to the existing problems caused by the Public Audit (Wales) Act 2013 prohibiting fees from exceeding the full cost of each function at each body to which they relate. As the work of the Auditor General involves many different statutory functions—more than a dozen in the case of a single local government audit—this leads to a large administrative burden in terms of time recording and invoicing. The

Committee will be aware of the Finance Committee's separate consideration of the "no more than full cost" rule, which currently governs the charging of audit fees, and whether it should be replaced with a more practical requirement for fees and expenditure to broadly match over time in aggregate so as to reduce the complexity of fees and their administration.

Co-ordination between regulators

15. Having regard for the need for co-ordination is clearly desirable. However, the extensive requirements in section 118 of the Bill, particularly the requirement to produce timetables for each council for the exercise of functions, are over-prescriptive, largely impractical and unnecessary. For example, many inspections by CIW and Estyn are on short notice in order to be effective, and it is therefore not appropriate to explicitly timetable these. I already have a strategic agreement in place with CIW, Estyn and HIW in pursuit of cooperation and coordination through "Inspection Wales". This operates well at both a strategic and operational level, and I therefore view prescription of section 118 as unnecessary.
16. I am also concerned that section 118 may be outside the Assembly's legislative competence. This is because the section requires the Auditor General to have regard to the need for co-ordination in the exercise of functions, which amounts to a modification by way of an implied amendment to section 8(1) of the Public Audit (Wales) Act 2013. Section 8(1) of the 2013 Act says that the Auditor General has complete discretion in the exercise of his functions and is not subject to direction by the Welsh Ministers. Section 118 therefore seems to fall foul of the prohibition found in section 108(6)(a) and para 5 of Part 1 of Schedule 7B to GOWA 2006, which protects section 8(1) of the 2013 Act from amendment. I recognise that section 118 of the Bill is in part a restatement of section 23 of the 2009 Measure. However, the 2013 Act is subsequent to the 2009 Measure, so its provisions prevail—section 23 of the 2009 Measure was no longer valid following the commencement of the 2013 Act, so cannot be restated.

General power of competence

17. The provision for a local authority general power of competence is in principle, I think, appropriate. There has been confusion in both community councils and unitary authorities in Wales as to whether the general power of competence provided by the Localism Act 2010 applies. Welsh provision should help prevent such confusion in the future.
18. I do, however, think that expectations of the flexibility of the general power of competence should not be too high. It is not simply a power to do anything that individuals may do; it is subject to significant constraints, such as limitations on charges, pre-commencement power restrictions, pre- and post-commencement limitations, and the principles of public law. Authorities will need to spend expert time on checking limitations. That said, the general

power of competence does provide some additional freedom of action that can be useful in some circumstances.

19. I am, however, somewhat concerned that as community councils have limited affordable access to suitably qualified and expert advisers in public law there may be an increase in inappropriate projects undertaken by such councils. The committee may be aware that I have issued several public interest reports in 2019 regarding unlawful expenditure on projects.
20. I note that section 43 of the draft Bill requires community councils to have regard to guidance issued by Welsh Ministers in relation to the exercise of general power of competence. I think this is appropriate: such guidance will be very important, as many community councils are not familiar with the limits of competence set out in Chapter 1 of Part 2 of the Bill and by principles of public law.
21. In relation to the draft Bill's provision for the use of audit opinions in determining community council competence (section 37), I should note that while such opinions are of relevance to the abilities of bodies in terms of financial management and governance, audit work is not designed to provide assurance as to whether a council meets competency requirements. The audit provisions in section 17 of the Public Audit (Wales) Act 2004 do not require audits to address fitness for general competence.
22. If audit opinions are to be fully appropriate to determining whether a council has competence, it will be necessary to amend the scope of audit work. This will increase community council audit fees (or they will need to be funded by other means). Rather than making this a blanket requirement for all audits, it may be more cost-effective if provision were made to require community councils to obtain specific reports on fitness for competence. Such reports could be provided on an agreement basis under section 19 of the Public Audit (Wales) Act 2013.

Corporate Joint Committees

23. It seems to me that Corporate Joint Committees fall within the definition of joint committees set out in section 12 of the Public Audit (Wales) Act 2004. However, the Bill and the Explanatory Memorandum do not make this explicit. It would be helpful if this were clarified. In any event, and especially as they are to hold assets. Corporate Joint Committees will need to prepare accounts and be audited.
24. The Committee may want to note that I, and my predecessor, have frequently commented on the complexity of structures and governance in the public service landscape in Wales. I am not clear from the provisions of Part 5 of the Bill, or the explanatory memorandum, whether this will improve or worsen complexity. Careful consideration will need to be given through guidance and regulation to ensure that there is proper coherence, integration and efficiency in the exercise of these provisions.

25. The appropriateness of powers to make subordinate legislation, and the financial implications of the Bill
26. It not possible in the time available to provide properly considered comments on the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation. Likewise, it is not possible in the time available to provide proper consideration of the financial implications of the Bill as set out in the Explanatory Memorandum. We will, however, endeavour to provide such comments by 3 January 2020.
27. Given the Public Accounts Committee's interest in issues such as community council competence and my comments on the proposed fee regime for special inspections, I am copying this letter to the Chairs of the PAC and Finance Committee.
28. My colleagues and I should be happy to support the Committee further, and I hope that this material is helpful to you.

Yours sincerely



Adrian Crompton
AUDITOR GENERAL FOR WALES

cc: Mr Llyr Gruffydd AM, Chair, Finance Committee
Mr Nick Ramsay AM, Chair Public Accounts Committee

Equality, Local Government and Communities Committee

Local Government and Elections (Wales) Bill – summary of main points from the Future Generations Commissioner for Wales

Corporate Joint Committees:

- Another layer of collaboration
- How does this link to PSBs and other partnership groupings? (see our letter to Julie James sent this morning)
 - In particular how will their objectives link back to PSBs and PBs well-being objectives? We need reassurance that there will be integration, and of the consequences for our Office – will we monitor and assess their progress too?
- Complex governance arrangements, need to make sure they are clear
- Functions – only some functions - might be beneficial to review the list to see if other functions should be added to be most efficient at this level
- Need leadership from WG to avoid creating an even more complicated system which could prevent participation

Diversity and Participation:

- Overall good (broadcasting, access to documents, plain language) but missed some opportunities to integrate with our Act – talk about participation not involvement, need to be able to be involved before decision is made, etc.

