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ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	STANDARDS COMMITTEE
DATE:	12th March 2015
TITLE OF REPORT:	Reforming Local Government and Inquiry into Powers of Public Services Ombudsman for Wales
REPORT BY:	Awena Walkden, Solicitor Corporate Governance
PURPOSE OF REPORT:	To collate the Standards Committee's views in order to respond to the consultation.

1. Introduction and Background

The Welsh Government has been looking to reform Local Government in Wales for quite some time and has recently published a paper called "Devolution, Democracy and Delivery". You will find this document attached to this Report as **Appendix 1**. The paper is the summary of the main changes that the Local Government wishes to make under the "Williams Report".

There are highlighted matters within the consultation paper which are relevant to the Standards Committee. We require your views please on these changes to allow us to respond to the consultation.

Further, the National Assembly for Wales is undertaking an inquiry into the powers of the Public Service Ombudsman for Wales with a view to changing the Ombudsman's powers.

We will require your views on the changes to the Ombudsman's role as they affect the Standards Committee in order for us to respond to this consultation by the 15th March 2015.

2. Devolution, Democracy and Delivery

The Local Government (Democracy) Wales Act 2013 makes provision for the establishment of:- joint Standards Committees in Wales, the electronic publication of declarations of interest, and powers to enable the transfer of misconduct reports/members' dispensation requests between Standards Committees to overcome potential conflicts of interest. It is expected that these changes will come in to force later this year.

Also, this year the National Assembly will bring forward legislation to modify the Model Code of Conduct for Local Authority Members to facilitate the operation of local resolution and to clarify the position of members with constituency interests.

They will also exempt local authorities from publishing misconduct reports during ongoing proceedings.

The Welsh Assembly believe these reforms will improve and strengthen the ethical standards framework, however, they are seeking views on whether there should be any further reforms, in particular, in respect of more serious misconduct cases. The Welsh Assembly believe there should be a new power for standards committees to consider cases where there are serious concerns that an elected member is failing to fulfill their duties satisfactorily. They would provide standards committees with appropriate sanctions which could be imposed, and there would need to be safeguards against vexatious complaints.

An appeals process for elected members would also need to be considered which could be internal or to the Adjudication Panel for Wales, or another body. The National Assembly are taking views on the most appropriate procedure.

Additional duties will also be placed on Leaders to ensure that diversity is respected, and the Monitoring Officer and the Standards Committee will have monitoring roles in this respect.

3. Finance Committee Inquiry: Consideration of Powers: Public Services Ombudsman for Wales

I have attached at **Appendix 2** papers setting out an inquiry into the powers of the Public Services Ombudsman for Wales.

We require your opinion on the proposed amendments to enable us to provide a response to the consultation as soon as possible.

The main points to note from the consultation are as follows:-

1. The Ombudsman would like to be able to receive complaints orally and is looking for opinions on what other form of submission would be acceptable as at present the Ombudsman can only accept complaints in writing.
2. The Ombudsman would prefer to focus on complaints that deal with service users and service delivery, rather than local authority and community council complaints. If this was to happen then the Ombudsman would cease to have any involvement in county councillors' breach of the Code of Conduct, or indeed community councilors, and instead, such issues would all be dealt with internally.

We have attached a copy of the WLGA's comments on the proposed reform to the Ombudsman's role to assist you in this exercise. That/those relevant to the Standards Committee are highlighted.

We would be grateful if you could read the consultation papers and at the meeting of the Committee let us know your collective views on the proposed changes so we can feed back on the Consultation.

Awena Walkden

ATODIAD / APPENDIX

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Llywodraeth Cymru
Welsh Government

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Devolution,
Democracy and
Delivery

White Paper Reforming Local Government: Power to Local People

Date of issue: 3 February 2015
Responses by: 23:59 on 28 April 2015

Overview

The White Paper 'Reforming Local Government: Power to Local People' is the Welsh Government's statement of intent about the future of Local Government in Wales.

The White Paper sets out the Welsh Government's proposals for reform in the following fields: local democracy, the roles and remuneration of Elected Members and senior officers, community governance and Community Councils, community rights, corporate improvement, service performance, scrutiny, audit, inspection and regulation, and finance.

How to respond

This consultation covers a large number of matters. Many are of interest to the general public but some are technical in nature and may only be of interest to Local Authorities. We have designed a web-based consultation survey to make collecting and analysing responses easier. It can be found at:

<http://wales.gov.uk/consultations/localgovernment/power-to-local-people/?lang=en>

You may choose to address all the issues raised by this White Paper or to complete a shorter version of the survey which focuses on the main matters of public interest. You will be able to choose your preferred option when you start the survey. A Word version is also available but we strongly encourage respondents to use the online survey.

To respond to the consultation, please either complete the online form or request the accompanying questionnaire and return it either by email RLGProgramme@Wales.gsi.gov.uk

or by post to

Reforming Local Government
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Related documents

This document is also available in a shorter, plain English version and a youth friendly version on the Welsh Government website. Large print, Braille and alternative language versions of this document are available on request.

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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Ministerial Foreword – Our Vision for Local Government in Wales



If you visit the Gwent Archives at their magnificent new facility in the General Offices of the former steelworks in Ebbw Vale, you can read the minutes of the Tredegar Workmen's Medical Aid Society where Councillor Aneurin Bevan and his colleagues sought to put in place co-operative health solutions for their local community. These records are a reminder that at its best, Local Government in Wales has always had an activist nature, engaging co-operatively with local communities to find collective solutions.

We want all our Councils to be activist Councils, engaged in delivering modern, accessible, high quality public services with their communities. As we have developed our plans, we have looked at the best international experience, and drawn on the experiences of the co-operative councils movement in the UK. But we should never forget that Wales has always pioneered co-operative models, both in Aneurin Bevan's time and today. In 11 Local Authorities in Wales, tenants voted for community mutual or social enterprise solutions for the management of their social housing. The Social Services and Well-being (Wales) Act 2014 legislates for the creation of co-operative and mutual models in social care.

In this White Paper, we set out the terms of a new deal for Local Government in Wales. More than 15 years after the establishment of the National Assembly, it is time to recast the relationship between National and Local Government in Wales. Our new deal for Local Government, based on a smaller number of stronger Councils, will result in National Government in Wales setting a small number of clear national priorities, following the passage of the Well-being of Future Generations (Wales) Bill, enabling Local Government to determine with local people the bulk of local priorities.

We recognise that Local Government in Wales is currently under severe pressure as a result of UK Government austerity policies and rising demand for services. This is not an easy time for anyone in Local Government, whether they are Councillors or Council workers. It is therefore critical that we allow Local Government to focus on key priorities and learn from the best practice – tried and trusted as well as innovative – in improving the delivery of services across Wales.

Meanwhile, we must ensure local Councils are wholly representative of local communities. We need a far more diverse range of Councillors. There is a direct challenge to the leadership of Local Government to ensure this. Local Councils that reflect local communities are more likely to achieve the trust of those communities when difficult decisions have to be taken by local leadership. We should be making it easier for new people to enter Local Government at Town or Community and Principal Council level. We must ensure the system of allowances for Councillors does not mean that Cabinet Members and those with senior responsibility payments simply become another part of the paid bureaucracy. We should be seeking to reduce the cost of politics and management in Local Government.

At a time when public service organisations all around the world are learning that the old ways of doing things are not sufficient for the future, Wales has the opportunity to leap beyond others if our minds are open to the possibility. If we want to reshape our public services, and reshape our localities, then we need to see strong, adaptive leadership across all our public services, including Local Government.

We are ambitious for Local Government in Wales, and for our local communities. This White Paper sets out our vision for Local Government in Wales, and explains how we will take these proposals forward.

A handwritten signature in black ink that reads "Leighton Andrews". The signature is written in a cursive, flowing style.

Leighton Andrews AM
Minister for Public Services

1. Power to Local People

This Chapter sets out the history and development of Local Government in Wales. This is the context for our vision of more inclusive and accountable Local Government which shares power and responsibility with the communities it serves. It reminds us that this is nothing new. There is a long history of community activism in Wales which the Welsh Government has consistently promoted and supported since 1999. While Local Government structural reform is necessary, it is not sufficient. 21st Century Local Government in Wales will require a new kind of political leadership which is not institutionalised as part of Local Authority bureaucracy, and democratic representation which is a more balanced reflection of the diversity of our communities.

Finally, this chapter gives a brief overview of the content of the remaining Chapters in this White Paper.

