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## **LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL**

### **Purpose**

1. To update members on the progress of the Local Government and Elections (Wales) Bill and to consider Corporate Joint Committees.

### **Background**

1. The Local Government and Elections (Wales) Bill [the Bill] was published on 18<sup>th</sup> November 2019. The Bill was discussed at WLGA Council on 29<sup>th</sup> November 2019.
2. The WLGA has submitted written evidence (Annex 1) and provided oral evidence to the Equality, Local Government and Communities Committee [the Committee] on 23<sup>rd</sup> January 2020. Group Leaders agreed a cross-party delegation should represent the WLGA and the following attended:
  - Cllr Huw Thomas, Leader of Cardiff Council, WLGA Labour Group
  - Cllr Emlyn Dole, Leader of Carmarthenshire County Council, WLGA Plaid Cymru Group Leader
  - Cllr Peter Fox, Leader of Monmouthshire County Council, WLGA Conservative Group Leader
  - Cllr Ray Quant, Deputy Leader of Ceredigion County Council, WLGA Deputy Presiding Officer
  - Chris Llewelyn, Chief Executive, Welsh Local Government Association
  - Daniel Hurford, Head of Policy, Welsh Local Government Association
3. Most of the Committee's questions related to electoral reform, however, there was some focus on public participation, Corporate Joint Committees and the new performance regime. WLGA representatives will provide feedback to Executive Board.
4. Several local authorities, fire and rescue authorities and national park authorities have submitted evidence to the committee and further local government evidence has been provided by SOLACE, Lawyers in Local Government and the Association of Electoral Administrators. The local government view on the Bill is consistent.
5. The WLGA (Cllr Anthony Hunt and Jon Rae) will be giving evidence on the financial implications of the Bill to the Assembly's Finance Committee on 29<sup>th</sup> January.

6. In addition to the Bill, the Committee also noted that there are likely to be Welsh Government amendments at Stage 2, including:
  - 6.1 The introduction of prisoner voting, as previously consulted upon;
  - 6.2 Changes to the elected Mayoral Referendum arrangements, specifically the timetabling of petitions and a subsequent referendum, allowing electronic petitions, where there is a change in executive arrangements, that there would be some continuity for 2 electoral cycles (rather than current limit of 1 change per term) and seeking views on whether the trigger threshold of a petition should remain at 10% or reduce to 5% as in England. The consultation closes on 27 February 2020, and the WLGA is seeking authority views.
  - 6.3 A Ministerial proposal raised during her attendance at Committee to include a 'due regard to adequate housing into the duties that local authorities will have' in the statutory Guidance around the proposed new performance duty whereby a *council 'must keep under review the extent to which (a) it is exercising its functions effectively, (b) it is using its resources economically, efficiently and effectively'*. The Minister has mentioned this proposal in Committee but there have not been any Welsh Government discussions with the WLGA at a political or official level.

## Corporate Joint Committees

7. Corporate Joint Committees have been the subject of discussion over several months. The WLGA passed a resolution at Council on 29<sup>th</sup> November:

"Whilst we welcome the new and revised approach to local government by the present Minister, the WLGA has fundamental concerns over the principle of mandation which is seen as undermining local democracy but will continue to engage and seek to co-produce the Corporate Joint Committee proposals."
8. The Minister for Housing and Local Government previously wrote to the WLGA requesting proposals from local authorities for possible Corporate Joint Committee 'footprints' from authorities (Annex 2).
9. The letter was reported to Council on 29<sup>th</sup> November and Group Leaders subsequently agreed that the letter be recirculated to encourage authorities or regions to consider submitting a response to the Minister either individually or jointly or to advise the WLGA of their position informally.
10. Some local authorities have submitted responses outlining their preferred footprint, and several authorities have also outlined their views on the proposal for voluntary and 'mandated' Corporate Joint Committees in written submissions to the Equalities, Local Government and Communities Committee.

11. Extracts regarding Corporate Joint Committees from local authority and National Parks Wales submissions are included in Annex C.
12. Annex C also includes extracts from the Auditor General for Wales, Estyn and the Future Generations Commissioner submissions. In summary:
- 12.1 The Auditor General for Wales observes that he has ‘...frequently commented on the complexity of structures and governance in the public service landscape in Wales. I am not clear...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.’;
  - 12.2 the Future Generations Commissioner is broadly supportive of collaboration, but is unclear why these specific services were included in the Bill and expresses concern about scope for complexity and risk to public participation and involvement; and
  - 12.3 Estyn comments ‘...that it takes time to establish effective joint arrangements. It also requires the full commitment of the constituent local authorities. The proposed arrangements will clearly place this type of regional service on a much stronger and clearer statutory footing.’

## Recommendations

13. **It is recommended that members:**
- 13.1 **Receive oral feedback from the WLGA representatives who attended the Equality, Local Government and Communities Committee; and**
  - 13.2 **Provide updates on responses from their local authorities to the Ministerial letter on Corporate Joint Committees.**

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# **ANNEX A**

## **WLGA Evidence**

### **Stage 1: Local Government and Elections (Wales) Bill**

#### **Equality, Local Government and Communities Committee**

#### **National Assembly for Wales**

**January 2020**

### **Introduction**

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales. The three national park authorities and the three fire and rescue authorities are associate members.
2. The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.
3. It seeks to provide representation to local authorities within an emerging policy framework that satisfies priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
4. The Local Government and Elections (Wales) Bill [the Bill] is a significant and substantial piece of legislation covering a broad range of democratic, governance, organisational and structural reforms and is the culmination of several years of policy consultation, including a Draft Bill and successive Green and White Papers.
5. The WLGA welcomes the opportunity to provide evidence to the Equality, Local Government and Communities Committee National Assembly for Wales's Stage 1 consideration of the Bill.
6. The WLGA has particularly welcomed the constructive dialogue and engagement with the Minister for Housing and Local Government. Local government reform has been discussed with leaders during the past 18 months initially through the Local Government Working Group chaired by Derek Vaughan and subsequently via the Local Government Sub-Group of Partnership Council.
7. Under the auspices of these groups, there has also been constructive engagement between officials from Welsh Government and local government to consider the implications of some of the anticipated reforms and what future statutory guidance or regulations might need to include.

8. The Regulatory Impact Assessment [RIA] estimates that the total cost of the Bill to local government over 10 years would be £16.3m (including transitional costs of £2.95m and recurrent costs of £13.35m). The WLGA considers some of the estimated costs in more detail in the response below. The WLGA's core stance is that the Welsh Government should fully fund any new national initiatives or the implications of any legislation on local authorities.

## **Part 1: Elections**

9. The proposals for electoral reform include several that were included in the Welsh Government's Consultation on Electoral Reform in 2017 and align with many of the wider electoral reforms to be introduced through the Senedd and Elections (Wales) Bill.
10. These are some of the most fundamental reforms included in the Bill, and will have a significant impact on local democracy, local authorities and, in particular, electoral services administration.

### **Extending the franchise to 16-17 year olds (Section 2)**

11. The WLGA supports this proposal as a key part of widening democratic engagement and participation.

### **Extending the local government franchise to citizens from any country (Section 2)**

12. The WLGA agrees that citizens from any country who have moved and settled in Wales should have the right to vote in local elections.
13. The Welsh Government recognises that the extension of the franchise to 16-17 year olds and foreign citizens will have an impact on local electoral administration. The WLGA welcomes the Minister for Housing and Local Government's commitment (in her letter to the Committee on 19<sup>th</sup> December) to provide an £1m additional funding for 2020-21 and will 'consider the need for financial support'.
14. The Regulatory Impact Assessment (RIA) however estimates an additional cost of extending/promoting the franchise of £912,000 in both 2020-21 and 2021-22, as well as an extra £267,000 in any election year. The RIA also notes that the Welsh Government had estimated that the Senedd and Elections (Wales) Bill would incur £636,000 cost to local government for the changes to the EMS software.