Performance:

- Self-assessment and peer review welcome – strong evidence on the benefit of such practices
- The test for performance must include WBFGA (progress towards goals, meeting objectives and using 5 ways of working)
- Value for money guidance also needs to be aligned to the Act
- Review panels need to be fully aware of the Act, my advice and monitoring and assessing need to be taken into account by the panel
- Our self-reflexion tool can be used as includes both self-assessment and peer review
- Ministers interventions should also take account of my advice and assessments
- Governance and Audit Committees will have overview so they need full understanding of the Act (will need proper resourcing and support).

Agenda Item 6

Equality, Local Government and Communities Committee

11 December 2019 – papers to note cover sheet

Paper no.	Issue	From	Action point
ELGC(5)–35–19 Paper 4	Local Government and Elections (Wales) Bill	Llywydd	To note
ELGC(5)–35–19 Paper 5	Local Government and Elections (Wales) Bill	John Griffiths AM	To note
ELGC(5)–35–19 Paper 6	Local Government and Elections (Wales) Bill	Julie James AM, Minister for Housing and Local Government	To note
ELGC(5)–35–19 Paper 7	Inquiry into fire safety in high-rise buildings	Celestia Action Group	To note
ELGC(5)–35–19 Paper 8	Benefits in Wales: options for better delivery	Hannah Blythyn AM, Deputy Minister for Housing and Local Government	To note
ELGC(5)–35–19 Paper 9	Scrutiny of the Future Generations Commissioner	Sophie Howe, Future Generations Commissioner	To note

Agenda Item 6.1

John Griffiths AM
Chair, Equality, Local Government and Communities Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

Our ref: PO765/EJ/BG

4 December 2019

Dear John,

The Local Government and Elections (Wales) Bill.

At its meeting this week, the Business Committee considered your committee's response to the proposed timetable for the Local Government and Elections (Wales) Bill, as well as the alternative proposal that emerged after last week's Business Committee meeting for extending Stage 1 by having a shorter Stage 2.

Whilst Darren Millar, Rhun ap Iorwerth and Caroline Jones expressed support for your committee's position, the Trefnydd opposed any change to the proposed timetable.

The three non-government Business Managers emphasised the importance of good evidence for good legislation and stated that in their view 12 weeks should be the minimum period for Stage 1, rather than a standard or maximum period, especially for such a substantial Bill.

The Trefnydd reiterated the government view that the timetable was already tight for implementation and that a full Stage 2 window was needed to allow tabling of amendments, including time to implement anticipated committee recommendations. Under the Business Committee weighted voting system there was a majority for the government's proposed timetable, which was therefore agreed.



In light of the issues raised by this Bill, the Business Committee agreed to look at timetabling the scrutiny of legislation as part of its preparations for the Sixth Assembly.

Yours

A handwritten signature in blue ink, appearing to read 'Elin Jones'.

Elin Jones AM

Y Llywydd and Chair of the Business Committee



Julie James AM
Minister for Housing and Local Government

5 December 2019

Further information following the meeting held on 27 November 2019

Dear Julie,

Thank you for your appearance before the Committee on 27 November for scrutiny of the Local Government and Elections (Wales) Bill. During the meeting, you agreed to write to the Committee on the following points listed below:

- to provide details of any analysis that has been undertaken by the Welsh Government or elsewhere in relation to petitions schemes, the potential increase in their use by the public, and long-term cost implications for principal councils of running a scheme.
- to share the timetable for the ‘co-production’ of the guidance and regulatory arrangements created by the Bill.
- to share examples or evidence of effective self-assessment arrangements that are currently in place around the world.

During the meeting you were unable to provide detailed responses to our questions on the financial implications of the Bill due to restrictions on the timing of the Welsh Government’s draft budget and local government settlement. Following the session, we agreed to ask for written responses to these questions and for some additional information on some other areas discussed during the meeting.

Firstly, could you outline what financial support the Welsh Government will be providing to local government to cover the additional costs falling on authorities as a result of provisions for extending the franchise in this Bill? Could you also outline how the Welsh Government will be supporting local authorities to ensure the necessary systems are in place to enable the use of remote attendance for council meetings, including any financial assistance?



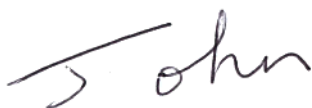
During the meeting you confirmed that guidance on the implementation of the Bill's provisions would be jointly produced by the Welsh Government and WLGA, please could you also provide details of how the other service users, including citizens, will be able to influence the design and delivery of the guidance. It would be helpful if the timetable for producing the guidance could be made available to us in advance of our deadline for reporting on the general principles of the Bill.

You will recall that we also discussed potential financial incentives for local authorities who wish to change their voting system to STV. Could you clarify whether the Welsh Government would consider providing financial assistance to any principal councils wishing to change their voting system to STV ?

We appreciate that you are not able to respond to all of these points until after the draft budget and local government settlements have been published, but would be grateful for a response as soon as possible after 16 December.

I look forward to your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John', with a stylized flourish at the end.

John Griffiths AM

Chair

Croesewir gohebiaeth yn Gymraeg neu Saesneg.
We welcome correspondence in Welsh or English.



Agenda Item 6.3

Julie James AC/AM

Y Gweinidog Tai a Llywodraeth Leol

Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

John Griffiths, AM
Chair
Equality, Local Government and
Communities Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA

5 December 2019

Dear John,

Proposals to amend provisions in primary legislation which provide for changes to executive governance arrangements in principal councils

I am writing to inform you that I have launched a consultation which proposes amendments to provisions in the *Local Government Act 2000* and the *Local Government (Wales) Measure 2011* which enable changes to the executive governance arrangements of principal councils.

The consultation proposes that petitions for referendums to change executive governance arrangements should be presented no later than eighteen months before the date of the next ordinary election. This would provide sufficient time for any referendum to take place and enable any mayoral elections to be held at the same time as the next set of ordinary elections. Changing these timescales will limit the disruptive impact of repeated changes of executive arrangements within a relatively short period. Therefore this deadline would also apply to other ways of triggering of a referendum such as an order or direction by the Welsh Ministers or a resolution of the principal council.