1.1 Introduction

Modern Local Government in Wales came into being at the end of the 19th Century, the culmination of a series of great Victorian reforms designed to bring order to ‘a chaos as regards authorities, a chaos as regards rates, and a chaos as regards areas’.¹

The 1888 Local Government Act created County Councils in the ‘historic’ counties of Wales, formerly established by Henry VIII. The new Councils, elected by a new and extended franchise, brought the administrative powers of the Justices of the Peace, such as maintaining roads and bridges, jails, lunatic asylums and licensing, funded by levying county rates, under democratic control. The Police became the responsibility of joint committees of the Justices of the Peace and the new Councils.

Six years later, the 1894 Local Government Act created rural and urban District Councils which took on the powers of the sanitary boards and the Improvement Commissioners, including water supply, sewerage, street cleaning, paving, and providing markets and cemeteries. The Act also established civil Parish Councils which continued to provide relief for the poor through the Poor Law Unions but now under democratic oversight of Poor Law Guardians made up of Elected Members from the new District Councils. Together, these two acts set the foundations for modern Local Government in Wales.

Over the next 30 years, the County Councils took on more responsibilities, for secondary education in 1889, elementary education in 1902, and maternity and children’s services in 1918. District Councils expanded their operations in utilities and became major owners of local electricity, gas and water supply companies.

The first significant reform of the two tiers of Local Government came in 1929. The role of the County Councils was strengthened at the expense of the Districts. The Poor Law Unions and

¹ George Goschen, President of the Local Government Board, 1871, quoted in *British local government reform: the nineteenth century and after*, J.P.D. Dunbabin, *The English Historical Review*, Vol.92, No. 365

Guardians were abolished and the Counties were given responsibility for public assistance, infirmaries, hospitals and workhouses, along with all highways. They were also tasked with reforming the lower tiers of government, which led to a number of District Councils being abolished and many parishes merged.

The next 15 years were the most expansive for Local Government in Wales. The County and District Councils between them looked after the roads and pavements, they gave welfare to the poor and basic social services, they built municipal hospitals and schools and ran the education system, they provided vaccinations and maternity services, many provided gas and electricity through their own companies, they were responsible for water, sewerage and sanitation, and they regulated public protection, businesses and planning.

Following the War, nationalisation of key infrastructure and industries, combined with an increasing focus on achieving social equity sparked a wave of reforms, as part of which Local Government lost most of its responsibilities for health, social security and utilities. Nationalisation of electricity in 1947 transferred over 50 Local Authority supply companies in Wales to the new Electricity Boards. The following year all Local Authority owned gas companies in Wales were taken over by the Wales Gas Board, although Local Authority water supply companies would not be nationalised until 1973.

The creation of the National Health Service in 1948 transferred all municipal hospitals into the new NHS, although many community health services remained with Local Government until 1974. The setting up of a system of National Assistance in 1948 finally did away with the Poor Law of 1601. Principal Local Authorities lost their role in poor relief but gained responsibility for housing the vulnerable and new powers to help disabled people. It also transferred responsibility for people with mental health conditions to the new NHS.

As a result of these major changes to the functions of Local Government, by the early 1950s there was a growing consensus that further reform was needed. The Local Government map no longer reflected the urbanised population of the second half of the century. There were concerns with the inefficiency of small authorities, especially the rural Districts, but also municipal Boroughs which were seen to be inadequate for the growing towns and cities they served. This resulted in the setting up of a Local Government Commission for Wales in 1958. The Commission first reported in 1963 but was dissolved in 1967 with none of its recommendations implemented.

Reform was finally achieved through the Local Government Act 1972. This Act created a two-tier system in Wales of eight Counties and 37 Districts with a division of functions between them. Broadly speaking, the Counties were responsible for the major services such as education, social services, transport, roads and fire services, and the Districts for environmental health, refuse collection, housing, licensing, local planning and rate collection. Water and sewerage were placed in the hands of regional Water Boards. Policing had been reformed in the late 1960s with the creation of four constabularies in Wales but these remained under the supervision of Police Authorities comprising two-thirds Elected Members from the Counties and Districts until they too were abolished by the creation of directly elected Police and Crime Commissioners in 2012. The 1972 Act also abolished the Parish Councils in Wales and created Community Councils.

The 1980s marked a period of increasing National Government control of Local Government. The introduction of the block grant and rate capping were used to control Local Government expenditure and many services previously provided by Councils were outsourced through

compulsory competitive tendering. Council tenants gained a right to buy their properties at a discounted rate under the Housing Act 1980. This led to a wholesale reduction in public sector housing, damaging the ability of Councils to maintain their remaining stock. There was an attempt to reform Local Government finance with the introduction of the Community Charge in 1989/90, but in the face of massive public hostility this was replaced by Council Tax in 1993.

However, the two-tier system of Counties and Districts established in 1974, with frictions between the tiers, was soon regarded as a compromise solution that could not last. The Local Government (Wales) Act 1994 replaced them with a single tier of 22 unitary bodies known as Principal Councils.² The Act also removed the administration of the fire services from individual Local Authorities by creating three combined Fire and Rescue Authorities.

The Government of Wales Act 1998 created the National Assembly for Wales and enshrined a formal structural relationship between the new Government of Wales and Local Government in the form of the Partnership Council for Wales and the Local Government Scheme. Following devolution, the relationship between National and Local Government has grown organically in some respects but, despite the further devolution of powers and responsibilities to the Welsh Government, its formal relationship with Local Government is still set out as at Day 1 of devolution in 1999.

Since devolution, Local Government reforms have focused primarily on performance, that is, service and financial efficiency. The role of the Audit, Inspection and Regulation agencies increased through initiatives such as Best Value and the Wales Programme for Improvement. The Local Government Act 2000 brought in further reforms aimed at the internal organisation of Local Authorities which, in many respects, had not changed much over the preceding century. These reforms were designed to change Councils' traditional administration role into one of corporate management, to streamline decision-making in Local Authorities through the creation, ultimately, of an executive decision-making Cabinet held to account by committees of backbench Members. The 2000 Act also included provisions which recognised the community leadership role of Local Authorities and loosened some of the legal constraints on them by giving them the power to do almost anything which promoted the economic, social and environmental well-being of their areas.

In Wales, a number of Assembly Measures and Acts have put in place an improvement regime overseen by the Auditor General for Wales, simplified the process for making byelaws, and made provisions for strengthening local democracy and transparency. Other reforms have addressed the performance of major Local Government services. Significant reforms in education are aimed at transforming services which have too often failed Welsh children, while major legislation in the field of social services is aimed at safeguarding children and preparing these services for a rapidly ageing population.

More recently, attention has turned forcefully to the issue of how local democracy works in Wales. It is abundantly clear that those sitting in Council chambers across Wales do not adequately reflect the communities they serve. Diversity is not a marginal issue. It is critical for the business of Local Government and the keystone of effective democracy. While some Councils have made progress on actively giving communities and their own workforce a voice in decisions which affect them, many continue to approach this in a piecemeal way. This fails

² The terms 'Principal Councils' and 'Principal Local Authorities' refer to the 22 County or County Borough Councils. They do not include Fire and Rescue Authorities, National Parks Authorities or Town and Community Councils.

to recognise the role of Local Authorities as agents for change and the power of people to add hugely to the value of Local Government through social enterprise, community entrepreneurship and local leadership.

The aim of our current Local Government reforms, therefore, is to ensure Local Authorities fully embrace their role as community leaders, activists and agents of change, the makers and shapers of the places they serve, and to ensure they improve delivery and create better outcomes for their communities. The people of Wales deserve to be served by organisations fit for the 21st Century. The Welsh Government believes this can only be achieved by a radical reshaping of local democracy in Wales.

1.2 Democracy and Delivery

A recurring theme throughout the history of Local Government is the conviction that there is a tension between the competing demands of democracy and delivery: that democracy is most healthy when it takes place in a small area, and service delivery performs best when it is subject to economies of scale. This is a tired argument. Turnout at national elections is consistently higher than for Local Government elections and the greatest number of uncontested seats is in Community Council elections. And while economies of scale can certainly increase efficiency and value for money, effective services, especially preventative services, are often those which are more personalised and tailored.

The major reforms of Local Government in 1929, the late 1940s, 1974, 1996 and 2000 have all been turning points, requiring the renewal of Local Government in response to powerful external forces – changing demographics, rising social expectations and new technology. To these external forces, which continue to apply today, the acute financial challenges we now face add a new challenge for Local Government in Wales.

