

24th May 2024

PROPOSED CHANGES TO THE WLGA CONSTITUTION AND THE PORTFOLIOS AND SPOKESPERSONS ARRANGEMENTS

Purpose

1. To seek members approval of proposed changes to the WLGA Constitution and an amended approach to the portfolios and appointment of Spokespersons ahead of the WLGA Council Annual General Meeting in June.

Background

2. At the WLGA Executive Board meeting in April, members agreed to making some revisions to the WLGA Constitution and the development of a wider Governance Framework, including Political Convention, in support of the arrangements set out in the WLGA Constitution. Members also supported a review of how the revised approach to Spokespersons has worked in practice and reconsider portfolios, with the potential to mirror Welsh Government Cabinet portfolios.
3. Discussions have been held with Group Leaders to seek their views on the issues raised in the paper members discussed in April and where appropriate, these are reflected in the proposals. A number of other issues were also mentioned in these discussions, some of which will be reflected in the Governance framework to be developed and in the way in which the Association conducts its business.
4. Attached to this report are proposals for changes to the Constitution, subject to the views of members. There has not been time for a revised Constitution to be presented to members at this meeting, but changes will be made in time for consideration by members at the AGM in June – the proposals are set out in Sub Report 1 below.
5. Also attached as Sub Report 2 are proposals for revising the current portfolios and appointment of Spokespersons, subject to the views of members.
6. Due to time and capacity constraints, it has not been possible to develop a Governance Framework which would be read in conjunction with the Constitution and set out how the Association's governance will operate in more detail, including for example, a Political Convention and a clear process for declarations of interest. This work will continue over the coming months and will be presented to members in due course.

Recommendations

7. Members are invited to consider each of the two sub-reports that follow; and

7.1 **Sub Report 1 (para 5.1):**

5.1 Comment and approve which changes they would wish to see made to the Constitution and in particular are asked to comment on the proposal to rename and add a role to the Audit Committee (para e) and the proposed Finance section (as set out in paras f and g).

7.2 **Sub Report 2 (paras 14.1 to 14.5):**

- 14.1 Endorse the current role of Spokespersons as set out in the WLGA Constitution;
- 14.2 Comment on and approve a list of Spokespersons roles to be sought at the AGM as set out in Appendix 1;
- 14.3 Comment and approve a revised team approach as set out in paragraph 10;
- 14.4 Comment and support the identification of support needs of Spokesperson and the provision of training and development opportunities as appropriate; and
- 14.5 Discuss and agree next steps.

Report cleared by: Cllr Rob Stewart, WLGA Deputy Leader

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Sub Report 1: Proposed changes to the WLGA Constitution

1. It is proposed the following changes are made to the WLGA Constitution, subject to legal advice that they are acceptable changes for an unincorporated association and with the specific wording as recommended by Capital Law Solicitors:
 - a) Add the following to the Objectives and Powers of the Association (section 3.0). These are proposed to clarify and strengthen the powers of the Association (and have been proposed following reviewing the WLGA's sister bodies objectives and powers):
 - i) to support, promote and improve local government in Wales;
 - ii) to co-ordinate collective legal actions on behalf of groups of Member Authorities where authorised by the WLGA Executive Board or Group Leaders;
 - iii) to provide information generally regarding local government in Wales; to publicise the policies and work of the Association and of local government; and to increase public awareness of the value of local government and its needs and aspirations;
 - iv) to act as the employers' organisation on behalf of Member Councils and to represent them in collective negotiations with representatives of employees on salaries, wages and conditions of service matters; to provide or contribute to the provision of resources to support the work involved in such negotiations, and to provide advice and assistance to Member Councils on the implementation and application of agreements reached and generally on any other employment matters (same wording as Cosla's Constitution).
 - b) We also propose seeking legal advice on whether it is possible or advisable to amend the Objectives and Powers of the Association to clarify the Association is able to receive and distribute funds connected to the delivery of a local authority services (separate to the top-slice process).
2. In relation to governance arrangements, with the aim to strengthen current arrangements and to provide a power to establish groups on specific issues should members wish to do so, the following are suggested:
 - c) Formalise a decision-making role for Political Group Leaders in specified circumstances, for example, to deal with urgent matters; where for confidential reasons discussion and decisions are requested by a government; or where the import of a negotiation would go beyond the authority delegated to Spokespersons. This proposal is based on this function included in COSLA's Constitution.
 - d) Include a power for the Executive Board to establish Special Interest Groups (SIGs) where requested/required which would help support the