The consultation also proposes that, where the executive arrangements of a principal council have been changed, no further changes can be made to them until after the completion of two complete electoral cycles.

It is my intention to bring forward these provisions by means of Stage 2 amendments to the Local Government and Elections (Wales) Bill.

I am also seeking opinions on updating some of the regulations around petitions such as allowing for e-petitions, online notifications for petitions and whether the threshold required for signatures to a mayoral petition triggering a referendum should be amended.

The consultation, which runs until 27 February 2020, describes in more detail what we are proposing to do and sets out our reasons.

This is the first step of a two phase consultation. I intend to consult on proposed amendments to secondary legislation taking into consideration responses to this consultation.

The consultation document is provided to support the Committee's scrutiny of the Bill.

I look forward to assisting the Committee further with its scrutiny of the Bill.



Julie James AC/AM

Y Gweinidog Tai a Llywodraeth Leol

Minister for Housing and Local Government

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Agenda Item 6.4



First Minister Mark Drakeford
Minister for Housing Julie James AM
Andrew RT Davies AM
Stephen Doughty MP
Vaughan Gething AM
John Griffiths AM
Mark Isherwood AM
David Melding AM
Leanne Wood AM
Mick Antonwi AM

5th December 2019

Dear Representatives and Supporters,

Re Urgent - Celestia Cardiff - Celestia Action Group ("CAG")

Further to our update on 26th September 2019 we are writing to brief you on the ongoing crisis at the Celestia Development in Cardiff Bay.

It is widely accepted that the serious defects in the development are a direct consequence of the failure by Redrow, the developer, to deliver to customers what they had promised and sold – a safe and high-quality property. Redrow's refusal to accept legal liability seems to be largely based on the fact that the defects (which were hidden) remained undiscovered for a period of just 12 years or so.

The issues at Celestia are set to receive high profile scrutiny on **Monday, 9 December (19.30pm) as BBC Wales' X-Ray consumer affairs programme** focuses on the desperate plight of residents and leaseholders and Redrow's attempts to conflate their historic disregard for building regulations with the complex issues which have emerged following the Grenfell tragedy.

You may also know that our repeated requests, together with some of your own direct appeals to Redrow's Executive Chairman John Tutte, to agree to a standstill agreement and extend the limitation date for claims to protect the interests of some 50 leaseholders by 16 November, was consistently rejected. So, after some five years plus of delay and prevarication leaseholders are highly concerned about Redrow's continued stance on the huge problems facing the development.

The most immediate and stressful issue facing Celestia homeowners remains the Enforcement Notices served by SWFRS on all the buildings in the development.

At our recent AGM on 26 November we learnt of the details of Redrow's "soft loan" to deal with certain aspects of their fire safety defects. As stated previously Celestia homeowners welcome this offer, however, significantly, we learnt that the loan does not guarantee to cover all of the costs associated with addressing the fire safety issues. Neither does the loan recognise or address the other serious building defects that have been subject to years of lengthy discussions and still remain unresolved.

Redrow continues to refuse to accept responsibility for these serious faults; despite their public assertions that they are keen to help and assist homeowners. Consequently, the loan received heavy and widespread criticism from leaseholders who worry that Redrow is simply

seeking to alleviate the public and brand scrutiny they are receiving as a result of the crisis. There is widespread concern that should we accept the loan in its current form, the other very serious and more expensive defects would still be facing leaseholders. Redrow's "broken record" for the last five years has been "not our problem" so consequently leaseholders are naturally suspicious of their intentions. We estimate the loan offer of £1 million equates to approximately 50% of John Tutte's annual compensation package

At the AGM Leaseholders were also advised that the current initial cost estimates for rectifying the known build defects is **in excess of £6 million** – this excludes the £1million plus already spent by homeowners on legal fees and technical surveys /reports. Currently homeowners are paying for 24/7 fire watch in the complex. This last year Redrow made profits of £406 million!

In circumstances where leaseholders are already under severe financial pressure, funding a substantial legal exercise and taking on the additional risk of becoming liable for Redrow's costs is particularly daunting and difficult.

CAG remains acutely aware of the mental and financial stress the continued delays in addressing the problems is having on homeowners and remains totally committed to holding to account those responsible. We are very aware of the huge impact these financial liabilities are having on the well-being of all residents including young families and pensioners who are particularly vulnerable. **Current estimates put the costs of all repairs per homeowner to be in the region of £14,000. Many leaseholders will simply not be able to pay these monies.**

CAG remains committed to securing a comprehensive and lasting solution to the problems that have beset homeowners. We therefore look forward to urgent and constructive discussions with Redrow's leadership and call on you as our political representatives and leaders to urgently lobby Redrow on behalf of 457 homeowners in Cardiff Bay.

We would respectfully ask that you consider:

- *Individually writing to Mr John Tutte to express concerns about any continuation of the fire safety delays and the potential danger and impact this will have on the well-being of some 1500 inhabitants of Celestia as well as wider public safety concerns*
- *Visiting the Celestia site to meet residents and inspect some of the build problems – we thank those leaders who have already done so*
- *Inviting Redrow's senior leaders to the relevant Welsh Government Committees to explain their position – we believe the issues we are experiencing are a matter of wider public concern and planning and housing policy*
- *The impact of further prolonged delays on addressing problems that have now been the subject of some five years of discussion, delays and prevarication*
- *The negative impact this whole crisis is having on the image of Cardiff Bay and of course Redrow as a leading Welsh house builder with extensive sites around Wales and Cardiff.*

Please let us know if we can provide you with any further information. We are very grateful for your continued support and assistance.

Yours sincerely,

CAG Members - You can follow our continued work and actions on **Twitter @RedrowRipOff**



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-HB-5452-19

John Griffiths AM
Chair
Equality, Local Government and Communities Committee

5 December 2019

Dear John,

I would like to thank the Committee for your valuable work in considering the delivery of welfare benefits in Wales. The Committee's consideration of the oral and written evidence presented before them has produced a helpful report and recommendations.