### **Two voting systems (Section 5)**

15. The WLGA does not support the proposal to allow authorities to choose their own voting system as it believes there should be a clear and consistent voting system across all local authorities to avoid complexity and risk of voter confusion.
16. When this was previously considered as part of the Consultation on Electoral Reform, the WLGA was supportive of the Electoral Commission's response in 2017 stated:

“...we would note that allowing councils to decide which electoral system to use in their own area could create significant risks and challenges, particularly in relation to voter understanding of how to cast their vote...The question of public awareness around two different electoral systems for one set of elections is likely to be a major challenge and one where there is a very real risk of confusion to electors if this type of change is implemented.”

17. Furthermore, it would be administratively complex and confusing if an STV election was held on the same day as ‘first past the post’ community and town council elections and that larger electoral wards would need to be created which may undermine the local links between a councillor and his/her community.

#### **Change of electoral cycle for principal councils from four years to five years (Section 14)**

18. The WLGA supports the proposed extension from 4 year terms to 5 years.

#### **Qualification and Disqualification for election and being a member of a local authority (Sections 24-26)**

19. The WLGA supports approaches to make it easier for people to stand for election and encourage a broader cross-section of the community to consider standing.
20. The WLGA therefore supports proposed changes to the eligibility criteria allow a citizen of any country to stand for election.
21. The WLGA however does not support the proposal to allow council staff to stand for election in their own authority. Lifting such a restriction is unlikely to have a significant impact in encouraging more candidates to stand but would disproportionately impact on good governance and employment relations. There would be a risk of increased employer-employee tensions, potential conflicts of interest and team and managerial relationships being undermined. Staff at all levels have to demonstrate impartiality and a responsibility to serve the council as a whole; this risks being compromised should an employee stand or serve as a councillor. There is a risk that where an individual is unsuccessful, he or she may have implicitly or explicitly publicly criticised colleagues, councillors or council policies during campaigning, which may affect their ability to continue in their employed role following the elections.
22. The WLGA supports proposed amendments to disqualify individuals, from standing for election, or holding office as a member of a principal council or community council in Wales, if they are subject to a the notification requirements of, or an order under, the Sexual Offences Act 2003.

#### **Meeting expenditure of returning officers (Section 28)**

23. The Bill clarifies that Returning Officers can only claim expenses properly incurred in the running of a local government elections. Personal fees in respect of services rendered

during the conduct of a local government elections could not in future be claimed as they would not be deemed as “expenses”.

24. The Welsh Government has opted not to proceed with the previously consulted upon proposal to incorporate the Returning Officer role within that of the Chief Executive. The WLGA did not support this proposal on grounds of local discretion, as not all Chief Executives acted as Returning Officers; the Welsh Government’s position is therefore welcome.
25. When the Welsh Government previously consulted on the removal of Returning Officer fees, the WLGA’s view was that an option would be for any remuneration for the oversight of local elections to be included within a single consolidated salary for the position (of whichever senior officer fulfilled the Returning Officer role).
26. Such an approach, and the removal of a specific Returning Officer fee, would require a proper re-evaluation of the post which had incorporated the substantial Returning Officer role, as noted in ALACE’s submission to the Committee. The additional demands, responsibilities and personal risks of being a Returning Officer are significant and should not be dismissed. A form of this arrangement is already operated by several employing councils in Wales, where the Chief Executive is also contracted to be the Returning Officer but for no additional fee beyond their evaluated salary.

## **Part 2: General Power of Competence**

27. The WLGA welcomes the proposed introduction of the power of general competence in Wales and has long called for the introduction of the power.
28. Whilst this new power is welcomed as it provides confidence and reinforces local government’s core community leadership role. The LGA’s submission notes that the power’s introduction in England

‘...has assisted in providing councils greater confidence in some areas of activity and led to less legal resource being spent on considering whether an action is vires (within their authority), it has not made a radical change for councils to date.

29. The power, as drafted, is however constrained by pre-commencement limitations. As noted in the Lawyers in Local Government Wales (LLG) submission to the Committee, there are 42 UK wide and 3 Wales-only Measures/Acts with ‘Local Government’ in the title and wider local government-related legislation may have pre-commencement limitations on Welsh authorities. The interplay between the power and a range of other legislation creates complexity and multiple possible risks. These limitations are likely to constrain creative use of the power, which may instead be used as a power of last resort rather than first resort.
30. This is further expanded in the LGA and LLG submissions to the Committee and the LLG Wales submission outlines some potential improvements to the proposed power.



## **Part 3: Promoting Access to Local Government**

### **Duty to encourage local people to participate in local government (Section 46)**

### **Strategy on encouraging participation (Section 47)**

31. The WLGA is supportive of the spirit of the Welsh Government's ambitions as councils are committed to promoting democratic engagement, public participation and openness and transparency.
32. There is already a requirement on local authorities to 'involve' the public through the Wellbeing of Future Generations (Wales) Act 2015 and it is therefore not clear what additional value a new 'public participation duty' on local authorities would achieve.
33. The Bill proposes a duty on local authorities to encourage 'local people to participate in the making of decisions by the council' and lists several areas to be covered in a participation strategy (S47 (2) a-f). Authorities promote and publish much of this information currently, have engagement strategies and involve the public, through various consultation and engagement processes around budget-setting, service design and development of strategies.
34. Councils are also increasingly involving the public in service delivery through through alternative delivery models or asset transfers to community and town councils and community groups. Many councils already provide for public involvement in formal council decision-making processes, for example, through questions to cabinet, committees or councils and some already provide for submission of public petitions.
35. The WLGA however recognises that there is always potential for improvement, innovation and sharing of good practice; the latest National Survey for Wales show that only 19% of people agreed that they could influence local area decisions. There are some paradoxes in terms of public perception and public engagement in decision-making and public services generally<sup>1</sup>, however, councils are committed to improve their approaches to public participation. This will be a core theme within the WLGA's future improvement support programme for local government, which the Minister for Housing and Local Government has agreed to resource.
36. The WLGA does not support that the proposed participation duty or strategy duty (to be placed on councils) should extend to cover other 'connected authorities' such as community and town councils and national park authorities (S46 (2&3)). Although local authorities work in partnership with those bodies, such a proposed 'hierarchical' relationship undermines their own status, accountability and sovereignty as separate

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<sup>1</sup>For example Hansard's annual Audit of Political Engagement typically reveals mixed levels of public involvement in participative activity (such as consultations or petitions) and a Welsh Government survey of public engagement in 2015 showed that 59% of those surveyed said they would not participate in local consultation (33% were too busy and 26% were not interested) and only 45% were interested in having a say in local government activity or how local government is run in Wales  
<https://gov.wales/docs/caecd/research/2015/150612-public-views-opinions-community-engagement-local-government-final-en.pdf>

bodies. Furthermore, this will inevitably have resource implications for councils and, critically, clouds accountability and responsibility for delivering on any public participation duties. A local authority cannot be responsible for the participation in other levels of government as the responsibility (and risk of non-compliance) should rest with them as separately accountable bodies.

37. If such participation duties are to be introduced, they should apply separately to each of the specified bodies. As noted by the South Wales Fire and Rescue Authority's response, this duty was to apply to Fire and Rescue Authorities when first proposed in the 2016 Draft Bill, however, these bodies have not been included in this Bill.

#### **Duty to make petition scheme (Section 49)**

38. The WLGA supports the replacement of community polls with a duty to make a petition scheme; this reform will reduce burden and costs for local authorities, as well as encouraging a more accessible and immediate mechanism for communities to express their views.