development or implementation of those policy areas within its remit. Both the LGA and COSLA include such a power within their governance arrangements. Such a group could for example provide the WLGA Rural Forum with a specific role within the governance and decision-making arrangements of the WLGA. The specific role and Terms of Reference for any SIGs would be agreed by the Executive Board who would also receive feedback on their activities.

- e) Views of members is sought on whether the Audit Committee should be renamed as the Audit and Risk Committee and also given an additional role in overseeing and providing assurance in relation to any companies or entities that have been established by the WLGA, for example, the company limited by guarantee established by the WLGA to host the Joint Inspection Team (Building Safety)?
- 3. Under the Finance section of the Constitution, subject to legal advice, we propose the following changes to clarify the powers held by the WLGA. Officers will also seek advice on any potential implications for member councils of these proposals, so any decision are fully informed:
 - f) The Association may invest, lend, or otherwise deal with monies not immediately required for its purposes in such manner as may be thought fit by the Leaders' Meeting and may borrow or raise money in accordance with financial regulations agreed by the Association.
 - g) All deeds or other documents shall be granted by or taken in the name of the Leader and Deputy Leader and the Chief Executive of the Association and their respective successors in office for the time being, as trustees ex officiis on behalf of the Association. Any such deeds or other documents shall be binding on the Association and on its individual constituent Member Councils jointly and severally, and any superior, grantor, landlord, donee or assignee shall not require to enquire into the authority for such actions.
- 4. The following proposed changes address and clarify a range of issues that have been raised by Welsh Government as a weakness of WLGA's current Constitution and which is impacting on the role the WLGA has undertaken in the past and wishes to continue to do so in the future:
 - h) Clarify that the Chief Executive has the delegated power to sign grant letters and enter into contracts on behalf of the WLGA. This is currently implicit in the Constitution and legal advice has previously been received suggesting this power is made more explicit. The WLGA Financial Regulations will also be reviewed and amended to reflect this and to clarify the extent of such delegation and levels of authorisation, for example, the appropriate financial level where political approval would be required.
 - i) We will seek legal advice on whether any further changes to the Constitution are required to clarify the powers of the WLGA (as an unincorporated association) in relation to compliance with GDPR requirements and the

issues Welsh Government has raised about our ability to be data controllers and processors.

- j) In addition, the lawyers have advised that they will also conduct a general review and propose any other changes that would be helpful in ensuring the Constitution is up to date with other legislation and best practice as more standard inclusion in Constitutions, for example, reference to the ability to hold meetings remotely as well as in person, for consideration by members.

Recommendations

5. Members are invited to:

- 5.1 Comment and approve which changes they would wish to see made to the Constitution and in particular are asked to comment on the proposal to rename and add a role to the Audit Committee (para e) and the proposed Finance section (as set out in paras f and g).**

Sub Report 2: Proposed approach to appointing and supporting WLGA Spokespersons

WLGA Constitution on Role of Spokespersons

1. The WLGA Constitution sets out the role of Spokespersons and Deputy Spokespersons as below:

“The Council may appoint Spokespersons and such Deputy Spokespersons as are required with responsibility to promote the policies of the Association in specified policy areas. Spokespersons, on behalf of the Association, may undertake bilateral meetings with Welsh Ministers, UK Government Ministers, Commissioners, representatives of other public bodies, represent the Association at committees of the Senedd Cymru/Welsh Parliament or UK Parliament, chair meetings of cabinet member forums and fulfil the terms of reference of any relevant Association Advisory Group or sub-committee.