I recognise that this is very complex area that is vitally important across Wales, and most importantly to our most vulnerable individuals, families and communities. I look forward to the Wales Centre for Public Policy publishing their report *Administering Social Security in Wales* in January 2020. The report of the Equality, Local Government and Communities Committee is an important contribution in helping frame how the work on assessing the case for the devolution of administration of benefits will progress.

The attached table sets out the Welsh Government's response to each recommendation. I have committed to provide the Committee with further updates in relation to some of the recommendations which I will do as information becomes available, or work develops.

Yours sincerely,

Hannah Blythyn AC/AM
Y Dirprwy Weinidog Tai a Llywodraeth Leol
Deputy Minister for Housing and Local Government

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Pack Page 114

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

National Assembly for Wales Equalities, Local Government and Communities Committee Report *Benefits in Wales: Options for Better Delivery*

Welsh Government response

Recommendation 1

The Committee recommends that the Welsh Government establish a coherent and integrated “Welsh benefits system” for all the means-tested benefits for which it is responsible. As part of this, the Welsh Government should develop a set of principles underpinning their design and delivery. These principles should be co-produced with people who claim these benefits and the wider Welsh public.

Response: Accept

The Welsh Government is currently undertaking a cross-government review of their programmes and services to ensure they have maximum impact on the lives of children, young people and families living in poverty. The review will include working across government departments to develop options to reduce costs for families and boost incomes, focussing on elements where Welsh Government can make a difference. This will include exploring how access to cash benefits and support services can be simplified and/or streamlined. The voices of children, young people and families living in poverty will help shape the review, including what actions they believe will help improve their situation on a day-to-day basis.

The Wales Centre for Public Policy (WCPP) are currently undertaking an exploration of the case for devolving administration of certain aspects of the benefits system. As part of their interim work the WCPP has helpfully identified that a starting point should be to identify the desired outcomes to guide decisions about what might need to change, which concurs with this recommendation. The Welsh Government has already begun to outline some core principles which include compassion, fairness, dignity and understanding, with the aim of taking a more citizen-centred, humane approach. We will be building on these further and developing them through our broader engagement, as part of our review of tackling poverty programmes.

Financial Implications: Any additional costs will be drawn from existing programme budgets.

Recommendation 2

The Committee recommends that the Welsh Government publish details of all the means-tested benefits it is responsible for and those delivered at a local authority level in Wales, including details of costs, the number of people eligible and the level of take up.

Response: Accept

We currently publish on the Welsh Government web pages the eligibility criteria for all pass-ported Welsh Government benefits and schemes:

<https://gov.wales/eligibility-criteria-passported-benefits-and-schemes>

We will ensure our statements on progress for our means-tested benefits and schemes always provide clarity on expenditure, and the level of take-up where feasible. We already provide estimates of eligibility for benefits where this is feasible, for example for Free School Meals. Estimating levels of eligibility for benefits can be a costly and complex task. We will consider the feasibility of providing eligibility estimates across Welsh Government benefits and schemes.

As part of our Child Poverty Progress report 2019, due to be published shortly, we will be including an annex fact sheet detailing the cross Government contributions towards tackling poverty and outcomes in terms of the number of beneficiaries.

Financial Implications: Any additional costs will be drawn from existing programme budgets.

Recommendation 3

The Committee recommends that the Welsh Government ensures the DAF can be used during the waiting period for an initial Universal Credit payment, and that the eligibility criteria and application process are changed to reflect this. The Welsh Government must ensure that the application process is swift to ensure that payments are received in a timely fashion to avoid financial hardship and that there are sufficient funds available to meet all claims

Response: Accept

The Discretionary Assistance Fund (DAF) can be used during the waiting period for an initial Universal Credit payment. The DAF currently provides emergency cash payments for people who are experiencing extreme hardship, including Universal Credit claimants experiencing hardship during the initial assessment period. No change to the eligibility criteria or application process is required.

Recent system improvements have been implemented to the application process which have resulted in reduced application times, fewer abandoned claims, and more successful applications, with online applications typically taking less than 5 minutes.

The application process supports online and telephone applications, with payments reaching people in need within 24 hours. Over 81% of payments are paid within 12 hours.

We will continue to closely monitor demand for DAF, in terms of claims and the number and value of awards, and consider how the fund can better reach and meet the needs of people facing extreme hardship, including those awaiting initial Universal Credit awards.

Financial Implications: Any additional costs will be drawn from existing programme budgets

Recommendation 4

The Committee recommends that the Welsh Government takes action to improve take up of all benefits in Wales, both devolved and non-devolved. At the very least this should take the form of a wide ranging and extensive public awareness campaign. We also believe that there should be a statutory duty placed on local authorities to provide benefits advice which aims to ensure people are claiming all benefits to which they are entitled. The Welsh Government should ensure that funding is made available to local authorities to deliver this duty.

Response: Accept in principle

We will continue to promote and increase the take-up of all devolved and non-devolved welfare benefits in Wales, and will maintain ongoing engagement with the UK Government, through the Department for Work and Pensions (DWP), to ensure that they raise awareness and improve the take-up of non-devolved benefits. We recognise the positive outcomes for people and for the Welsh economy which are attained through initiatives that enable households and individuals to access their legal entitlement to welfare benefits.

We have recently undertaken a rigorous procurement process and the new Strategic Advice Fund (SAF) will begin on 1 January 2020. We will monitor the services provided and evaluate their effectiveness. During 2018-2019 the Welsh Government grant funded advice providers helped people to claim additional welfare benefit income totalling £55m. Our approach is based on the most effective and successful benefit take-up campaigns, which provide people with accessible information that raises their awareness of welfare benefits, and allows them to make an informed choice about making a claim. We will also ensure appropriate levels of resources are available within local communities so people, particularly the more vulnerable, can access the advice and support that they need to complete all the processes that are required to make a successful benefit claim.

We would need to consider carefully proposing a specific role for local authorities, including in the light of devolved powers, as well as their existing statutory functions. We recognise that most local authorities in Wales are already directly providing or funding the provision of advice on welfare benefits through locally designed approaches. For example, benefit advice services may be provided by local authorities through existing statutory duties, such as the Social Services and Well-being (Wales) Act 2014, and Part 2 of the Housing (Wales) Act 2014. These can include services targeted at people within the local population who are most in need, such as those accessing crisis intervention services.