#### **Duty on principal councils to publish official addresses (Section 50)**

39. The proposed duty is supported as permits councils to provide a general council contact address for councillors, rather than councillors' personal addresses. This is an approach several councils have already adopted and is a reform which the WLGA has called for, given some members' concerns about privacy in the current environment where intimidation and harassment is a risk.

#### **Electronic broadcasts of meetings of certain local authorities (Section 53)**

40. Most councils already webcast many of their meetings and are committed to openness and transparency. Most authorities are concerned about the potential increase in cost, and the balance of this additional cost with public interest, particularly for some committee meetings.
41. Public viewing figures and engagement with council webcasts however varies and tends to be limited. Viewing figures vary from authority to authority and from meeting to meeting, with full council meetings and planning meetings tend to be most popular, but only receiving between 100-350 views (depending on the size of the council). Other committees tend to have low viewing figures and local authorities therefore question the added value of additional costs and administrative burdens of broadcasting all meetings.
42. Webcasting can be costly, in terms of broadcast equipment, server and/or streaming costs and additional staff for administration and technical support. A duty to broadcast all public meetings is likely to require (based on a typical council experience) an increase from broadcasting 7 committees (Full Council, Cabinet, 4 Scrutiny committees and 1 planning committee) to an additional 13 committees, although some of these may meet less frequently, plus any joint meetings that the authority hosts.

43. Webcasting all public meetings may reduce councils' ability to hold formal meetings in communities, as mobile equipment is more expensive, requires additional technical support and broadband/data availability may be problematic. This would particularly impact scrutiny meetings where good practice for community engagement includes holding meetings in community venues. There is also a risk that a requirement to broadcast all public meetings could result in a reduction in the quality, navigability and retention of broadcasts for the viewer if this is to be met within available funding.
44. The Regulatory Impact Assessment indicates that the additional costs of broadcasting all council meetings would be in the region of £12,000 per authority per annum, based on a single contract for Wales. It remains unclear whether such a single, all Wales contract is feasible or whether an all-Wales solution could be developed by local government in the future.
45. The RIA is likely therefore to be a significant underestimate, although it is difficult to provide an accurate estimate. Most councils' broadcasting services are provided by one company, although other suppliers are used and one council uses YouTube to broadcast meetings. The navigability of the webcasts and access to meeting documents and archives varies depending on supplier. Councils also broadcast a different number of meetings and different hours of broadcast per year and have different arrangements for archiving broadcasts so that they can be viewed retrospectively.
46. Some councils do not anticipate a significant additional cost (depending on their current coverage or provision), but the average increase of those authorities who have provided estimates is an additional c£24,000 annual costs (with one projecting up to £70,000).
47. Some councils also estimate significant investment in additional equipment with one estimating an initial investment of £250,000 to equip all committee rooms with necessary equipment (should all public meetings are to be broadcast, authorities report the need to equip additional rooms as meetings some meetings will inevitably run simultaneously.) The RIA does not take account of the additional administrative burdens and implications of broadcasting all council meetings; generally broadcasting meetings requires additional staffing resources, including committee and technical staff.
48. LLG Wales' submission notes that there may be implications between this duty and other existing legislative responsibilities such as the Public Sector Equality Duty. When webcasting meetings councils will need to consider possible detriment to those with audio/visual impairments (see S51(1)(a) as well as providing translation via the webcast even where this is not provided within the meeting itself.

#### **Conditions for remote attendance of members of local authorities (Section 54)**

49. The WLGA supports the proposed amendments.
50. The WLGA supported the concept of remote attendance when first proposed as it supported access and flexibility for members, but expressed concern during the passage of the Local Government (Wales) Measure 2011 as the legislation made the provisions restrictive and effectively unworkable.

51. The WLGA therefore supports proposals to streamline the remote attendance arrangements in order to promote accessibility and support flexibility for members to attend meetings remotely, reflecting advancements and availability of modern technology.
52. As noted by LLG Wales, a saving provision was not included within the 2011 Measure's proposals for remote attendance but one has been included to ensure the validity of proceedings in the event of broadcasting failing during a meeting (S53(6)). Modern technology is not infallible and data and WIFI services can be variable and remote attendance could be subject to disruption, therefore an equivalent provision ensuring the validity of proceedings where remote attendance is not available should also be included in the Bill.

#### **Part 4: Local Authority Executives, Members, Officers and Committees**

53. This WLGA supports most reforms outlined in Part 4 of the Bill, including:
- Appointment of Chief executives (rather than a head of paid service);
  - appointment of assistants to cabinets and allowing job-sharing leaders or cabinet members;
  - updating family absence provisions in line with those available to employees; and
  - requiring leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups.
54. The WLGA particularly welcomes the proposals to extend family absence provisions, which is in response to a WLGA request.
55. The WLGA also supports the focus on promoting high standards of members' conduct; although standards are generally good and formal complaints to the Public Services Ombudsman are low, the WLGA has committed to championing high standards and challenging poor political discourse through the recently launched Civility in Public Life campaign, working with the LGA, COSLA and NILGA<sup>2</sup>.
56. The WLGA agrees that chief executives should be subject to robust and effective performance management and local authorities already implement a range of performance management arrangements for their chief executives and senior officers.
57. The WLGA shares a number of ALACE's concerns about some of the provisions of S60 regarding the process for performance management:
- the Bill should be less prescriptive and allow local flexibility for authorities to determine who should conduct a performance review (the Bill suggests the 'senior executive member', however, councils may also wish to involve other members or external peers as appropriate);

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<sup>2</sup> <https://www.local.gov.uk/civility-public-life>

- Clause 60(3), which provides for the possibility of publication of performance reviews of chief executives, should be removed. No public employee should have their performance review published. The review should be confidential to members of the council and the chief executive;
- In order to protect personal information, the Bill needs to reference that a report about the review (shared with members) shall be exempt from publication under paragraph 12 of Schedule 12A to the Local Government Act 1972 as such a report contains “information relating to a particular individual”; and
- The WLGA has previously expressed concern regarding Ministerial Guidance making powers with regards the performance management of Chief Executives as there are potential risks of Welsh Ministerial intervention in local relations and arrangements between a local authority or leader and a chief executive.

## Part 5 Collaborative Working by Principal Councils

58. Local authorities are committed to working collaboratively with each other and other public services to deliver improved outcomes and has a track record of collaboration and of sharing services.
59. Councils are already delivering radical responses to the challenges faced. The city deals and growth bids, for example, are some of the most ambitious, strategic regional regeneration programmes in a generation - these have come from local leadership, collective investment, risk and reward.
60. Such a commitment to collaboration is underpinned by the fundamental principle that collaboration is a ‘means to an end not an end to itself’. The WLGA has therefore set out a framework of guiding principles to ensure that any collaborative reforms are rooted in clear and viable business cases and subject to local democratic decision-making.