Local Government funding in Wales has fared as well as could be expected for most of the period of austerity. A three-year settlement in 2008-09 gave Local Authorities relative protection from subsequent cuts to the Welsh Government's budget in the latter part of the spending review period. The Welsh Government then protected Local Authorities from the worst of austerity between 2011-12 and 2013-14, whilst Councils in England suffered significant cuts. As the Welsh Local Government Association (WLGA) put it in *In Defence of Localism*, "it is fair to say that local government in Wales has received better revenue settlements than elsewhere during this period".

This protection gave Local Authorities in Wales the opportunity to renew themselves, to transform the way they worked, their relationship with partner organisations and the public and the way they delivered services. Many did not seize this opportunity. Therefore, leadership has not risen to the challenge, collaboration has stuttered, and parochial interests have prevailed. Transformation requires Local Authority leadership to ensure the focus at the centre of the Authority is on excellence in performance and change management, and service centres whose focus is innovation in design and delivery. Therefore, we have excellent service delivery blunted by lacklustre corporate centres, and excellent corporate centres undermined by conservative service delivery.

Structural change is necessary. The Commission on Public Service Governance and Delivery made the case compellingly that smaller Councils simply do not have the resilience, expertise or leadership capable of transforming their organisations or supporting their communities in a complex, changing world. The Welsh Government has accepted this case and will legislate

to bring it about. Fewer, larger Councils are necessary to strengthen democracy and delivery. However, we agree that to focus only on structure is to miss the point.

Local Government in Wales faces challenges of finance, culture and leadership. The democratic challenge is about Council chambers which reflect the diversity of the communities they serve, which are responsive to the community's needs and which see building social capital, in terms of community empowerment and resilience, as their core purpose. The delivery challenge is for Elected Members to assert accountability, challenge complacency and drive out mediocrity. This White Paper makes proposals which are intended to improve both democracy and delivery. It is the Welsh Government's role to put the best possible policy and regulatory framework in place and this is what we will do. However, in the end, it is the quality of leadership at all levels in Local Government which will make the real difference.

We expect that implementing the reforms we propose in this White Paper will deliver new purpose for, and greater innovation in, the design of Local Authorities in Wales. They will set out the role of Local Government in Wales for the next generation and, for those working in Local Authorities or aspiring to be Councillors, will create a framework where flexibility, innovation and opportunity are integral to serving communities and creating a relationship with them which is meaningful and respectful.

The history of the development of Local Government and, indeed, of Local Government legislation, predominantly concerns specific service delivery matters. This has led inevitably to corporate structures based on service silos which are now a relic of the past. These proposed reforms are intended to refocus our Councils on their place-shaping role. To do this, they need visionary leadership supported by adaptive and strategic corporate capability which is prepared, first and foremost, to embrace the challenge of change.

In the future, there will be much greater diversity in delivery through mutuals, in-sourcing, joint commissioning and community ownership. Managing this complex environment will require a different approach to local governance. This is not a licence or an encouragement for Local Authorities to wash their hands of some services, or not to care about some aspects of well-being in their area. Quite the opposite.

The purpose of our proposed reforms is to move decisions closer to the people of Wales in their local communities, to empower local people to secure better services, and to strengthen community engagement in decision-taking. At a time of austerity, Councils will need to engage more closely with local communities to identify shared purpose and shared expectations of what is feasible in service delivery.

1.3 Legislating for Change

In the previous White Paper, *Reforming Local Government*,³ we set out our intention to bring forward two pieces of legislation. The first is the Local Government (Wales) Bill to allow for certain preparatory work to enable a programme of Local Government mergers and reform. This was introduced into the National Assembly on 26 January 2015. The second Bill will be published as a Draft Bill for consultation in the Autumn of 2015 and introduced into the Assembly in 2016, after the Assembly elections. The second Bill, based on the proposals in this White Paper, would complete the programme of Local Authority mergers and establish a

³ <http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?lang=en>

statutory Public Services Staff Commission. It will also contain a new and reformed legislative framework for Local Authority democracy, accountability, performance and finance.

In the longer term, there is a need for a more fundamental review of the funding of Local Government and it is likely separate legislation will be required to deal with these matters.

We asked preliminary questions on these issues in *Reforming Local Government* and we have listened to and considered your views. It is these elements which we turn our attention to in more detail in this White Paper, under the following headings.

1.4 Balancing the Responsibilities of National and Local Government

We discuss the relationship between the different spheres of government in Wales and how this has developed since devolution in 1999. We clarify the role of the Welsh Government as setting standards and defining a limited number of national expectations. We establish that the Well-being of Future Generations (Wales) Bill sets a framework for the whole public service in Wales. We examine the role of Local Government as an agent of change in their locality, in their relationship with other public services and at the regional level, particularly city regions.

We set out our intention to legislate to complete the programme of Local Authority mergers. We intend to give a general power of competence to Local Authorities, and a power to ensure consistent provision of Community Councils or other democratic models of neighbourhood participation.

We are seeking views on whether the constitutions of Local Authorities could do more to articulate their values and relationship with local people.

We are also seeking views on whether there is a case, in the longer term, for undertaking a fundamental review of the body of Local Government legislation with a view to simplification, ensuring that it supports agile and activist 21st Century organisations.

1.5 Renewing Democracy

For Local Government to operate effectively, there needs to be clarity about roles and responsibilities. Elected Members should closely reflect the diversity of voices and aspirations in the communities they represent.

We propose to set out in legislation the roles and responsibilities of the Leader, Cabinet Members, Elected Members and the Chief Executive. We will take further action to increase the diversity of Councillors. We will take action to reduce the cost of politics and management in Local Government and to bring more consistency to the appointment and remuneration of senior officers.

We are seeking views on whether the way we pay Elected Members at present is still appropriate, whether the number of terms an Elected Member may serve should be limited, and whether there should be a right of recall. We are seeking views on whether the restrictions which prevent some Local Authority officers from standing for election should be relaxed. Finally, we are seeking views on whether Local Government elections should continue to occur every four years or whether we should consider alternatives.

1.6 Connecting with Communities

At the heart of our vision for Local Government in Wales is a new relationship with local communities. We propose to achieve this by giving Elected Members a leadership role at the head of Area Boards within their Local Authorities, in order to ensure the new, larger Authorities are closer to their communities.

As part of this, we need to raise the ambition of Community Councils so they are better placed to deliver important community services in the future. This means building their capacity and capability, as well as strengthening their governance and their engagement with other services and the third sector. We propose to give a power to Local Authorities to review Community Councils in order to achieve these objectives, and to complete these reviews by 2022.

1.7 Power to Local Communities

In order to realise our ambition of Local Authorities which actively share power and responsibility, we will set out the role we see for mutualism, co-operation and shared ownership in the transformation of public services. We set out the way in which communities can engage with Local Authorities in joint endeavour and how people can protect land and property of community value for the future. We intend to achieve this by giving community bodies a number of rights which they can exercise in relation to services and assets.

1.8 Corporate Governance and Improvement

We believe visionary and focused leadership is the most important factor in ensuring Local Authorities are able to provide sustainable outcomes for local areas. To achieve this, Councillors must be supported by a capable, adaptive and strategic management team. We discuss how Local Authorities might be best supported to improve their leadership capacity and capability.

We propose the following changes:

- strengthening the role of Local Authority Audit Committees;
- repealing Part 1 of the Local Government (Wales) Measure 2009;
- introducing a system of annual self-assessment, complemented by biennial peer-review, to support Local Authorities in improving their corporate capability and capacity; and
- giving Welsh Ministers powers to commission independent reviews of Local Authority corporate capability and capacity, and, dependent on the findings, to take action to support change and improvement.

We also ask for views on whether there are any elements of the 2009 Measure which should be restated within the new arrangements, and whether they can be strengthened.

1.9 Performance in Local Government

We discuss the management and improvement of service delivery in Local Authorities. Key to this is effective corporate planning to inform decisions and policy development. We consider the importance of management information and data in service planning, performance management and assessment by Scrutiny Committees, the public, external review bodies and other stakeholders.

We propose the following changes:

- A statutory requirement for all Local Authorities to produce and publish a corporate plan which covers the short, medium and long term. This will be complemented by a requirement for the Local Authority to produce an Annual Report setting out its performance over the preceding year. The corporate plan and Annual Report will incorporate the Authority's well-being objectives, as intended by the Well-being of Future Generations (Wales) Bill.
- The creation of a single online information portal where comparable information will be published regarding the performance of all Local Authorities, as well as other key documents such as the corporate plan, self-assessment, peer review and inspection reports.
- A statutory requirement for all Local Authorities to have an online (and offline) complaints process. We will require Local Authorities to publish information (where appropriate) on complaints, including how complaints have been considered and action taken.