The Council will appoint Spokespersons so that the number of Spokespersons appointed from each political group will so far as is possible reflects the political balance of the Council. Where Spokesperson or Deputy Spokesperson vacancies arise following an Annual General Meeting, interim appointments may be made by the relevant Leader of the Group that held that Spokesperson or Deputy Spokesperson position. Such appointments will be reported to the next Executive Board, Management Sub-Committee or Council meeting, whichever is earlier.

To ensure that a majority group, or coalition, on the Council can express a majority view if required, such majority group, or coalition, shall have the first choice in appointing Spokespersons.

Spokespersons may convene meetings of leading members and officers from each Member Council, and with relevant professional bodies to exchange information, inform and review Association policy and report back to the Association.”

2. It is not proposed that any changes are made to the Constitution in relation to the specified role of Spokespersons and Deputies; role descriptions are available for these roles, previously agreed by members in 2017¹.
3. The internal senior management review reflected leaders' views that, “The role of Spokespersons was highly valued and seen as a notable strength. However, many were not convinced that the approach was covering all areas and being applied consistently and subject to proportionality”. The following proposals are made with these views in mind, as well as more detailed conversations with the Group Leaders.

¹ [Role Description: \(wlga.wales\)](http://wlga.wales)

Spokespersons Portfolios

4. Members have previously adopted a collective leadership approach to appointing Spokespersons to enable representation and engagement with Cabinet Secretaries and Ministers to be shared. The Association always seeks to achieve consensus and speak with one voice whenever and wherever possible. Such an approach aims to ensure the WLGA is able to field a consistent and experienced team of members at key meetings and committees. At the WLGA AGM in June 2022, the structure of spokespersons was discussed, and members agreed the following:
 - To reduce the number of Spokespersons portfolios, aligned where possible with the Welsh Government Cabinet portfolios;
 - Whilst portfolios might be aligned to the Welsh Government cabinet portfolios, Workforce should be retained as a separate brief, given the workload and range of devolved and non-devolved engagement on pay matters and that Public Health and Regulatory Services should be retained as a separate brief as a core local government function;
 - A case was also made for Spokespeople to be broadly aligned with Council cabinet portfolios (which are a maximum of 10 roles, although some councils have introduced job share roles);
 - A 'team of leaders/deputies' should cover and support each brief, with fewer deputy spokespersons; and
 - It was also noted that deputy roles allow for some peer development/succession planning and that diversity should be a consideration in terms of appointment.
5. Following the appointment of a new First Minister, the current Welsh Government is made up of the following roles:

Cabinet Secretaries covering the areas of:

- Climate Change and Rural Affairs
- Culture and Social Justice
- Economy, energy and Welsh Language
- Education
- Finance and Constitution
- Health and Social Care
- Housing, Local Government and Planning
- North Wales and Transport

Ministers covering the areas of:

- Mental Health and Early Years
- Social Care
- Social Partnership

6. In addition to the above, the Cabinet includes a Counsel General. We have not traditionally appointed a Spokesperson to mirror the Counsel General and it is proposed that should engagement be required this could be done through the WLGA Leader or the relevant Spokesperson.

7. Following the principles above, it is proposed that:

- Spokespersons be appointed to mirror the above areas covered by the Cabinet Secretaries, in addition to Spokespersons for Workforce and Frontline and Regulatory Services as previously agreed.
- In terms of mirroring the Cabinet Secretaries and Ministers, it is proposed that Social Partnership be covered by the Workforce Spokespersons and social care to be covered by the health and Social Care portfolio. In relation to Mental Health and Early Years, it is proposed Mental Health be picked up by the health and social care portfolio and Early Years to be covered by the Education brief.
- It is also proposed that issues that fall within the corporate policy and services portfolio in the WLGA (such as electoral reform, civility in public life etc) would be covered by the Spokesperson for Finance and Constitution as the lead but recognising the need to work with other Spokespersons as is appropriate to the issue at hand, such as their lead role in facilitating the development of a partnership agreement between Welsh Government and local government.