### ***Collaboration Principles***

*Collaboration, shared services or voluntary mergers should:*

- *Be locally-driven and subject to local democratic direction.*
- *Be underpinned by a locally agreed business case that:*
  - *Outlines mutual benefit and a clear understanding of shared costs*
  - *focuses on outcomes and whether, on balance, it is likely to lead to better public service outcomes - a service collaboration or shared services is not an outcome, but a means to an end. be centred on the delivery of clear outcomes/benefits for the citizens and communities. and ensuring accessible and seamless delivery of services to stakeholders and customers.*
- *Where appropriate, take account of existing collaborative arrangements e.g. City deals, Growth Deals and or shared services.*
- *Be shaped by appropriate engagement with service users and stakeholders*
- *Seek to strengthen strategic and operational collaboration and improve the integration of front line services across public service providers.*

- *Maintain transparent and flexible governance with clear local democratic accountability and appropriate scrutiny arrangements established from the start*
- *Be developed with due consideration of “Prosperity for All” and the Wellbeing of Future Generations Act and, in particular, the ‘5 ways of working’.*

*In addition, collaborative arrangements or shared services:*

- *Will be treated like all services and will be subject to scrutiny and will be reviewed periodically; if an established collaborative arrangement or shared service is underperforming or is not providing value for money for one or more local authorities, it may be appropriate to review, reform or even withdraw from such arrangements. Such decisions will not be made lightly and withdrawal from an established collaborative arrangement should not be viewed as a rejection of the concept of collaboration or a lack of a commitment to reform, but a business decision based on performance, delivery of outcomes or value for money.*

61. The WLGA has also produced a Collaboration Compendium<sup>3</sup> which lists over 300 local, regional or national collaborative arrangements or shared services ranging from coordination or delivery of technical services to large-scale, strategic services. The WLGA Council has agreed that the Compendium will be updated and reported annually to encourage a review of existing and consider new potential new collaborations.
62. Authorities already work together collaboratively through various governance mechanisms, including joint appointments, lead local authority models, shared services, local authority owned companies or joint committees (established under the Local Government Act 1972).
63. The WLGA and authorities are therefore supportive of the introduction of *voluntary* Corporate Joint Committees (described in S75 ‘Application by principal councils to establish a corporate joint committee’) as it would provide an additional collaborative model for authorities to choose where appropriate.
64. Several leaders have expressed concern about a Ministerial power to ‘mandate’ regional structures or services, as this would undermine local democracy and accountability. Furthermore, some authorities are concerned about risks to local accountability, increased complexity and administrative burden of alternative regional governance arrangements.
65. Some leaders however regard Corporate Joint Committees as an evolution from existing regional arrangements such as City Deal, school improvement consortia and regional planning and transport arrangements.
66. The WLGA Council has therefore passed a resolution noting that it:
 

‘...has fundamental concerns over the principle of mandation which is seen as undermining local democracy but will continue to engage and seek to co-produce the Corporate Joint Committee proposals.’

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<sup>3</sup> <https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&fileid=2408&mid=665>

67. Much of the detail around how Corporate Joint Committees will be established and how they will operate will be determined through Regulations. This detail includes which specific areas of the listed functions would be delivered through Corporate Joint Committees, which services would be delivered locally or concurrently as well as the governance arrangements of the committees themselves.
68. The proposed Corporate Joint Committees have been the subject of extensive dialogue between the Minister for Housing and Local Government and leaders and has been considered at several WLGA meetings.
69. The Minister has been keen to involve local government in the co-production of any guidance or regulations that might be required following the Bill and the WLGA has committed to engaging with the Minister and officials in developing the concept further. WLGA officials and Monitoring Officers are therefore involved in ongoing discussions to consider the governance arrangements and implications of other relevant statutory requirements should Corporate Joint Committees be introduced in the future.

## **Part 6: Performance and Governance of Principal Councils**

70. The Bill proposes a new performance framework for local government, repealing the Wales Programme for Improvement and performance provisions of the Local Government (Wales) Measure 2009.
71. It is widely recognised that the Wales Programme for Improvement as introduced by the 2009 Measure is no longer fit for purpose; it imposed a range of duties and features that were administratively bureaucratic which has promoted a regulatory burdensome output-oriented rather than outcome-oriented performance framework.
72. Furthermore, many of the objective-setting, planning and reporting aspects of the 2009 Measure have been superseded by the Wellbeing of Future Generations (Wales) Act 2015, which has caused additional complexity (see joint WLGA, WAO and Future Generations Commissioner guidance note<sup>4</sup>).
73. The Bill outlines a new performance duty based on self assessment and peer (or panel) assessment. Both concepts are well-established and are existing features of the Wales Programme for Improvement currently, but the streamlined performance duties will allow councils to better shape the assessments for organisational self-awareness and self-improvement rather than to meet external regulatory expectations.
74. The WLGA has previously provided extensive support around developing and strengthening self assessment approaches (through the Improvement Grant until 2015), which included guidance, local support and challenge and the development of a set of core characteristics<sup>5</sup> to ensure that a self assessment was robust. Further self

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<sup>4</sup> <https://www.wlga.wales/future-generations-and-improvement>

<sup>5</sup> <https://www.wlga.wales/self-assessment>

assessment guidance and frameworks have been developed since, for example, the Future Generations Commissioner's Self Reflection Tool<sup>6</sup>.

75. Self assessment is an established and core feature of both the English and Scottish local government improvement regimes, for example, the Scottish Improvement Service promotes and supports the roll-out of self-assessment through the Public Service Improvement Framework<sup>7</sup>.
76. Councils are committed to improving services and delivering better outcomes for their communities; the WLGA is confident therefore that councils' self assessments will be rounded, robust and used to drive improvements in governance and service provision.
77. There will remain several 'checks and balances' in the system to ensure self assessments are robust; scrutiny and the new governance and audit committees will play a key role, as will informal and formal peer challenge as well as the proposed statutory Panel Assessments. It should also be noted that the Wales Audit Office will retain an audit role through the Public Audit (Wales) Act 2004 and can undertake 'sustainable development' examinations through the Wellbeing of Future Generations (Wales) Act 2015.
78. The Minister for Housing and Local Government has confirmed that she intends to provide improvement grant funding to the WLGA to re-establish a sector-led improvement support resource for Welsh local government. This development is very welcome and will allow the WLGA to provide guidance, promote good practice as well as coordinate peer support and challenge to authorities. The WLGA is currently discussing the scope of the funding and remit with the Welsh Government and intends to work closely with the LGA in developing and coordinating peer challenge arrangements in Wales.
79. The WLGA has previously not supported the introduction of statutory Panel Assessments. The WLGA does not believe these corporate peer assessments should be made statutory as councils would undertake them on a voluntary basis. Making them statutory could turn an existing effective self-improvement process into a quasi-regulatory arrangement, which could stifle engagement, openness and ownership and undermine their value. The WLGA and local government professionals are however engaged in constructive discussions with Welsh Government officials to explore how Panel Assessments may be coordinated and delivered as effectively as possible and the WLGA's view is that any guidance should allow local flexibility in terms of panel make-up and focus, to ensure an authority can tailor it to its own needs and priorities.
80. Corporate peer challenges are credible, effective and well regarded. Peer challenges are independent and can provide some challenging messages to an authority, therefore concerns about any future Panel Assessment's objectivity are unfounded. The effectiveness and value of corporate peer reviews has been endorsed by an independent evaluation by Cardiff Business School in 2017<sup>8</sup>.

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<sup>6</sup> [https://futuregenerations.wales/resources\\_posts/self-reflection-tool-2019/](https://futuregenerations.wales/resources_posts/self-reflection-tool-2019/)

<sup>7</sup> <http://www.improvementservice.org.uk/psif.html>

<sup>8</sup> <https://www.local.gov.uk/sites/default/files/documents/Rising%20to%20the%20Challenge%20February%202017%20-%20FINAL.PDF>



81. Prior to changes in the WLGA's previous improvement role, the WLGA Council had agreed that every council would receive a corporate peer review once during a rolling four year period (as is the case in England) and the WLGA had coordinated 8 peer reviews between 2013-15. Pembrokeshire County Council has commissioned the LGA (supported by the WLGA) to deliver a Corporate Peer Review in February 2020.
82. The proposed Ministerial powers to provide support and assistance and direction (as a last resort) are broadly supported as they largely reflect existing powers. The WLGA however does not support S102 which proposes a Ministerial power to direct a council to provide support and assistance to another council. This should be amended to a Ministerial power to 'request' support from another authority. Councils are committed to providing mutual improvement support and already share expertise and peer support where appropriate; such powers to direct are therefore unnecessary and undermine local democracy. Should an authority decide that it was unable to provide particular support to another authority, such a decision would not be taken lightly and is likely to be due to capacity or resource constraints which may have negative consequences on the performance of the authority itself.