We will continue to prioritise support through the Single Advice Fund. We will work with key stakeholders, particularly with local authorities, to ensure the Single Advice

Fund remains an effective approach to supporting individuals and families in claiming their full entitlement to benefits.

Financial Implications: Any additional costs will be drawn from existing programme budgets

Recommendation 5

The Committee recommends that the Welsh Government explore with the UK Government the best mechanisms to improve Wales's voice in UK Government decisions on social security policy. The Welsh Government should provide us with an update on these discussions in six months.

Response: Accept

The Welsh Government has good official-level working relationships with the DWP, underpinned by the recently-agreed concordat. We will seek to re-establish regular Ministerial contact following the UK General Election to explore how we can further strengthen bilateral relations.

Since the Committee reported, Welsh Government officials have drawn this recommendation to the attention of counterparts in the other governments of the UK with a view to exploring it further as part of the machinery workstream of the joint Intergovernmental Relations Review commissioned at the Joint Ministerial Committee (Plenary) in March 2018. We continue to press for progress on this Review and we expect the incoming UK Government to make it a top priority. We will keep the Assembly updated.

Financial Implications: Any additional costs will be met from existing programme budgets.

Recommendation 6

The Committee recommends that the Welsh Government use the Sustainable Livelihoods Toolkit approach in the delivery of all devolved benefits currently delivered in Wales.

Response: Accept

We support the wider use of the Oxfam Sustainable Livelihoods approach toolkit that is being used across Wales. We endorse the concept of the participatory approach based on the recognition that all people have abilities and assets that can be developed to help them improve their lives. We need to gain a much better understanding of how partner organisations are embedding this approach currently in order to develop our approach to broadening this out, and promoting its use further. We will be seeking advice from Oxfam as to how we might best embed this approach.

Financial Implications: Any additional cost will be met from existing programme budgets.

Recommendation 7

The Committee recommends that the Welsh Government undertake a feasibility study of increasing the threshold for free schools meals to £14,000. This should be carried out in a timely manner so that if the increase is financially viable the revised threshold is in place for the start of 2020/21 school term.

Response: Already completed.

The introduction of a £14,000 threshold was considered prior to the introduction of the new threshold in April. We estimated that once Universal Credit was fully rolled out, an annualised net earned income threshold of £14,000 would almost double the eligible free school meals cohort and therefore the annual costs) compared to a threshold of £7,400. This does not include the cost of transitional protection or the wider costs on other budgets, such as an increased number of pupils eligible for the Pupil Development Grant.

The Committee has recommended that, in the event of an increased threshold proving to be viable, it is set in place ready for the start of the 2020/21 school term. Costs aside, there are other considerations which would prevent us from introducing a revised threshold by September 2020. For example, in addition to affordability, there are important considerations around public consultation and legislative timetabling associated with the introduction of an increased threshold and changes to the computerised Eligibility Checking System (owned by the UK Department for Education but used by local authorities in Wales to process claims for free school meals) would also need to be built in.

It is extremely disappointing that the UK Government has failed to do the right thing by the people of Wales and provide the additional resources to manage the impact of its Welfare Reform agenda on free school meals. Despite this, Welsh Government allocated an additional £12 million between 2018-19 and 2019-20 to support Local Authorities to meet the costs due to the estimated increase in the number of children eligible for free school meals and the transitional protection offer.

Our programme of transitional protection ensures that the change to the free school meals eligibility criteria introduced in April 2019 causes the minimum possible amount of disruption to families. We estimate the total number of children receiving transitional protection in any given year during the Universal Credit rollout period will be in the tens of thousands. Now the threshold is in place, pupils who are eligible for free school meals because their families receive Universal Credit or legacy benefits, or any new claimants who gain free school meals during the rollout of Universal Credit on the same basis, are protected against losing free school meals whilst Universal Credit is rolled out across Wales, even if their eligibility changes. Once Universal Credit is fully rolled out, any existing claimants who no longer meet the eligibility criteria (because they are earning above the threshold) will continue to

receive protection until the end of the pupil's current phase of education (for example, until they finish the primary phase or the secondary phase).

It should be noted that even before the introduction of the thresholds, the eligibility criteria for free school meals in Northern Ireland were very different to Wales. The £14,000 threshold was adopted in Northern Ireland because it was estimated that this would achieve as close to a neutral impact as possible. Our new threshold has the same intention. Also Northern Ireland has not introduced a programme of transitional protection as we have done in Wales.

Our analysis is based on the best available models and data. However, there remains a lot of uncertainty surrounding our estimates due to factors such as behavioural change, for example. In addition, economic forecasts and the underlying data used in the models for our analysis will continue to be updated, which will have an impact on our estimates.

Bearing in mind the uncertainty surrounding our estimates, we remain committed to review the earnings limit within 12 months of the full roll-out of Universal Credit in 2023.

Financial implications: None. We have, however, committed to review the threshold within 12 months of the full roll-out of Universal Credit in 2023 and any financial implications will be considered at that time.

Recommendation 8

The Committee recommends that the definition of kinship care is broadened to include family members and others who are closely connected to the family but are not the parents who are caring for a child or young person in an informal, full time capacity. This should be done at the earliest possible opportunity.

Response: Accept in principle

We recognise the important contribution being made by kinship care and have taken steps within the powers of the Welsh Government to support those who provide kinship care. For example, our Childcare offer is available to kinship carers where they meet the earnings criteria and are caring for a child who is the correct age to receive the offer. Through this, kinship carers who have taken responsibility for a child, or step child, who is not their own are offered support, for example when the child has no parents or has parents who are unable to care for the child, or it is likely that the child would otherwise be looked after by a local authority because of concerns in relation to the child's welfare.

We understand that kinship care can mean a range of arrangements with different legal statuses, such as kinship foster care, special guardianship orders, private fostering, and informal arrangements made with close relatives within families. The help and support these kinship carers are entitled to will depend on the type of arrangement. To help ensure all available support is accessible, Children in Wales is working with us to update our kinship care guide, which helps to explain the

various legal statuses and entitlements to support for kinship carers. There will be a new on-line guide in 2020.