1.10 Strengthening the Role of Review

We will discuss the role of scrutiny by Elected Members (internal review) and audit, inspection and regulation bodies (external review) in supporting Local Authorities to deliver better outcomes for local areas. We do not believe internal and external review processes work together well enough. We discuss how we will strengthen internal review to ensure it has more impact on Local Authority decision-making. We also discuss the benefits of sharing information between the different external review bodies and with internal reviews.

We propose the following changes:

- Requiring Local Authorities to set out regularly 'key decisions' they will be considering so as to enable internal review to be planned more effectively.
- Strengthening Scrutiny Committees' forward planning by requiring them to make reference to 'key decisions' and corporate plans, as well as setting out what they intend to scrutinise and who they will engage with in doing so.
- Requiring external review bodies to share information with each other and with local Scrutiny Committees.
- Requiring external review bodies to coordinate their work in respect of Local Authorities and produce a combined assessment of each Local Authority every two years.
- Requiring external review bodies to produce a joint annual assessment of the state of Local Government in Wales.

We also ask for views on whether we should take further steps to protect the independence of the Democratic Services functions and the support they provide for Elected Members' scrutiny responsibilities.

1.11 Reforming Local Government Finance

We set out how the funding of Local Government will need to change to support the reforms outlined elsewhere in this paper and to provide a more effective framework for funding

authorities. We also discuss the need for clearer financial governance and accounting arrangements and how these may be simplified in the future.

We propose a phased approach to developing a Local Government finance system fit for the new Authorities, which in the shorter-term will include the necessary changes to effect mergers and the reforms proposed in this paper.

In the longer-term, we intend to consult on and bring forward further legislation to effect more fundamental changes to the Local Government finance system. The longer-term approach will enable us to design a system which takes account of wider changes to the powers and fiscal responsibilities of the National Assembly for Wales and allows Local Authorities to raise more of their finance themselves.

1.12 Conclusion

This is a significant programme of Local Government reform which is justified by the magnitude of the financial, social and technological change we are currently facing. It is the beginning of a new era in the history of Local Government in Wales.

Our proposed legislation will support and enable, but Local Authorities will need to act for themselves and work with communities and the Welsh Government to begin the process of reform now. This is our opportunity together to create new Local Authorities with a philosophy and purpose fit for the 21st Century. We believe this is best achieved in partnership with Local Government and the people of Wales.

2. Balancing the Responsibilities of National and Local Government

This Chapter discusses the relationship between the different spheres of government in Wales and how this has developed since devolution in 1999. We clarify the role of the Welsh Government as setting standards and defining a limited number of national expectations. We establish that the Well-being of Future Generations (Wales) Bill sets a framework for the whole public service in Wales. We examine the role of Local Government as an agent of change in their locality, in their relationship with other public services and at the regional level, particularly city regions.

We set out our intention to legislate to complete the programme of Local Authority mergers and discontinue the use of the name 'County Borough'. We intend to give a general power of competence to Local Authorities, and a power to ensure consistent provision of Community Councils or other democratic models of neighbourhood participation.

We are seeking views on whether the constitutions of Local Authorities could do more to articulate their values and relationship with local people.

We are also seeking views on whether there is a case, in the longer term, for undertaking a fundamental review of the body of Local Government legislation with a view to simplification, ensuring it supports agile and activist 21st Century organisations.

2.1 Introduction

If Local Government in Wales is to deal with the challenges of this generation and the next, we believe reform is needed in every aspect of its operation. Delivering this transformation begins with clarifying the role of Local Government as part of the system of government in Wales, and its relationship with Welsh Government within an evolving devolution settlement.

At the heart of this relationship, as in all countries with local and national governments, is the extent to which Local Government makes its own decisions and is accountable to local people, and the extent to which it is exercising responsibilities on behalf of National Government and so subject to oversight. In terms of Local Government, improvement and reform should be based on both a pull from the public as much as a push from National Government.

The Welsh Government sets national policy and strategic direction for key services such as education, social services, waste and planning. It does this because in these important areas, people and families across Wales are entitled to the same high standards of service wherever they live. For these services, the people of Wales rightly expect the Welsh Government to set standards and monitor performance. Where these standards are not met, Local Government must be held to account and the public expect the Welsh Ministers to intervene to put things right, and to do so swiftly and decisively (see 6.6 below).

The same is true of the way Local Government makes decisions to spend public money and the way it runs its affairs. In the first instance, it is always the responsibility of local Councillors and

their officers to ensure their Council is run with integrity, honesty, fairness and transparency. In general, this happens across Wales. Where this is not the case, the remedy will often be through the courts but in some circumstances, the Welsh Ministers will have a duty to intervene on behalf of local people to protect their interests and restore trust in local democracy.

In other areas, however, people want much more choice about their local priorities. What's right for Anglesey may not be right for Pembrokeshire. And what's right for the people of Milford Haven may not be right for the people of Crymych. In these circumstances, Local Government must be accountable to local people for the decisions it makes and local people must be empowered to make this happen. This principle of subsidiarity extends to the responsibility of Local Government to ensure the efficient and effective provision of community government (see 4.8 below).

2.2 Local Government and Devolution

Both National and Local Government in Wales have a responsibility to provide the leadership necessary to serve the people of Wales well in a constantly changing political, legal and constitutional environment.

Prior to the establishment of the National Assembly in 1999, Wales was represented in the UK Government Cabinet by a single Secretary of State in the Welsh Office. From the inception of the Assembly, there was a much closer relationship between the Welsh Ministers and Local Government leaders.⁴ Today, most Ministers in the Welsh Government have portfolio responsibilities which bear on Local Government.

The Government of Wales Act 1998 recognised that, because of the nature of the devolution settlement at the time, the Assembly and Local Government would need to work in partnership. It achieved this by creating a statutory Partnership Council for Wales made up of Assembly and Local Government Elected Members, and a Local Government Scheme, in which the Assembly must set out how it proposes to sustain and promote Local Government in Wales. In due course, these became responsibilities of the Welsh Ministers.⁵

This partnership approach has been acknowledged in other ways too. Recognising the potential for confusion over lines of responsibility between the Assembly and Local Government, a number of policy statements and agreements were concluded over the years: *Freedom and Responsibility in Local Government (2002)*, *A Shared Responsibility (2007)* and *A Compact for Change (2011)*.

Performance management is central to this relationship: *"The way in which local government performance is defined, assessed and reported goes to the heart of central-local relations"*.⁶ Therefore, since the first Assembly, Welsh Government and Local Government have worked together to develop an approach to Local Government performance and improvement management which currently includes the Local Government (Wales) Measure 2009 and grant incentivised Outcome Agreements.

⁴ *A new partnership? The National Assembly for Wales and Local Government*, Laffin, Taylor and Thomas, Joseph Rowntree Foundation, 2002

⁵ For further information on the Partnership Council, including membership and papers, see <http://wales.gov.uk/topics/localgovernment/partnership/pcfww/?lang=en>

⁶ *Learning to Improve: An Independent Assessment of the Welsh Government's Policies for Local Government, 2007-2011*, Cardiff Business School, Welsh Government Social Research, 2013 <http://wales.gov.uk/statistics-and-research/7945310/?lang=en>

Responsibility for effective performance and delivery rests squarely with Local Authorities, as does responsibility for service or corporate failure. Too often, neither the Executive, senior management nor scrutiny have addressed problems before they have become failures identified through audit or inspection. This has led to interventions directed by the Welsh Ministers. While it is difficult to see that the public would accept anything less in extreme circumstances, intervention as a consequence of audit and inspection should be the last line of defence, not the first. The root of the matter is the failure of local leadership to put in place effective governance, improvement and performance controls. Chapters 6 to 8 below set out our proposals for strengthening performance and improvement management in Local Government.

As the governance of Wales continues to develop and mature, and with further devolution of powers to the Assembly in the pipeline, it is time to rethink relations between National and Local Government. We are in a very different position from 1999.

2.3 Present Role of Local Government

We set out in Chapter 1 how the responsibilities of Local Government have changed over the years. Access to health services, welfare, standards of education or supply of clean water were once considered purely local matters. This is no longer the case. They are matters of national interest and in some cases are best now delivered by national or regional organisations. The question of what is best delivered locally, regionally or nationally will change over time, as society changes, as expectations change and as technology transforms the way we live our lives.