### **Governance and Audit Committees**

83. The WLGA supports the proposed role of new Corporate Governance and Audit Committees. The relationship with and role of councils' overview and scrutiny committees will however need to be reviewed in the new constitutional arrangements to avoid confusion and duplication of roles.
84. The WLGA does not support the proposed changes to the membership of corporate governance and audit committees. Lay members are valued members of audit committees currently, but the balance of membership should be left to local discretion. The proposal to increase the proportion of lay membership and that the chair must be a lay member fetters local discretion and undermines local democracy, particularly as the reformed committees will have an enhanced role in terms of overseeing the governance and service performance of councils.

### **Part 7 Mergers and Restructuring of Principle Areas**

85. The WLGA and local government are supportive of the concept of voluntary mergers as such reforms are a matter for local discretion and if individual councils jointly develop a business case and agree a merger locally, then they should be supported in their local reforms.
86. A draft 'Prospectus for Voluntary Mergers' outlining guidance and support for authorities has been co-developed through the Local Government Working Group, which was chaired by Derek Vaughan.

## **Parts 8 and 9: Finance and Miscellaneous Reforms**

87. The WLGA supports the provisions to allow PSBs to demerge.
88. The proposed changes to the performance arrangements of Fire and Rescue Authorities have been generally welcomed by Fire and Rescue Authorities. The move away from the current performance management arrangements under the 2009 Measure are supported, as the arrangements are no longer suitable. Whilst there is support for a new performance management system grounded in the National Framework for Fire and Rescue Services, the Bill does not include significant detail and the new performance management system should reflect the differences in risk within communities and across the authority areas, as noted in the submissions from the Mid and West Wales and South Wales Fire Authorities.
89. The WLGA shares the concerns outlined by the Fire Authority submissions regarding the proposal to amend the public inquiry criteria where changes are proposed to any of the elements of the Combination Scheme Order that establishes the Fire and Rescue Authority and Fire and Rescue Service. The public inquiry provisions were introduced in 2004 to ensure due regard was given to the safety of firefighters or the community before significant reforms could be introduced. The proposed amendment would mean that a public inquiry would no longer be held for several areas of significant reform of Fire and Rescue Authorities including changes to the funding mechanisms, governance structures and systems and appointment of officers.
90. There is general support for the proposals which relate to supply of information and power to inspect. The power to give Billing Authorities the right to inspect properties will potentially incur additional costs and the recognition of this is welcomed. The proposal linking the NDR multiplier increase to the Consumer Price Index in line with England is also welcomed.
91. The Bill also modifies the Local Government Finance Act 1992 to abolish the power for local authorities to apply to consign an individual to imprisonment for non-payment of council tax. This power has already been taken away by regulation and this further change is to place it in primary legislation. Although there may be a slight deterioration in the collection rate as a result, we will continue to work with Welsh Government to consider whether any future amendments to legislation are needed to prevent loss of income through falling collection rates.

## Annex B

Julie James AC/AM  
Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref: JJ/32/19

Cllr. The Baroness Wilcox of Newport  
Leader - Welsh Local Government Association  
Local Government House  
Drake Walk  
Cardiff  
CF10 4LG

Debbie.wilcox@newport.gov.uk  
cc daniel.hurford@wlga.gov.uk

November 2019

Dear Debbie

Thank you for inviting me to the WLGA Executive Board meeting on 25 October. As indicated at that meeting, I am now writing to formally invite proposals from local government as to which local authorities would wish to come together for the purposes of development of Corporate Joint Committees (CJCs).

As we have previously discussed, Welsh Ministers will be able to establish Corporate Joint Committees for a core set of functions in the areas of Transport, Strategic Planning, Economic Development and Improving Education. My intention is to establish Corporate Joint Committees with responsibility for Transport and Strategic Planning as soon as possible.

I have made it clear that there is a window of opportunity for us to work together to develop these proposals and my preference is for local authority leaders to identify their preferred regional partners.

I am disappointed that the WLGA Executive Board voted to reject the principle of the Welsh Government having the power to instigate the establishment of Corporate Joint Committees in a limited number of specified functional areas.

However I continue to offer the opportunity, which I hope you will take, for local government to co-design the regulations to ensure that Corporate Joint Committees deliver a regional model that works for local government.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

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[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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.

I look forward to receiving your proposals and to continuing the constructive discussions on the development of the Corporate Joint Committee regulations.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The script is cursive and fluid, with the first name "Julie" and the last name "James" written in a single continuous line.

**Julie James AC/AM**

Y Gweinidog Tai a Llywodraeth Leol  
Minister for Housing and Local Government

## **Annex C**

### **Local Authority and Other Bodies' Views on Corporate Joint Committees**

#### **Extracts from Written evidence submitted to the Equalities, Local Government and Communities Committee<sup>1</sup>**

##### **City and County of Swansea Council**

1. There is general support for provisions for better collaborative working however there are some concerns around whether there will be additional bureaucracy created and any impact on service delivery within the Authority. There are also concerns around funding of Corporate Joint Committees and the ability to recruit appropriately skilled staff.

##### **Rhondda Cynon Taf County Borough Council (submitted by Overview and Scrutiny Committee)**

2. Members cited positive examples of joint working arrangements such as Cardiff Capital Region City Deal, but expressed concern at the scrutiny deficit in other joint committee arrangements, with some members pointing to Joint Education Consortium arrangements as an example. Members believe that understanding the wider government model and the accompanying need for clear joint scrutiny arrangements in any of the Corporate Joint Committees (CJs) would be key to these future proposals and how they operate in the wider local government governance model.

##### **Ceredigion County Council**

3. The power for local authorities to establish Corporate Joint Committees (CJs)  
  
Agreed.
4. Ministerial powers to establish CJs in the functions of school improvement, economic development, strategic planning and transport:  
  
Agreed.
5. It is important to distinguish between school improvement and education improvement.
6. The principle of mandation of CJs by Ministers in any service area is not agreed.

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<sup>1</sup> <http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?id=376&RPID=1377209&cp=yes>

7. Local authorities should be able to determine the CJC footprints and which functions (within the 4 services) were transferred into CJsCs. In respect of a failing authority, it is not clear what the Ministerial powers of intervention will be in relation to the other authorities within the CJC footprint. It is not clear what will happen if a Leader job-shares, or with Leader remuneration. It is not clear whether Councils can nominate/designate a deputy in absence. Chairs should rotate on a fixed term to prevent a dominant authority developing. Quorum of 70% may be unrealistic. Joint Scrutiny arrangements should be incorporated into Regulations. Similar arrangements should be in place for Governance and Audit Committees. Local Authority Code of Conduct for Members should be sufficient. The costs and resources involved by way of Officer time and "goodwill" in supporting the CJC's should not be underestimated.

### **Monmouthshire County Council**

8. Discussions around Collaborative Joint Committees have been rehearsed extensively in recent months and the local government family has expressed real concerns about the principle of 'mandation' which is seen as undermining local democracy.
9. The inclusion in The Bill of the requirement that Welsh Ministers can only establish a CJC in the areas specified in s79(3) and following extensive local consultation with the groups outlined is a positive step away from 'mandation' as is the caveat that Ministers can only change the purpose of an established CJC with the consent of the CJC itself and relevant local authorities as per s82. However, we would propose that this develops to the point whereby the establishment of CJsCs can only take place with the consent of local authorities and without provision for Welsh Government to impose them, and we would welcome the opportunity to continue to contribute to this ongoing discussion.
10. Through discussions it is hoped that further clarity will emerge on myriad practical considerations regarding CJsCs, examples of such include: will the Ombudsman have powers over those carrying out duties as part of them; will they need their own Monitoring Officers and standards committees; who will carry out functions of scrutiny; how will things reserved to Council only be dealt with; will there be provision mandating attendance of Members etc.?