We will ask the next UK Government as a matter of urgency to review the recognition of informal, full time kinship care across non-devolved benefits, and to implement more compassionate and fair benefits criteria to provide greater support for such kinship carers.

Financial Implications: None, as refers to eligibility to non-devolved benefits.

Recommendation 9

The Committee recommends that the Welsh Government seek payment flexibilities for Universal Credit so that people in Wales can choose to: have more frequent payments, direct payments to the landlord, and split payments between couples. We think this should be taken forward as a matter of urgency, and would request an update in six months from the report publication on negotiations and implementation.

Response: Accept in principle

We will seek to explore the feasibility further with the DWP, following the UK General Election, to establish how Universal Credit payment flexibilities could be offered more universally across Wales, to understand what the underpinning legal framework for this would be, and to assess any administrative costs which would be incurred and placed on the Welsh Government.

Consideration of this recommendation is undertaken in the light of wider experience, particularly in light of the experience in Scotland. The Scotland Act 2016 has allowed Scottish Ministers to introduce certain flexibilities in relation to the payment of Universal Credit in Scotland. Collectively these are known as Universal Credit Flexibilities. The responsibility for the administration for the payment and allocation of Universal Credit is still with the DWP. However, the flexibilities enable the Scottish Government to have a direct say in how some of the payment arrangements for Universal Credit are administered in Scotland, even though they do not manage the actual payment process. These powers allow the Scottish Government to vary the frequency of the payment; pay the relevant housing costs within the Universal Credit award direct to their landlord; and decide the criteria when a split payment to joint claimants can be made.

The latest DWP published statistics tell us that there were 106,170 households on Universal Credit in Wales and 98,080 (92%) were receiving a Universal Credit payment. Of these households in payment:

- 2,990 (3%) households had a more frequent payment;
- 60,470 (62%) were entitled to support for housing, with 14,030 (23%) having this payment made to their landlord via an Alternative Payment Arrangement

The Welsh Government wishes to see all Universal Credit claimants being offered a more informed choice with regards to the frequency of the payment, whether housing costs are paid direct to the landlord and split payments between couples. It is clear

that currently the practice of using Alternative Payment Arrangements (APAs) is inconsistent across Wales.

Financial Implications: Any costs of the current phase of this exploration will be drawn from existing programme budgets. On completion of this current exploration phase, further scoping will be required, which will include assessment of any further financial implications.

Recommendations 10 - 17

We are not in a position to be able to respond fully at this point in time to recommendations 10 -17. We are awaiting the completion of the work we commissioned from the Wales Centre for Public Policy (WCPP) to assess the case for devolved administration of aspects of the benefits system. The WCPP are due to publish their findings in January 2020.

Given the WCPP's ongoing exploration we would not, at this stage, pre-empt considerations by ruling any particular benefits or parts of benefits out of scope. We will consider the Committee's recommendations fully when we have the outcome of these findings and report back to the Committee accordingly.

We are grateful for the evidence and consideration provided by the Committee, with regard to recommendations 10 to 17, which will be helpful in taking our exploration work further forward.

Financial Implications: None

Agenda Item 6.6

By email

06/12/2019

RE: Correspondence from the Chair of the ELGC Committee

Dear John,

Please see the response to the questions you sent me in your letter dated 19 November 2019.

Yours Sincerely,



Sophie Howe
Future Generations Commissioner for Wales



During the meeting, you mentioned that the Minister for Housing and Local Government was undertaking a review of the various partnership boards. Could you provide more detail about the review and clarify your role, if any, in the review?

Further details can be found [here](#).

My team have engaged with officials to provide my views of the need to clarify the governance arrangements between various partnership boards. My letter to the Minister outlines these issues (letter to Julie James AM attached).

You also stated that you were in the process of agreeing a common understanding with Welsh Government officials of how the Well-being of Future Generations Act is applied. Could you please provide more details of the discussions you have had with the Welsh Government regarding the Act's application?

My team and I have had several meetings over the past year with WG officials with policy oversight for the Well-being of Future Generations Act to discuss our understanding of the application of the duties under Act. These discussions are still ongoing. See also the transcript on this question.

What is your view on the level of public understanding and awareness of the Well-being of Future Generations Act and of your role?

- Growing understanding of the Act and my role but still a way to go.
- People often write to me asking that I intervene in specific schemes, stop developments, review complaints and quash decisions. For example:
 - 40% of the letters I received this year ask that I intervene in some way or another in individual decisions, mainly planning and transport but also about opening of fast food outlets around schools, loss of local amenities or to stop the roll out of 5G.
- Elected representatives (AMs and Councillors) also ask me to get involved in individual cases despite my lack of case-work function.
- It is not easy for the public and everyone to grasp what my role entails because there is no uniformity of functions between the Commissioners – most have case work functions, some can issue fines (Welsh Language Commissioner), some can help with individual cases (Children's Commissioner, EHRC), some can champion individual rights (Older People and Children) but my role is only one of a promoter.
 - This can be amended in law by the Assembly at any time.
- We have published FAQs on my website to clarify the different duties in the Act, as well as my own powers, duties and areas of focus and where relevant we share these with correspondents.
- Awareness raising is an important part of my role and the involvement work we have been doing on the Future Generations report in the past 12 months builds on work done earlier in my term.

Can you provide examples of when the Planning Inspectorate Wales has rejected planning appeals on the basis of inconsistency with the well-being goals and objectives (as referenced in your annual report)?

Decision 3202863 (Pets at home)

Appeal Ref: APP/M6825/H/18/3202863 Site address: Unit 4, Cross Hands Retail Park, Llandeilo Road, Cross Hands, SA14 6NB

Decision 3210628 (felling of oak tree)

Appeal Ref: APP/Q6810/A/18/3210628 Site address: Land at Ty Du Road, Llanberis LL55 4HD

We are also aware that there has been mention by Nick Ramsay AM in plenary on 8 October 2019 of a planning application for 111 houses on the edge of Raglan which had been called in by the Welsh Government was refused by the Planning Inspector, primarily on the grounds of conflict with the WFG Act, but we have not seen that decision yet.