Today, Local Authorities exercise a range of powers to improve well-being in their areas. For example:

- **Mandatory powers:** the things Local Government must do, such as education, social services, safeguarding children, waste collection and disposal, housing, development planning, library services, environment and local transport.
- **Discretionary powers:** these are things Local Government may do, such as promoting economic development, the arts, culture, leisure, sports and tourism.
- **Regulatory powers:** this is how Local Government protects the public through services such as trading standards, environmental health, and the licensing of alcohol sales and consumption, taxis and other activities.

The responsibilities of Local Government are laid out in statute but they are not fixed. Rather, they are fluid, they can and do change over time. It is reasonable and necessary to ask from time to time whether some of these services may be better delivered in a different way. In education, for example, the needs of each individual child are unique, but the educational entitlements of children in Flintshire and Monmouthshire are not. Education must be delivered locally, in schools staffed with local teachers, but there is less reason to presume educational services should not be commissioned regionally or nationally. The same could be said for other services, such as social services or waste.

No vision for the future of Local Government in Wales can be reduced to a single set of responsibilities or a simple supposed autonomy. The single most important factor for Local Government in Wales to be successful in the next generation is the quality of leadership. Legislation is not the solution for securing quality leadership, but we can legislate to ensure the Leaders of Local Authorities have every opportunity to exercise their leadership effectively, and to ensure effective support is available to enable them to develop and grow as leaders.

2.4 Working Together

Over recent years, there has been increasing recognition that if we are to tailor services around individuals, public service providers need to work together and with providers from other services and the third sector, breaking down unnecessary barriers, and breaking out of traditional silos. The ‘Team around the Family’ is one such example. This model brings a wide range of professionals together to work with a family in order to help it address the breadth of challenges it is facing. The focus is on working with the family as a whole; parents, carers and the wider family play a central role in the whole process. We need to bring this style of approach to different services to ensure organisations work together to meet people’s needs.

The Well-being of Future Generations (Wales) Bill seeks to address this by requiring public bodies to take into account the need to take an integrated approach and to work collaboratively in order to find shared solutions for people and communities. Local Government exercises many powers but often it must do so in partnership. This is essential as we focus increasingly on working with people before they find themselves in difficulty or crisis, or before their health has deteriorated seriously as the way to improve people’s lives, prevent harm and reduce unnecessary demand for costly services.

The main public services currently come together through the Local Service Board, under the leadership of the Local Authority, to develop a single integrated plan for their area. This enables partners to agree their common objectives, in other words, their strategic priorities for tackling inequality and improving well-being in the area. This is crucially important to make sure everybody is pulling in the same direction and understands what their role is.

On a day to day basis, however, the responsibilities for working together fall to managers and front-line staff. Looking after our ageing population means Local Government and the NHS working together as one team. Making our communities safe places to live can only happen if Local Government, the Police and others work closely together on issues such as anti-social behaviour, safeguarding children, preventing young people from going missing, traffic control, and managing town centres during major events and festivals. Since major services are often provided by third sector bodies, they too need their place at the table.

Public services also need to work together behind the scenes, to make services more cost effective, for example, by coming together to share their purchasing powers through the National Procurement Service, so the goods and services they all use can be bought at the best price – such as ICT, vehicles, energy, construction and professional services. Coordination of delivery is improving but there is still a long way to go. The Well-being of Future Generations (Wales) Bill will put Public Services Boards and local well-being planning on a statutory footing. Other Acts of the Assembly, such as the Social Services and Well-being (Wales) Act 2014, put specific requirements on Local Government to work with partners to deliver services for particular groups.

This will build upon and strengthen work which is already underway – such as that being led by the Minister for Economy, Science and Transport to develop further the opportunities which can be gained from working with and across Local Authorities to coordinate work on economic development and provide a better service to business.

Working in partnership is hard. It requires trust between leaders, managers and front-line staff in different organisations. People need to develop new skills and to understand service users’ needs, and those of their families or carers, in great detail. There are practical issues around

sharing information, making systems talk together and finding effective ways to refer people between organisations seamlessly. There are management challenges when staff from different organisations are located together in the same place. There are governance and financial issues because working together challenges the way we manage public money, for instance when action by one organisation reduces the costs to another. It requires new ways of holding public services to account through democratic scrutiny, not just for what each organisation has done, but how they have acted together in the best interests of the public.

Local Government plays a central role in this landscape. Its democratic legitimacy and place-shaping role give Local Government the leadership authority to convene partners, broker relationships and solve problems.

2.5 Regional Working and City Regions

In addition to working with other services within a local area, Local Government must increasingly provide leadership and exercise powers beyond individual Local Authority boundaries, as a regional agent of change.

This regional working is already happening in the commissioning of both front-line and back office services, such as social services, adoption and fostering services, services for reducing youth offending and substance misuse, services for missing children, highways, legal and professional services. The Welsh Government expects this trend to continue, with some shared services being commissioned nationally or regionally for the whole of the public sector, where this makes financial sense, and this could also include the development of virtual shared services and virtual back-offices. In section 8.6 we discuss accountability arrangements for regional collaboration.

Following the Hill Review⁷ on the future structure of education services in Wales, the Welsh Government developed and agreed a national model for regional working. This has led to education school improvement services being delivered on a regional basis via four consortia rather than 22 individual local authorities. We expect this to lead to improved capability and capacity at senior level and produce savings to be directed to the front-line or directed to supporting education activities.

The regional role of Local Government is of particular importance in the context of the Welsh Government's city regions approach.

Urban development and the growth of cities is the most significant feature of the global economy in our generation. Since 1950, the population of urban areas has grown more than five times, from 746 million to 3.9 billion.⁸ 54% of the world population now lives in urban areas, a proportion which is expected to reach 66% by 2050. Meanwhile, the growth of the rural population is expected to decline after 2020.

There is growing evidence that investing in the largest cities, such as London, at the expense of second cities, including those in Wales, results in reduced economic performance overall

⁷ Review of Future Delivery of Education Services in Wales, Welsh Government, 2013
<http://wales.gov.uk/topics/educationandskills/publications/guidance/futuredelivery/?lang=en>

⁸ World Urbanization Prospects, 2014 Revision, UN Department of Economic and Social Affairs <http://esa.un.org/unpd/wup/>

and exacerbates regional inequalities, especially at times of economic downturn.⁹ The ‘core cities’ group¹⁰ in the UK includes Cardiff. These ‘core cities’ are centres for regional economic prosperity, with their surrounding region dependent on them but also providing them with a mobile workforce and an attractive hinterland. They all feature high levels of deprivation, either within the cities themselves or the surrounding region, a legacy of unbalanced investment following previous cycles of industrial growth and decline. With new investment, these second cities are expected to be the main source of new jobs and growth in the next generation.

In Wales, the urban population is concentrated in the south with smaller centres along the North Wales coast and in North East Wales. There are no towns with a population over 25,000 in mid Wales, or west of Colwyn Bay in the North or west of Llanelli in the South. The Welsh metropolitan cities (which have developed alongside the historic cities of St Asaph, Bangor and St Davids) are Cardiff (population 350,000), Swansea (240,000) and Newport (146,000). In North East Wales, the larger Wrexham urban area has a population of just 66,000 but can be considered part of a wider cross-border urban region which includes Deeside, Chester and the Wirral.

According to the City Regions Task and Finish Group established by the Welsh Government to investigate city regions in Wales, our cities generate only 33% of our wealth, which is significantly the lowest proportion of all UK nations and regions.¹¹ However, almost 69% of the Welsh population lives within the city regions identified by the Task and Finish Group in Swansea Bay (700,000) and South East Wales (1.4 million), and there is significant potential for improving economic performance in these areas with appropriate policies.

The Task and Finish Group considered there would be three main advantages to establishing two city regions in South Wales, with parts of North East Wales considered part of a wider, cross-border region:

- Larger and more efficient labour markets, so the chances of a good match between employer needs and workers’ skills are increased.
- Larger potential markets for goods and services because of the concentration of activity and transport cost savings; and a greater exchange of knowledge, ideas and innovation.
- A city region approach would make it possible for different parts of the region to decide to specialise in a particular offering – whether housing, manufacturing facilities, business services or leisure facilities.

The Task and Finish Group identified that the key to improved economic performance in these regions is the integration of economic development, skills, regeneration, transport, planning and the environment. This will require the Welsh Government, Local Government and the private and third sectors to work closely together.

To enable this, the Welsh Government has taken a lead role by acting upon the recommendations of the Task and Finish Group. City Region Boards have been established in the Swansea Bay City Region and the Cardiff Capital Region to take this agenda forward.