### **Powys County Council**

11. Mandation of the footprint is opposed. The Council are more than happy to work with Ceredigion where considered appropriate, a recent example of this would of course be the work on the Mid Wales Growth Deal. However, we would also want to retain complete flexibility to work with others as and when required. Furthermore we seek reassurance that the proposed CJC footprint would not be a barrier to successfully achieving such cross border working with partners other than Ceredigion in the future as we have 17 Local Authorities on our borders.

12. The position is borne out by the cross border working arrangements for the four areas identified as being the first to be considered for CJC's:

- Educational improvement- PCC currently work with 6 authorities within ERW.
- Transport planning - PCC work with Ceredigion and Gwynedd to consider transport planning across Mid Wales and into South Gwynedd (Meirionnydd)
- Economic Development- PCC works across all its 13 boundaries where appropriate as economic activity simply does not recognise our administrative boundaries. As an example we are currently working as Joint Venture partners with NPTCBC and Welsh Government on the Global Centre of Rail Excellence project in Ystradgynlais.
- Planning - PCC whilst having its own LDP we work closely with the BBNPA h the south and neighbouring authorities on the their LDPs.

### **Conwy County Borough Council**

13. Part 5 – Collaborative working - The Bill proposed the establishment of Corporate Joint Committees (CJCs)

14. The Head of Law and Governance advised Members that the above proposal would give the power for Local Authorities to request CJCs for any of their functions. The Bill also provided Ministerial powers to establish CJCs in the functions of school improvement, economic development, strategic planning and transport.

15. The Welsh Local Government Association (WLGA) Council and the WLGA Executive Board had previously expressed concerns about the mandating of CJCs and the need for assurances and safeguards against future Ministers using the power in other service areas.

16. Concerns were raised in relation to the possible loss of local democracy as only Leaders would sit on the CJCs and the CJCs would have their own powers to make decisions. Further concerns were raised in relation to resourcing the CJCs and governance issues in terms of scrutiny call-in procedures.

17. Members agreed that CJCs could work if they were established by Local Authorities, with a wider membership, as joint working with neighbouring Local Authorities had already proved successful, with the North Wales Growth Bid given as an example. Local Authorities should not be mandated by the Welsh Government to establish joint Committees.

## 18. Part 5 – Collaborative working - Regulations for Corporate Joint Committees (CJCs)

19. The Minister for Housing and Local Government has expressed her desire that the Regulations should be co-produced with Local Government and there was scope for existing governance agreements and arrangements (such as City Deal or Growth Bid Joint Working Agreements or Governance Agreements) to be transferred into Regulations to avoid duplicating, 'reinventing the wheel' or undoing or undermining existing, effective arrangements. No, there should be no mandation from the Welsh Government to form CJCs.

## **Denbighshire County Council**

### Part 5 – Collaborative Working by Principal Councils

20. The Council does not oppose Corporate Joint Committees in principle provided that they are to be created only as a result of a request being made by the constituent local authorities because they believe that this model is the most appropriate way to deliver the function in question. The council is totally opposed to the creation of Corporate Joint Committees by Welsh Ministers where no request has been made by local authorities. The proposal that Welsh Ministers should be able to do so is mandation and the Council considers this to be unacceptable.
21. Members also expressed concern that Corporate Joint Committees would be less accountable to local residents than Councils. The lack of information regarding the content of regulations in respect of voting rights, funding, delegation and the transfer of staff, property and liabilities made it difficult for members to make more detailed comment.
22. The proposals do not appear to solve the issue of non-local authority partners being able to take a full and equal role on corporate joint committees, e.g. universities and colleges. Currently such partners may only participate in joint committees as non-voting advisers and the proposals as drafted do little to change this.

## **Wrexham County Borough Council**

23. In our response to the 'Reforming Local Government – Resilient & Renewed (2017)' consultation, we expressed our concern in relation to the enforced removal of local choice and the mandatory introduction of regional working models. We highlighted the tension between potential economics of regional services and the potential accountability and engagement of local services, as well as the costs of establishment and the risks of regional working footprints being too large. We believe that government funding streams must continue to be directed local authorities.



24. We would welcome co-production of the Regulations relating to the establishment of Corporate Joint Committees (CJCs), in terms of specific functions, boundaries and governance arrangements, and support provisions which keep local government and local government requirements at the heart of regional working. We would caution against the stipulation that members of CJCs shall comprise the Leader of a constituent Council given that the portfolio in question may lie with another executive member of the Council who may be better placed to participate in the CJC. A stipulation that the membership comprise a member of the executive would provide greater flexibility particularly if more than one CJC emerges in an area. Regulations should provide for a substitute executive member to be able to attend meetings and for other executive members to be appointed to subcommittees of a CJC.
25. In our response to the Strengthening Local Government (2018) consultation, we also indicated that we would be keen to explore the opportunity to enter into joint committees with other non-public bodies, who can currently only participate in advisory capacities.

### **Anglesey County Council**

26. Powers to establish Corporate Joint Committees (CJC's) is subject to national debate between WLGA and Welsh Government. Allowing Welsh Government to mandate CJS's is not supported and the potential to extend to areas outside current proposed scoping areas need to be monitored closely – this could lead to confusion/disruption at the expense of focusing on delivering real change locally.
27. The track record of North Wales Councils working organically in promoting regional work needs to be acknowledged. These changes added to existing statutory requirements e.g Social Services Act and Future Generations Act place significant demands, as well as voluntary initiatives such as the Joint Planning Policy Committee with Gwynedd and the Regional Education Consortium (GwE), as well as the Regional Economic Ambition Board. This potentially would over centralise arrangements for strategic planning/key services and risk that local government/accountability is diluted. There would be unknown cost and additional logistical demands placed on Councillors /Officers. –this need to be addressed. The national debate should focus on these important governance issues. Local authorities should co- produce with Welsh Government regulations that are fit for purpose for defined services in question, and ensure that changes safeguard service delivery, local accountability and ensure value for money. The case to change/transfer any existing arrangements need be properly considered and benefits identified at the outset. Overall governance arrangements need to be debated.
28. Other considerations are highlighted namely funding issues and burden on Councils having to maintain key local services and additional regional

arrangements. The Regulations around the operation of the proposed sub – committees will need full consideration. Guidance should address issues of governance including the need for statutory officers to support, access to information regulations, web-casting and remote attendance.