We are in regular contact with the planning inspectorate and involve them in our work on planning.

What are the key messages coming out of the work with Cardiff Business School on skills?

You will find all relevant information [here](#).

Our White paper calls for:

- A significant increase in the number of teaching staff and resources to deliver the new curriculum, if it is to reach its potential.
- Learning to be created and delivered in partnership with businesses, charities and other organisations across Wales.
- A radical re-think of qualifications at age 16. The paper argues that current GCSEs are no longer fit for purpose and should be re-considered to reflect the aspirations of the Curriculum for Wales 2022 and the changing economy.
- Assessments that focus on diversity, are centred around pupils not testing, providing greater academic value and benefit.

How can public bodies be encouraged to look to the future when thinking about what skills will be needed? - Can you outline the next steps following the publication of the 'Education Fit for the Future' white paper?

See the link provided above and guidance that I have issued to public bodies [here](#).

Can you outline the work you have undertaken with the Welsh Government on this year's budget, and what changes you expect to see. What have the main challenges been in this area?

- The budget process is a focus for my office – both in terms of the draft budget that is published in the autumn and the budget decision making that happens all year round.
- This year I have focused on two areas:
 - Decarbonisation: how the Government is investing at levels that will meet their declaration of a climate emergency.
 - Prevention: how Government is using the definition of prevention across portfolios and is making different decisions as a result.
- My team work closely with the Strategic Budgeting Division – largely a helpful relationship although it has been less collaborative this year than in previous years:
 - We held a workshop on the 10-point plan to give officials the opportunity to input
 - We received input from Social Finance on different models of investment in prevention – Social Impact Bonds
- On prevention, I have been concerned by the lack of evidence that decisions are changing in relation to the definition of prevention. I have written to all Ministers requesting written responses to the following questions:
 - What role does your department play in delivering the overall vision of shifting to preventative approaches, and what contribution are you currently making?
 - How have you applied the prevention definition across spend in a systematic and robust manner?
 - What assessment have you made of the proportion of your investment that is in primary/secondary/tertiary prevention, or in the acute space?
 - How are you clearly defining what you are trying to prevent, and what evidence is there that your investment is supporting the preventative approaches that will improve outcomes for people in Wales? I.e. how do you know you are investing in the programmes that will make the most difference?
 - How are you asking other public services you work with or fund to apply the prevention definition?
 - On the basis of the points above, have you made changes to investment for the 2020-21 budget?

Responses:

- Ministers have generally given a list of projects and how they fit with the WFG Act generally but they do not present a coherent understanding of how they have considered whether they are taking all reasonable steps to meet their wellbeing objectives. This has been raised with the Permanent Secretary's leadership group and follow up meetings with officials are being held in January.
- Prevention – difficult to see a coherent approach to taking preventative action across Government. Further work needs to be undertaken within Government to develop understanding of difference between primary,

secondary, tertiary and acute spend and whether the actions taken in each portfolio are the most actions to prevent problems occurring or getting worse are required by the Act.

- Decarbonisation – little sense of how activity has been scaled up to meet the climate emergency and lack of comprehensive or coherent assessment of the carbon impact of Welsh Government spending.

Whether you have received a response to the advice you provided to the Welsh Government following last year's budget.

- Following my monitoring of the draft budget last year I published advice to Government in December with ten recommendations about how the annual budget process can take more ambitious and transformational steps from 2019 onwards, to enable Government to take a bolder approach to transforming budget strategy and decision making in line with the ambition of the WFG Act.
- I have had three meetings with the Finance Minister to discuss these recommendations and I have focused my attention on the recommendation to develop some sort of 'journey checker' for the budget process came from both Finance Committee and from myself last year.
- In response WG have developed a budget improvement plan which sets out actions over a 5-year period, in relation to a number of themes including Spending Decisions, Assessing Impact and Tax Strategy. I understand that this plan will be published as part of the draft budget on 19th November.
- Whilst this was only shared with me recently and I am therefore still considering the content and quality I think that overall it is a good first attempt to set out what year-on-year progress looks like. My initial assessment of strengths and weaknesses are as follows.

Pros / positives of the Budget Improvement Plan
<ul style="list-style-type: none"> ○ I understand that Strategic Budgeting have engaged across the whole of Welsh Treasury and tried to engage a number of teams in discussion. ○ It is relatively broad, encompassing in-year spending decisions and tax strategy. ○ It recognises progress that has already been made – for example WG was the first Government to do an EIA of the budget back in 2011-12.
Cons / weaknesses of the Budget Improvement Plan
<ul style="list-style-type: none"> ○ 5-year timeframe is too short. There is a lack of ambition and vision of what WG should be working towards – i.e. what would a budget that fully embeds the WFG Act look like. ○ I have some concerns about the pace and scale of change. ○ It appears that Strategic Budgeting are driving a lot of the work when it needs to be a cross-Government approach (can add more detail if needed).

How can progress be made on improving procurement processes so they better align with the Act? What discussion have you had with the Welsh Government and other public bodies on this matter?

I am carrying out some research on this issue in partnership with Cardiff University and I am scoping a potential review on the topic. As part of my research I have written to the Chief Executives of all the 44 Public Bodies to ask them for information on how they are currently applying the Act to their commissioning and procurement decisions. I've had discussions with Welsh Government Ministers and officials about my work. I am intending to publish my findings from this research next year.

By email.

13th August 2019

Dear Julie,

Thank you for your letter in June 2019 on the review of strategic partnerships. I am aware that the initial call for evidence has now closed and your officials are moving into a time of more targeted engagement, building on your initial findings. Therefore, I am taking this opportunity to provide you with some further thoughts. I would be happy to discuss these in more detail and I am aware that members of my team are meeting your lead officials during August.

In recent weeks, I have had a number of conversations relating to the partnership landscape in Wales and the observations made are on the similar themes of complexity, flexibility and funding being allocated in a way that drives 'business as usual'.