⁹ See, for example, European Second Tier Cities in Austerity: Why Invest Beyond the Capital?, Liverpool John Moores University, 2012 <https://ljamu.ac.uk/EIUA/second-tier-cities/index.htm>

¹⁰ <http://www.corecities.com/>

¹¹ <http://wales.gov.uk/topics/businessandconomy/policy/city-regions/?lang=en>, Welsh Government, 2012

These Boards are continuing to meet on a regular basis and are making good progress in providing their respective regions with leadership, vision, and strategic direction. They will continue to focus and refine their priorities as they seek to home in on those projects where regional alignment and collaboration brings strategic and added value.

These arrangements reflect the fact the City Regions agenda is not a business as usual, public sector agenda. It requires a collaborative and business-led partnership – connecting the private sector with the public and education sectors. It requires a different order of leadership, one which looks beyond parochial interests, willing to trade benefits and costs across boundaries, moving at the pace of the fastest, not the slowest. Local Authorities must work together and with their partners on matters such as the regional strategic development plan proposed under the Planning (Wales) Bill, education and skills, and making our cities and their surrounding regions attractive places for residents, visitors and business investment, using the extensive powers at their disposal.

It is not the intention of the Welsh Government at this time to enable the creation of Combined Authorities under the Local Democracy, Economic Development and Construction Act 2009. There are currently five such Authorities in England: Greater Manchester, Sheffield City Region, North East, Liverpool City Region and West Yorkshire, with a further Combined Authority proposed for Birmingham in 2015. Local Authorities in Wales already have extensive powers to enter into collaborative arrangements with other Authorities. Taken together with the creation of larger Local Authorities, the framework of the Wales Infrastructure Investment Plan and the closer proximity of National Government to Local Government in Wales, the Welsh Government does not believe there is currently a need for Combined Authorities in Wales, as defined under the 2009 Act.

2.6 A Sustainable Framework for Public Services in Wales

The Well-being of Future Generations (Wales) Bill sets a new context for relations between National and Local Government, and the whole of the Welsh public service. The Bill provides for well-being goals setting a framework within which the Welsh Ministers will set national strategic direction and Local Government will set its local objectives, responsive to local need and subject to local accountability.

The Bill underpins the public service reform agenda, clearly setting out how the specified public bodies, including the Welsh Ministers and Local Government, will work to improve national and local economic, social and environmental well-being. It directly addresses the issue of function, not form, establishing five ways of working key to public bodies improving well-being in a sustainable manner:

- Long-term thinking – balancing the need to take action in the short term with the need to meet the long term needs of Wales, especially where short term actions may have a detrimental effect in the future.
- An integrated approach – considering how a public body's objectives impact upon the well-being goals and on economic, social and environmental well-being.
- Preventative action – taking action now in order to prevent problems occurring or getting worse.
- Collaboration – acting collaboratively with other bodies to assist in the achievement of the body's objectives, or another body's objectives.

- Involvement – involving the people and communities whose well-being is being considered and engaging them in finding sustainable solutions.

The Bill strengthens the community leadership role of Local Government by placing an emphasis on collaboration around place. It will require public services in a Local Authority area to work together through the Public Services Board to improve local well-being. Ambitious Councils will use the Board to drive forward the radical transformation which is needed across public services by fully engaging with the community. Most importantly, both Local Authorities and Public Services Boards are subject to local accountability for their responsibilities under the Bill. There are no negotiated agreements with the Welsh Ministers and Ministerial intervention is limited to extreme circumstances.

The Local Government (Wales) Measure 2009 linked together local priorities in the community strategy with Local Authority corporate and service improvement. The Well-being of Future Generations (Wales) Bill will supersede this by providing a more integrated and streamlined, whole public service approach.

The Bill paves the way for Local Government to act with greater autonomy, measured on the outcomes it achieves, and reporting on fewer indicators. However, autonomy needs to be balanced with appropriate accountability. This White Paper sets out how we intend to achieve this through greater transparency of decision-making by Local Authority Cabinets (Chapter 3), a stronger role for Elected Members (Chapter 4), giving communities a greater say in how and by whom services are delivered (Chapter 5), strengthening corporate governance (Chapter 6), more effective performance management (Chapter 7) and better joining up of internal and external review through inspection and audit (Chapter 8). We also discuss a new finance framework for Local Government (Chapter 9).

We hope these improvements assist local leadership to get a grip on issues before they become crises. We do not believe the public deserves anything less than top quality, proactive local leadership which thinks ahead and takes decisive action. However, should failures still happen, and where local leaders fail to take corrective action, the public will continue to expect the Welsh Ministers to intervene, swiftly and decisively.

We propose a better-defined relationship between National and Local Government, with a clearly defined leadership role for the Welsh Government in the fields of education, social services, economic development and the environment, based around a limited number of national expectations concerning the social, economic and environmental well-being of communities. For example, in the field of education, these might be expressed as the expectation that young people leaving primary school will have literacy and numeracy levels appropriate to their age, and at secondary school, a rising proportion of young people will gain five good GCSEs including English or Welsh and Maths, and the gap between pupils in receipt of free school meals and other pupils will be closed. In other areas, while Welsh Government may set clear aspirations, it will be for Local Government to determine local priorities.

We believe we already have evidence in Wales that the process of setting straightforward national expectations has resulted in improved performance and responsiveness to the needs of local communities and service users. The development of the Welsh Housing Quality Standard (WHQS), for example, led to ballots where tenants in half of Welsh Local Authorities opted to transfer the Local Authority housing stock to Community Housing Mutuals or other social enterprises in the form of Registered Social Landlords. In those Authorities, faster progress has been made on average in achieving WHQS status, generally three to five years earlier, resulting

in real benefits for tenants. Many of those Community Housing Mutuals and Registered Social Landlords have themselves been a spur to local employment and wider range of community benefits, the creation of further social enterprises engaged in environmental management, community energy purchasing or town centre regeneration. They have also been able to leverage significant sums of alternative finance for the renovation of their own stock.

There is a similar situation with regard to waste. Local Authorities are responsible for collecting and processing all domestic waste but targets are set nationally. Under our *Towards Zero Waste* strategy, the Welsh Government has invested £676 million since 2001 in Local Authorities to help them deliver against recycling targets, helping to save on landfill costs and generate new jobs in Wales. Their progress has been impressive and the overall rate of recycling has roughly doubled in the space of seven years. From a poor position relative to the rest of the UK, recycling in Wales is now ahead of the other home nations by a wide and growing margin. Wales is also fourth in Europe for municipal recycling. There are already 10,000 jobs in Wales directly related to recycling. This has been achieved by a combination of investment, targets, the risk of fines and behaviour change.¹²

The Partnership Council for Wales and the Welsh Government's Local Government Scheme will play an important role in taking forward this agenda for public services in Wales. However, we propose that our focus within the Partnership Council and the Local Government Scheme should switch to the assessment of the key national expectations and strategies for delivering these as a single public service, and the management of developing collaborative practice between Local Authorities, in partnership with the wider public service in Wales. In the provision of corporate services such as back-office functions, procurement, ICT, human resources, and payroll, there will be a general expectation of collaboration. The Partnership Council will have a key role in fostering innovation and driving forward progress on the public services reform agenda.

2.7 Local Authority Areas

The Commission on Public Service Governance and Delivery recommended reducing the number of Local Authorities in Wales through a series of mergers. The arguments for this recommendation and supporting evidence were set out extensively in the Commission's Report. The Welsh Government accepted these arguments in a White Paper published in July 2014, *Devolution, Democracy and Delivery: Reforming Local Government*. The White Paper set out the Welsh Government's current preferred option, to merge Local Authorities on the basis of the Commission's Option 1, which would result in 12 new Authorities.¹³

170 responses were received to the White Paper consultation. The consultation responses and a summary report have been published on the Welsh Government's website.¹⁴ While there are different views about the mergers, not least from some Local Authorities and the Welsh Local Government Association, there is also widespread conviction that reform is necessary. This reinforces the evidence given to the Commission. The Welsh Government has taken these

¹² <http://wales.gov.uk/about/cabinet/cabinetstatements/2014/recycling/?lang=en>

¹³ Option 1 as set out by the Commission on Public Service Governance and Delivery, would involve merging the following Local Authorities: Gwynedd/Anglesey, Conwy/Denbighshire, Flintshire/Wrexham, Ceredigion/Pembrokeshire, Neath Port Talbot/Bridgend, Rhondda Cynon Taf/Merthyr Tydfil, Blaenau Gwent/Torfaen/Caerphilly, Monmouthshire/Newport, Cardiff/Vale of Glamorgan. The following Local Authorities to continue: Powys, Carmarthenshire, Swansea.