8. However, it is proposed that another Spokesperson role be created to lead on data, digital and improvement. The internal senior management review noted that, “the role and functions of Data Cymru are not well understood, either within the WLGA or local authorities. A separate detailed review of purpose, role, and workplan is required. Such a review should also consider linkages or otherwise with the role of the Chief Digital Officer.” The review also recommended, “Ensure that local authorities understand and link into the significant improvement offer that is available. Link the current offer to the broader sector led service improvement agenda (challenge the assumption that Welsh Government alone set the agenda).” A review is currently being undertaken by Jack Straw on how to better link the work of Data Cymru and the Digital and Improvement Teams to achieve better outcomes and joined up support for councils and the appointment of a Spokesperson for these areas will help lead and support this work.

9. Should members agree to this additional Spokesperson role, this would result in 11 areas to be covered by Spokespersons (proposed list at Appendix 1).

Suggested amendments to team approach

10. While members have indicated support for a team approach to the role of Spokespersons, as this adds resilience and additional capacity in responding to the demands of the role, as well as often representing cross party representation, some experiences over the past year have reflected the need for slight revisions to the number of Spokespersons in each area. It is therefore proposed that:

- There should be a maximum of 3 Spokespersons per portfolio, with a lead spokesperson to be identified and agreed by members.

- Members may also wish to consider appointing a Deputy Spokesperson for each portfolio, again to add resilience but to also support succession planning and provide the opportunity for members to gain experience.
- Spokespersons once appointed to determine how they will operate as a 'team', for example, whether there is a lead for specific issues within the portfolio, approval processes for correspondence, chairing meetings etc;
- In appointing Spokespersons, consideration should be given to how the role matches with member skills, preferences and areas of interest/knowledge
- Agree with officers how they want to be undertake and be supported in their roles as Spokespersons and any priority issues for action, also noting the WLGA's strategic corporate priorities that have been agreed for that area of work.

Support arrangements

11. Some Spokespeople come into the role with little experience of working at a national level or for example, engaging with the media, both key aspects of a Spokesperson's role. As such it is proposed that once appointed as Spokespersons or Deputies, officers will ask whether there are any specific training or developmental needs they may have to assist them in undertaking the role with confidence.
12. Officers should also arrange an induction process for new Spokespersons, following discussions with them as to their wishes, and will provide detailed briefings on current key issues, a list of key partners/stakeholders and the arrangement of introductory meetings as required.

Next Steps

13. Subject to the view of members on the proposals contained in this paper, it is proposed that the next steps in identifying potential Spokespersons ahead of the AGM in June will be:
 - To share the list of Spokespersons portfolios to each Group Leader and ask they seek interest in roles in their Group
 - Officials to determine the 'share' of Spokespersons based on political balance within the WLGA
 - The Chief Executive will liaise with Group Leaders to assist the process
 - A meeting of Groups Leaders to be arranged prior to the AGM to discuss and hopefully agree proposals for Spokespersons from each Group to aid a smooth process at the meeting.

Recommendations

14. Members are invited to:

- 14.1 Endorse the current role of Spokespersons as set out in the WLGA Constitution;**
- 14.2 Comment on and approve a list of Spokespersons roles to be sought at the AGM as set out in Appendix 1;**
- 14.3 Comment and approve a revised team approach as set out in paragraph 10;**
- 14.4 Comment and support the identification of support needs of Spokesperson and the provision of training and development opportunities as appropriate; and**
- 14.5 Discuss and agree next steps.**

Appendix 1

Proposed Portfolios for WLGA Spokespersons for 2024-25

- Climate Change and Rural Affairs
- Culture and Social Justice
- Economy, Energy and Welsh Language
- Education (including Early Years)
- Finance and Constitution
- Frontline and Regulatory Services
- Health and Social Care (including Mental Health)
- Housing, Local Government and Planning
- Improvement, Digital and Data
- North Wales and Transport
- Workforce (including Social Partnership)