I am pleased to read that the scope of this strategic partnership review includes many of the related pieces of work examining the partnership landscape in Wales. These are named in the documentation as:

- "The OECD Multi-Level Governance Review, which has been commissioned to inform the implementation of the 'Economic Action Plan' as part of 'Prosperity for All' and the development of the replacement regional investment approach to replace EU Structural Funds post-Brexit.
- Independent Review of the Regional Skills Partnerships.
- WAO local government study on Public Services Boards and the effectiveness of partnership working.
- Joint inspectorate work on the progress of new local models of health and social care, and the effectiveness of Regional Partnership Board joint working."

In addition to these reviews:

- I have recently received the Joint Ministerial letter and independent report by Professor Keith Moultrie regarding how Public Services Boards (PSBs) and Regional Partnership Boards (RPs) are working together in practice;
- the Equality, Local Government and Communities Committee are due to report on their inquiry into PSBs during October;
- I have recently heard about pilots or proposed pilots with PSBs linked to Government, such as CLES seeking to work with several PSBs on progressive procurement and local spend;

- I believe that Professor Phil Brown's work on the Digital Innovation Review suggests changes to Regional Skills Partnerships (RSPs); and
- there are many others undertaking analysis of partnership working in Wales, such as those in academia. Some of whom are sponsored by Welsh Government funding.

I am concerned because it is not clear how this myriad of reviews is joined up. Aside from the additional burden the amount of reviews is placing on officers (it is often the same person responsible for several 'strategic partnerships'), it is unlikely to present a clear and coherent picture across the board of what needs to change, in line with the integration requirements of the WFG Act.. Whilst I appreciate that understanding how partnerships are currently operating is important to enable change, it is imperative that these reviews are integrated by officials and the 'strategic partnership review' would appear an appropriate way to do this swiftly.

Whilst reviews to understand context and make recommendations for ways to improve are generally helpful (if, as referenced above, they are conducted in an integrated way) there are some immediate actions that it would be helpful for Government to take that would enable pace and progress to be made in applying the Well-being of Future Generations Act. As an example, the evidence I hear most often on this is in relation to the role of Regional Partnership Boards (RPBs) and Public Services Boards (PSBs).

I am aware that there is confusion - from local level to Assembly Member level - about the role of these two partnerships; how the Boards function and how they integrate their duties. Despite some good work happening locally, I have written to you in the past to share my view that it would be very helpful for Government to clarify the situation by encouraging flexibility for both Boards and collaboration to happen in the best, locally-determined ways.

Many of the conversations I have had relate to an opinion that Welsh Government are allocating funding in a way that undermines the role of PSBs in their duties to improve collective well-being. Continually allocating funding to RPBs, without explicit links to prevention and the work of the PSB has caused, and continues to cause, a lack of integration, collaboration and missed opportunities to invest in prevention and the wider determinants of health.

The World Health Organisation have recently shown that, of the average inequalities of health experienced in Europe, only 10% is due to the quality of health services. The majority (29%) is due to living conditions like housing and access to green spaces. A further 19% is due to feelings of agency, lack of trust, community cohesion and safety. These wider determinants of health are the focus of the PSBs, where wider agencies are present who can affect change. Yet the perception is the RPBs are being funded to focus on health and social care services to 'improve health' and the PSBs are merely being funded much smaller amounts to improve their processes.

The expectation on PSBs is to work together radically differently to collectively improve population well-being for the areas they serve. Although many PSB members agree with this notion, their perception is also that the only incentives that they have had to do so have been the statutory guidance for the Well-being of Future Generations (Wales) Act and the small amount of annual funding they receive on a regional footprint. It is unsurprising, therefore, that many Leaders, Chief Executives and Directors focus more of their attention on RPBs and City / Growth Deal Partnerships.

Through my specific statutory duties relating to well-being assessments and advising PSBs on draft objectives and my general advice and assistance power, I have attempted to show PSBs what good could look like. I am currently working intensively with the Cwm Taf PSB through a 'Live Lab' approach, focused on how they are meeting their objectives relating to adverse childhood experiences. Due to my resources, I cannot provide intensive support for every PSB or strategic partnership. It is worth noting that I am seeing promising initiatives through their annual reporting but I believe the progress and pace can be accelerated by Government providing clarity and reward.

If more funding cannot be allocated to PSBs, then it would be useful for Government to use the opportunity of these reviews to consider and address how funding is allocated and communicated, actively providing PSBs and other local partnerships with more flexibility in how they do things. I agree with Professor Moultrie's findings (in this case on how PSBs and RPBs are working together) that:

"it would be helpful if national funding arrangements could be further consolidated so that regional and local Boards are dealing with fewer grants, over longer periods of time, with combined wider priorities attached...Participants were clear that the attention locally and regionally needed to shift to how partners are transforming the major elements of services to meet needs more effectively and efficiently, and that Welsh Government oversight should also focus more on this than on detailed monitoring of relatively small -scale additional grants." (July 2019)

To enable this to happen, as well as Government considering how they allocate funding, it would be helpful if you provided a clear steer to PSB members that PSBs are able to accept funding, provided one partner holds the funds.

At the recent inaugural meeting of the 'Building a Healthier Wales' steering group, I advocated that the £10m prevention fund was awarded to PSBs rather than to Health Boards, which had been previously agreed. It was discussed that, unlike RPBs, PSBs are unable to hold funds - but it seems a partner can hold funds on behalf of decisions made at PSB on how to spend the funding.

Providing this clarity and encouraging the legislation to be realised through partnership working provides an opportunity for Government. Given the PSBs' wider remit across all political areas

and specifically, in the priority themes of 'Prosperity for All', Welsh Government could be using them far more extensively by adequately funding them to deliver the aspirations of the Well-being of Future Generations Act.

Whilst Government has a key role to affect change, I appreciate that locally, leaders must also change their behaviours to recognise the opportunities of using funding more effectively to collaborate and prevent problems. The upcoming Academi Wales Public Services' Summit in October will attract the leaders and senior officers from across the public sector in Wales - many of them members of several strategic partnerships. I suggest this is an opportunity for Ministers to reinforce the culture change required by the Well-being of Future Generations Act.

The strategic partnership review provides Government with a helpful opportunity to clarify the role and flexibilities of local collaboration and funding allocation in Wales, provided it is integrated and shares common messaging with other reviews. I will also share this letter with the Auditor General for Wales, given the related study Wales Audit Office have been undertaking.

Yours Sincerely,



Sophie Howe