¹⁴ <http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?lang=en>

views into account and remains firmly of the view both structural and organisational reform of Local Government is necessary.

In September, the Welsh Government issued an *Invitation to Principal Local Authorities in Wales to submit proposals for voluntary merger*.¹⁵ The Welsh Government received three expressions of interest from the following Local Authorities: Conwy and Denbighshire; Bridgend and the Vale of Glamorgan; and Blaenau Gwent and Torfaen.

The Welsh Government's intention is to proceed with mergers of Local Authorities, through the second Local Government Bill to be introduced into the National Assembly for Wales in Autumn 2016.

The second Bill will set out the following provisions to enable orderly mergers:

- the date a new Authority comes into existence, and its name and status;
- electoral arrangements for a new Authority, the date of first elections and the length of term of office for Councillors elected in first elections and thereafter;
- establishment, composition and functions of shadow Authority and shadow Executive;
- abolition of existing Authorities and standing down of Councillors of these Authorities;
- cancellation of elections to current Authorities;
- postponement of Community Council elections in areas affected by proposed merger and extension of terms of sitting Community Councillors;
- duty on existing Authorities to collaborate in preparing for the new Authority and to work with its shadow Authority or Executive;
- set out arrangements for achieving the timely transfer of property, the continuation of rights and liabilities;
- staff matters; and
- financial matters.

Local Government too has a role, and a moral responsibility, to ensure it acts positively in ways which support orderly mergers for the benefit of their local communities.

Merged Local Authorities will remain subject to the Welsh language standards set by regulation under the Welsh Language (Wales) Measure 2011. Merging Authorities may be at different stages in terms of their current practice and aspirations in relation to the use of the Welsh language in service provision, policy making, operations, promotion of the language and record keeping. Where it is the case that merging Authorities are at different stages, it is critical that the higher standards must apply to the new merged Authority. This is an opportunity for Local Authorities across Wales to be significantly more ambitious and aspirational for our shared goal of a bilingual Wales. There will be a role for the Welsh Language Commissioner to monitor standards during mergers and there may be a role for the Public Services Staff Commission (see 2.9 below) to identify best practice in relation to the Welsh language and workforce matters.

¹⁵ <http://wales.gov.uk/topics/localgovernment/reforming-local-government/?lang=en>

2.8 Status of the New Authorities

The new Authorities will be Principal Councils within the meaning of the Local Government Act 1972. The Welsh Government believes they should be corporate bodies known as “Counties” and that the term “County Borough” should no longer be used. To most people, the historic reasons behind the difference in names lost its significance years ago.

We recognise that the Council chair or Mayor plays an important civic role undertaking ceremonial duties. Previously confined to County Boroughs only, we intend to make legal provision that any of the new Councils should be able to nominate the chair of the Council as Mayor, so this important function may continue.

This is, of course, different from the role of Elected Mayor which is a form of executive structure a Local Authority may choose to adopt following a referendum of local people under the Local Government Act 2000.

2.9 Public Services Staff Commission

The workforce in Local Government will be instrumental to the transformation we seek. Our vision for the public service workforce is to build an engaged, motivated, and high performing workforce, attract and retain talent, develop the right skills, and ensure equality and diversity, underpinned by our social partnership approach, embodied in the Workforce Partnership Council.¹⁶

We intend to legislate to create a statutory Public Services Staff Commission in the second Local Government Bill. In order to achieve this, the Welsh Government recently consulted on establishing a non-statutory Public Services Staff Commission in April 2015. Its role will be to ensure fairness and consistency, and to be an independent and impartial source of information and advice. The Commission will be set up using powers under section 60 of the Government of Wales Act 2006.

The recent White Paper consultation set out our proposals for such a Public Services Staff Commission. It would have a remit to identify and propose practical solutions to issues arising from reform which could be considered and implemented. The range of skills and experience which the Commission will require includes human resources, leadership and organisational change, finance and accountancy, employee relations, knowledge of Local Government and its major responsibilities, other public services, organisational development, and Trade Union organisation. A Secretariat to support the Staff Commission would be established with complementary skills and experience. The Staff Commission would be required to consult widely, such as with employers, trade unions, employees and the Workforce Partnership Council, and forge links with other bodies such as the Independent Remuneration Panel. It would seek out and disseminate best practice. It would not supplant existing bargaining and negotiating mechanisms or undermine the successful partnership of the Workforce Partnership Council.

¹⁶ *Workforce Partnership Council: Partnership and Managing Change*, Welsh Government, 2012

The workforce matters to be considered by the Staff Commission could include:

- recruitment and retention of staff within and across Local Authorities before and during mergers;
- transfer of staff from current to new Local Authorities;
- harmonisation of terms and conditions of service, for example, approaches to travel and subsistence payments, flexible working hours and voluntary severance and redundancy packages;
- job evaluation/grading;
- senior post recruitment and remuneration, in conjunction with the specific responsibilities currently allocated to the Independent Remuneration Panel;
- pensions and impact of transferring staff to different public service pension schemes;
- impact on staff recently transferred to private sector contractors; and
- issues affecting the wider public service workforce, such as zero-hours contracts and leadership development.

In 3.16 below, we raise the issue of achieving more consistency in appointments to senior roles in Local Government, with the possibility of forming a Public Appointments Board or similar. We would need to consider how such a Board would work alongside the Staff Commission.

2.10 Legal Competence of Local Government

Local Government operates in a challenging environment, where it needs the flexibility to work in partnership with a range of public, private and third sector bodies with increasingly diverse forms of service delivery, commercial activity and financial arrangements. Local Government must be freed up to innovate.

Traditionally, Local Government has only been able to undertake activity expressly permitted through specific powers or duties. The Local Government Act 2000 introduced the ‘power of well-being’. This marked a radical shift, giving competence to Local Government to act in any way which improved the well-being of people in each area, so long as it was not otherwise prohibited from doing so by other legislation.

In practice, the power of well-being has sometimes proved to be problematic to exercise. For this reason, Local Government in Wales has argued for a general power of competence. We believe this is appropriate for Local Authorities and some Community Councils. The general power of competence would allow Local Authorities and competent Community Councils (see 4.9 below) to act in their communities’ financial interest to generate efficiencies and secure value for money outcomes. They would be able to raise money by charging for discretionary services and to trade. This is therefore a wide power, limited only by the need to ensure Local Authorities and Community Councils do not do anything which they are specifically prevented from doing by legislation. It would allow Local Authorities and competent Community Councils to engage in activities potentially judged to be outside the well-being power, such as providing certain indemnities and guarantees.

In line with this, we intend to review the provisions of the Deregulation and Contracting Out Act 1994 (as amended), as they apply to Local Authorities in Wales, to allow Local Authorities generally to make decisions on how they deliver services, other than in prescribed circumstances. It may be, for example, that the provision of back-office functions, procurement, ICT, human resources, and payroll, where there will be a general expectation of collaboration, might best be provided by a single national provider which could be a wholly-owned subsidiary of Local Government in Wales. Other services might be more economically provided through in-sourcing across a range of Local Authorities rather than out-sourcing. Our rules need to be flexible enough to allow this.

2.11 Other Powers

We intend giving a general power to Local Authorities to ensure consistent and effective provision of Community Councils and other democratic models of neighbourhood participation, within their geographic areas (see 4.8 below).

Local Authorities in Wales have also argued for the devolution of other powers to Local Government. In their evidence to the Commission on Public Service Governance and Delivery and in their document, *In Defence of Localism*, the Welsh Local Government Association argued, for example, for public health to become a responsibility of Local Government.

The Welsh Government is in favour of giving more powers to Local Government but Local Authorities must first demonstrate effective exercise of their existing powers.¹⁷ Reformed Authorities, with greater capacity and capability, will have an opportunity to assert greater responsibility and show tangible improvements. When this has been adequately demonstrated, the Welsh Government will be prepared to consider the appropriateness of further devolution of powers.

2.12 Local Authority Constitutions

Although rules are necessary to ensure good governance, too many can hinder decision-making and stifle innovation. They can also make the working of Local Government opaque and difficult to understand. The Welsh Government is therefore seeking views on whether some of the procedures and processes of Local Government can be simplified, while at the same time improving transparency.

The Local Government Act 2000, when taken together with the Local Government Act 1972 and the Local Government and Housing Act 1989, requires Local Authorities to adopt a constitution which sets out their standing orders and rules relating to procedures, conduct, remuneration and role specifications relating to the governance, administration, finances, commercial and collaborative activities. Their purpose is to enable Councillors, officers, the public and stakeholders to understand how the Council makes decisions and who is responsible for those decisions.