## **Cyngor Gwynedd (Original in Welsh)**

29. Yn bennaf, teimlir y byddai creu Cyd-bwyllgorau Corfforedig ar sail y model yn y Bil yn creu haen arall ychwanegol o lywodraeth leol, gyda'r effaith fod democratiaeth a phenderfyniadau yn ymbellhau ymhellach oddi wrth y dinesydd.
30. Nid yw'r Bil yn darparu eglurdeb ynglŷn â sut ac ym mha fodd y byddai swyddogaethau nad ydynt yn perthyn i weithrediaeth yn cael eu cyfarch yn y gyfundrefn. Mae hyn yn cynnwys mabwysiadu'r Fframwaith Bolisi a Chyllid. Mae cyd weithio effeithiol yn seiliedig ar achos busnes eglur dros gyfuno ond hefyd cydsyniad a chytundeb gan y Cyngorau ynglŷn â'r cyfeiriad strategol. Mae hyn yn elfen allweddol i lwyddiant cyd-weithio nad yw yn amlygu ei hun mewn dogfennau cyfansoddiadol neu ddeddfwriaeth. Yr hyn sydd yn nodweddiadol o gydbwyllgor o'i gymharu ag awdurdod rhanbarthol yw atebolrwydd i'r fam awdurdodau. Byddai'n angenrheidiol i'r trefniadau gyfarch hynny yn arbennig felly os yw'r CBC yn arddel pwerau strategol a chyllidol. Heb hyn byddai'n mynd yn groes i ysbryd y Bil o fod yn ceisio annog a hybu mynediad at Lywodraeth Leol a chymryd rhan a dylanwadu ar benderfyniadau.
31. Ochor arall y geiniog yw'r pryder am rôl Arweinyddion yr awdurdodau presenol mewn perthynas â threfniadau o'r fath, yn arbennig y pwysau trwm a fyddai'n annatod ar eu hysgwyddau. Mae modelau cyd-weithredol e.e Gwasanethau Gwella Ysgolion yn golygu fod aelodaeth y Cyd Bwyllgorau yn cael eu tynnu o blith yr aelodau Cabient perthnasol sydd yn uniongyrchol atebol i'w Hawdurdodau am y gwasaneth. Mae'r model fel y'i nodir uchod yn anorfod yn gwanio yr atebolrwydd a'r cyswllt uniongyrchol yma.
32. Dylid hefyd nodi ein bod o'r farn nad yw'r hyn sy'n cael ei gynnig yng nghydestun cydbwyllgorau corfforedig yn ddigon hyblyg. Er enghraifft, mae'r cais i adnabod yr ôl-troed y byddem yn dymuno gweithio arno yn creu anhawster yno'i hun. Nid cyd-weithio ar draws Gogledd Cymru fyddai'r ateb gorau o anghenraid ar gyfer pob maes. Rydym eisoes yn cydweithio ar hyd arfordir y Gorllewin ar gyfer rhai datblygiadau, a gyda Môn ar faterion eraill. Nid oes hyblygrwydd digonol yn y Bil ar gyfer addasu i ofynion lleol a'r trefniadau lleol gorau. Nid ydym yn dadlau fod profiad o weithio ar y cyd wedi adnabod agweddau ble y gellir gwella'r ddarpariaeth ddeddfwriaethol. Mae hyn yn cynnwys trefniadau penodi a gosod cyflogau ar y cyd, dal eiddo a gweithredu hawliau cyfreithiol megis ffurfio cwmnïau. Mae cyfle yn y ddeddfwriaeth yma i ddarparu opsiwn llywodraethu all gefnogi a chryfhau trefniadau cyd weithio llwyddiannus presennol. Fodd bynnag rydym o'r farn fod clymu'r atebion i strwythur caeth sydd yn cael ei ffurfio drwy ddeddfwriaeth yn creu risg y byddwn yn gwanhau'r cyd-weithio presennol drwy symud ffocws a chymylu atebolrwydd.

33. Yn y bôn, rydym o'r farn mai ar lawr gwlad y dylai unrhyw drefniadau o'r fath gychwyn, hynny yw, trwy'r awdurdodau lleol a'r cynghorau cymuned. Rydym o'r farn ei bod yn angenrheidiol cychwyn gyda'r haen agostaf at y bobl, sef y cynghorau cymuned. Dylid ystyried y cyfle i'w hadolygu, gan ystyried cyfleo i newyd, cyd-weithio neu uno, a hynny yn seiliedig ar benderfyniadau a dewis lleol. Mae hyn yn unol â'r egwyddor cyffredinol o benderfyniadau lleol yn hytrach na gorfodaeth i gyd-weithio. Yn yr un modd rhaid i Awdurdodau Lleol fod yn glir o'r budd o sefydlu trefniadau cyd-weithio, ac mae perchnogaeth leol i adnabod y ffordd orau ymlaen yn allweddol. Fel arall mae ymdeimlad mai ad-drefnu llywodraeth leol trwy'r drws cefn yw hyn, ac rydym yn gwrthwynebu hynny yn gryf.

### **Gwynedd Council (translated via Bing translate)**

34. In the main, it is felt that the creation of joint corporate committees based on the model in the bill would create another additional layer of local government, with the effect that democracy and decision-making are distanced further from the citizen.

35. The bill does not provide clarity on how and how non-executive functions would be greeted in the regime. This includes the adoption of the policy and financial framework. Effective joint working is based on a clear business case for amalgamation but also consent and agreement from the Councils on the strategic direction. This is a key element to the success of a joint working that does not manifest itself in constitutional documents or legislation. What is typical of a joint committee compared with a regional authority is accountability to the mother authorities. It would be necessary for those arrangements to greet that particularly if the CJC takes strategic and fiscal powers. Without this it would go against the spirit of the bill in seeking to encourage and promote access to, and participation in, local government and influence decisions.

36. The other side of the coin is the concern about the role of the leaders of the current authorities in relation to such arrangements, in particular the heavy weight that would be inherent in their shoulders. Co-operative Models E. G School improvement services mean that the membership of the joint committees is drawn from the relevant Cabinet members who are directly accountable to their authorities for the service. The model as set out above inevitably weakens this direct accountability and contact.

37. It should also be noted that we consider that what is being proposed in the context of corporate joint committees is not sufficiently flexible. For example, the application to identify the footprint that we would wish to work on creates a difficulty there itself. Co-operation across north Wales would not necessarily be the best solution for all areas. We are already working together along the west Coast for some developments, and with Anglesey on other issues. There is no sufficient flexibility in the bill for adapting to local requirements and the best local

arrangements. We do not argue that experience of joint working has identified aspects where legislative provision can be improved. This includes joint appointment and pay-setting arrangements, property holding and the implementation of legal rights such as company formation. There is an opportunity in this legislation to provide a governance option that can support and strengthen existing successful joint working arrangements. However we consider that tying the solutions to a rigid structure formed by legislation creates a risk that we will weaken existing co-operation by shifting the focus and the comparability of accountabilities.

38. Basically, we believe that any such arrangements should start on the ground, that is, through the local authorities and community councils. We believe that it is necessary to start with the most intimate layer to the people, namely the community councils. Consideration should be given to the opportunity to review them, taking into account a local approach to starvation, joint working or merger, based on decisions and choice locally. This is in line with the general principle of local decision-making rather than compulsion to co-operate. Similarly local authorities must be clear about the benefits of establishing joint working arrangements, and local ownership of identifying the best way forward is key. Otherwise, there is a sense that it is local government reorganisation through the back door, and we strongly oppose that.

### **Pembrokeshire County Council**

39. We note that Welsh Government is currently consulting on both the principles of collaborative working via the Bill and on the detailed Regulations that will be enabled by it.
40. We note that debate over regional footprints has been protracted and that the Bill has the potential to reduce duplication. However, Members noted that mention of health-based collaborations established under the Social Services and Well-being Act are conspicuous by their absence.
41. Members welcomed the provisions in the Bill for voluntary collaborative working. Members' view is that the outcome from a Corporate Joint Committee must be driving up value and increasing service quality. They noted that, as drafted, the provisions have the potential to significantly increase the workload of the Leader. We agree with the view that the WLGA has already expressed on mandation and note Welsh Government's response that it is still committed to mandation of the four function areas in the Bill.
42. Welsh Government has also asked for our views on our preferred footprint for mandated regional working.
43. Members are clear on their view that a single geography for all four mandated functions is not their preferred option. Members are firm in their view that the Swansea Bay City Deal area makes sense for economic development, transport

(and to a lesser extent, strategic planning). They are also clear, that whilst ERW has experienced difficulties, its six county footprint offers us the greatest opportunity for improving our educational outcomes.

44. If faced with a straight choice of a four or six county footprint for all four functions, with no option of having more than one CJC for these, we would opt (on balance) for the Swansea Bay City Deal area.

## **National Parks Wales**

45. Section 77 proposes a power to make regulations to establish a body corporate, where a corporate joint committee application has been made, to exercise functions specified in the regulations in respect of two or more principal areas. The Statement of Policy Intent proposes that regulations made under this power will create a new corporate body for the delivery of specified functions of principal councils.
46. As the Bill is drafted, Corporate Joint Committees (CJCs) appear to be limited in membership to principal councils and suggests that it is not intended for National Park Authorities to be part of any CJCs.
47. If such governance arrangements come into being which may include the geographical area of one or more of the National Parks, the Bill proposes that they will be able consider Transport, Strategic Planning, Economic Development and improving Education. As independent Local Authorities (but not principal Councils) which are also the Local Planning Authorities with land areas within other Local Unitary Authorities there is obvious potential for uncertainty, ambiguity and unintended consequences not only for the management of National Parks and how such will impact on our duties and purposes in terms of strategic planning and economic development but also in the effective delivery of its duties by the CJC's. One potential solution would be to designate National Park Authorities as principal councils for this purpose only. Alternatively, clarification could be provided in the Bill that if a CJC is established which includes an area designated as a National Park, this is not to impact on the statutory functions of the National Park Authority. This would be our preferred option.
48. The list for consultation contained in Section 80 (2) in connection with the establishment of a Corporate Joint Committee should be extended to include National Park Authorities. The reason for this is that of the four potential areas for establishing a Corporate Joint Committee National Park Authorities have a role or a significant input in three of the areas. These are:
- a. Strategic planning for the development and use of land;
  - b. Transport;
  - c. Economic development

## ESTYN

49. The proposals in part 5 for joint action between councils, set out a coherent process and clear conditions by which two or more councils might come together to establish a corporate joint committee to exercise a function or functions in respect of the principal areas of those councils. The proposal also sets out clearly where the Welsh Government might direct councils to form a joint committee. Section 79 (3) (a) (i) is clear that this would include improving education.
50. The provisions made for this in the Bill are likely to better support local authorities in the discharge of their school improvement duties through the Regional Consortia. Further the provisions would also enable additional work to be passed forward to the Regional Consortia where appropriate, at the discretion of the local authority or the Welsh Government.
51. The provisions under section 77 (4) (a) and (b) raise the possibility of a principal council choosing to either transfer a function, or retain that function. The implications for both local authorities and Regional Consortia for the discharge of school improvement statutory duties will need further exploration and clarification. Our published reports on the work of the regional consortia for school improvement have demonstrated that it takes time to establish effective joint arrangements. It also requires the full commitment of the constituent local authorities. The proposed arrangements will clearly place this type of regional service on a much stronger and clearer statutory footing. By working together, local authorities are able to create a critical mass of expertise to support education improvement more effectively. The provisions will allow local authorities to identify the most logical partner authorities to work with which in some cases may be the current Regional Consortia groupings.
52. It would be helpful to define what is meant by services that improve education. Our evidence from inspections of both schools and local authorities demonstrate the complex interplay of factors that contribute to the success of a school and its pupils.
53. A wide range of services can contribute towards education improvement, not all of which are defined as being part of the current regional consortia for school improvement. For example, would behaviour support services, educational welfare services or services to support special educational needs be functions that could be delivered through a corporate joint committee for education improvement?
54. It would also be helpful to clarify whether the inspection powers which Estyn has with regards to local authorities under section 38 of the Education Act 1997 (<https://www.legislation.gov.uk/ukpga/1997/44/section/38>) will be applicable to any CJC. For example, would we need to inspect and report on the delivery of school improvement by a CJC separately from the inspections of the constituent

local authorities? Under Section 78 (3) of the Bill, it would be helpful to list any relevant inspection bodies as statutory consultees.

### **Auditor General for Wales**

55. 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.
56. 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.

### **Future Generations Commissioner**

*(From Transcript of oral evidence to Committee on 11<sup>th</sup> December<sup>2</sup>)*

57. I think then there's perhaps a missed opportunity around the structures...But I don't think you can divorce the establishment of those structures from the ability of people to participate and get involved. And I think what we've got at the moment is already a really complex landscape, where it's really difficult to see who takes decisions where. And if we want people to be involved and engaged, and actively get involved in decision making, they've got to be able to understand that system. So, whilst I don't—I have some issues, which I'll perhaps go on to later, in terms of these committees—have a massive problem with them per se, but I do think there's perhaps a missed link between creating more layers and how that might impact on public participation and involvement and transparency. Perhaps that's something that could be dealt with through guidance and regulations....
58. I think anything that brings different elements of services together to work in a collaborative way is a move in the right direction. I think, however, that they're a bit of a random selection of services and functions to be brought together. Everything is linked to everything, so I'm not against it, but I think it's more on the basis of what's already emerging at the moment, and the structures and functions that perhaps might be moving in that direction are proposed to come in to this, rather than, 'Okay, if we were to develop a sensible approach to one public service, what would that look like?'

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<sup>2</sup> <https://record.assembly.wales/Committee/5757>

59. I think it very much depends on what the guidance and regulations are going to say, and how much of a push that guidance is going to give towards this being a starter for other functions to come in separately. So, that would be a positive thing, if that is the direction of travel that we're actually moving towards. The less optimistic view of that is we still have multiple other partnerships. So, you've got PSBs, APBs, RPBs, RSPs, CSPs, and you'll now have a—what's the acronym for this one—regional whatever it is. And there is not clear guidance at the moment in terms of how they all link together.
60. So, some of the issues that I've been raising with the Minister have been particularly around the link between regional partnership boards and public services boards, and that's not clear at the moment at all. And what we have is a situation where you have the public services board, with its well-being plan, planning holistically for the well-being of the area. They then have to link in—so, if they've got an objective on, say, giving every child the best start in life, which a lot of them do have, that can only be delivered through really clear working arrangements with the regional partnership board, with the area planning board, probably with the community safety partnership, and probably with the regional skills partnership. But those clear lines of accountability and governance are not in place at the moment....
61. Public services boards can merge now. My view is that they should merge. Currently, only two have merged—in Cwm Taf, so Merthyr and Rhondda Cynon Taf. Gwynedd and Anglesey have kind of merged informally. But for us to think that without a really clear steer or—and I know that public bodies don't like the word 'mandating', but for us to think that they're suddenly going to have a massive change in heart because we've created another new structure—. I'm not sure that that's a realistic prospect.
62. The jury's out; I think the regulations and guidance would have to be really strong on that. I think that there are perhaps some opportunities, and maybe you're going to come on to the peer review parts of the Bill. There are perhaps some opportunities there in terms of the regulations and guidance around how collaboration and whether these new entities and existing local government entities, and any of the other structures, have considered collaboration with others, and taken active steps towards sorting out the governance arrangements so that they can better collaborate with each other. If that is something that, if they haven't explored, it would almost be a reflection of them not performing in the way that we would expect them to be performing, then that could be something that would help to move them in the right direction. But I think the Bill is fairly passive in that space and perhaps overly optimistic about anyone out there making the necessary moves to clarify any of this if Government are not going to.
63. I'm not sure if it will introduce more barriers. I think that, in these functions that are proposed in this committee, I can see how effective decision making can be made within that. I think the problem is whether that effective decision making



at that level is at all supporting the aspirations and objectives of the other public bodies, which is what it should be doing, or whether it's completely at odds with them.



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