The result is Local Authority constitutions in Wales which range from around 250 pages to over 450. While Local Authority constitutions may need to be lengthy to fulfil statutory requirements,

¹⁷ See, for example, the statement by the First Minister in the National Assembly for Wales Record of Proceedings, 28 January 2014.

it is doubtful whether documents of this length help local people understand their Authority's decision-making, or help communicate the values of the Authority to the people they serve. We believe there is a case for requiring Local Authorities to have a constitution which is not simply a rule book but which sets out first and foremost the Authority's values, the principles under which it will operate and, in particular, its relationship with the public it serves. The Co-operative Council Constitution of the London Borough of Lambeth is just such an example.¹⁸

In so far as the present Council constitutions reflect procedural rules required by legislation, we are seeking views on whether specific bureaucratic burdens imposed by Local Government legislation should be repealed or amended, with a view to simplifying Local Authority procedures, and whether there is merit in developing a more streamlined model Local Authority constitution. For example, whilst most Local Authorities now distribute papers in electronic format, the Local Government Act 1972 requires papers to be distributed in hard copy. This remains the practice in most Community Councils. These kinds of provisions need to be updated to reflect the world we live in.

2.13 Review of the Body of Local Government Legislation

Legislation relating to the operation of Local Government has accumulated over the years and much of it has been extensively amended. It seems plausible Local Government organisational design and operating procedures, which were largely set down between the 1970s and 2000 and with their roots further back in the Victorian era, may not be best suited for the next generation.

We are therefore seeking views on whether a fundamental review of the body of Local Government legislation is justified. This would be a longer term ambition and could not be accomplished prior to introducing the legislation proposed in this White Paper. It is a task which might be undertaken, for example, by the Law Commission. However, it could allow a future Assembly to create a new body of legislation for Local Government in Wales which was fully fit for the 21st Century.

This could open the door to simplify significantly the way Local Government operates in the longer term.

2.14 We would like your views

The Consultation Survey asks questions on the following themes:

- Status of reformed Authorities
- General power of competence
- Deregulation and Contracting Out Act 1994
- Local Authority constitutions
- Legislative burdens and review of the body of Local Government legislation

¹⁸ <http://lambeth.gov.uk/elections-and-council/about-lambeth/constitution-guide>

3. Renewing Democracy

For Local Government to operate effectively, there needs to be clarity about roles and responsibilities and Elected Members should reflect the diversity of cultures, voices and aspirations in the communities they represent.

We propose to set out in legislation the roles and responsibilities of the Leader, Cabinet Members, Elected Members and the Chief Executive Officer. We will take further action to increase the diversity of Councillors. We will take action to reduce the cost of politics and management in Local Government and to bring more consistency to the appointment and remuneration of senior officers.

We are seeking views on whether the way we compensate Elected Members at present is still appropriate, whether the number of terms an Elected Member may serve should be limited, and whether there should be a right of recall. We are seeking views on whether the restrictions which prevent some Local Authority officers from standing for election should be relaxed. Finally, we are seeking views on whether Local Government elections should continue to occur every four years or whether we should consider alternatives.

3.1 Introduction

Democracy is the foundation which gives Local Government the moral and political authority to exercise the full range of powers and responsibilities vested in it by law. We believe this was insufficiently stressed in the report of the Commission for Public Service Governance and Delivery. At present, we do not believe local democracy is achieving its full potential in shaping places and improving the well-being of people in Wales.

Enquiries into some recent failures in Local Government in Wales have revealed confusion and ambiguity about who is responsible for what. For example, the recent peer review of Carmarthenshire County Council noted:

*“There was generally an inconsistency in the understanding of the respective roles of elected members and officers, and the perception has been that the Chief Executive and senior officers have dominated some of the decisions of the Executive Board to the extent that the balance of governance has become disjointed and the Council is widely perceived to be officer-led”.*¹⁹

¹⁹ <http://www.wlga.gov.uk/publications-and-consultation-responses-imp/report-4th-november-2014/>

Similar conclusions have been reached in reviews relating to other Local Authorities, including Pembrokeshire,²⁰ Merthyr Tydfil²¹ and Birmingham.²² This confusion undermines effective leadership. The Welsh Government considers there is a need to clarify the roles and responsibilities of the political and administrative leaders in Local Government. The statutory responsibilities of some of these roles are set out in various pieces of legislation, but there is no general description of the expectations of these key roles in Local Government. In Denmark, for example, the Code for Chief Executive Excellence sets out clearly these different roles.²³

Healthy democracy also depends on the public taking a vital interest in the work of their Council and Councillors. This is unlikely to happen while our local politicians do not reflect the communities they serve. This undermines public trust. Put simply, the vast majority of Councillors are white, male and over 50. Part of the reason there is a shameful lack of women and ethnic minority Councillors in Local Government in Wales may be because we have lost sight of what we expect from local Councillors. Councillors were always meant to be part of the community they represented but in recent times, we have seen a gradual shift towards more full-time, professional, paid politicians. We do not believe this is what the public wants. It increases the cost of local democracy and makes the role of the Councillor unattractive to many people.

We also need to ask whether it is healthy that Councillors and the Chief Executive can stay in their roles indefinitely. While such commitment is admirable, it may also serve to make Local Authorities less adaptable to change in a dynamic world and may restrict the opportunities for broader participation in local democracy. Finally, as the National Assembly moves to a five year electoral cycle, we need to consider what are the best electoral arrangements for Local Government.

3.2 The Local Government Elections

Free and fair elections are the foundation of all democracies. Elections to the UK Parliament are for a fixed five year term, as are elections to the National Assembly for Wales following enactment of the Wales Act 2014. However, Local Government in Wales remains on a four year electoral cycle. In practice this means that elections to Local Government – at both Local Authority and Community Council level – coincide from time to time with either general or Assembly elections. Where there are multiple elections in a single year there are arguments in favour of holding different elections on one day, countering voter-fatigue for instance. However, these proposals are often outweighed by the potential confusion of different ballot papers with different voting systems and the greater potential for administrative errors.

20 Joint inspectorates' review of inter-agency arrangements and practice to safeguard and protect children in Pembrokeshire, CSSIW, 2011 <http://cssiw.org.uk/our-reports/local-authority-report/2011/joint-inspectorates-safeguard-protect-children-pembrokeshire/?lang=en>

A report on the quality of local authority education services for children and young people in Pembrokeshire County Council, Estyn, 2012 <http://www.estyn.gov.uk/english/news/estyn-report-published-on-education-services-in-pembrokeshire/>
Special Inspection – Implementation of Safeguarding Arrangements, Pembrokeshire County Council, WAO, 2012 <http://www.wao.gov.uk/publication/pembrokeshire-county-council-special-inspectionimplementation-safeguarding-arrangements>

21 Peer Review of Merthyr Tydfil County Borough Council, WLGA, 2012 <http://www.wlga.gov.uk/english>

22 The way forward: an independent review of the governance and organisational capabilities of Birmingham City Council, Sir Bob Kerslake, 2014 <https://www.gov.uk/government/publications/birmingham-city-councils-governance-and-organisational-capabilities-an-independent-review>

23 http://www.publicgovernance.dk/?siteid=672&menu_start=672

As part of the Welsh Government's response to the second report of the Silk Commission on devolution, we are seeking legislative competence to determine the running of Local Government elections as part of a reformed devolution settlement. We also believe it is important that candidates in Local Government elections are open and transparent about their political affiliations. We are therefore seeking views on whether candidates in Local Government elections should be required to record their membership of a registered political party on their nomination form, whether or not they are standing on behalf of that political party.

Looking forward, Local Government elections could be moved to fixed five year terms with their election cycle arranged so that they took place in different years to the general or Assembly elections. This would mean an election day where the focus was primarily on Local Government. The Welsh Ministers are currently able to achieve this by altering the date of Local Government elections on a case by case basis under section 86 of the Local Government Act 2000.

In some Authorities elsewhere in the UK, elections have traditionally been held on the basis of a third of Councillors elected in each year. There are arguments that suggest such a model assists in ensuring more regular contact between political parties and the wider public, although other evidence suggests it may foster short-termism and lack of continuity. This was the conclusion of Sir Bob Kerslake's independent review of governance and organisational capability in Birmingham City Council in 2014.²⁴ A similar conclusion was reached by Bristol City Council in March 2013 when they resolved to change from elections by thirds to whole council elections from 2016. They believed it would increase voter turnout, reduce costs and *"a clear mandate from the electorate once every four years could enable the council to adopt a more strategic, long-term approach to policy and decision-making - and focus less on yearly election campaigning"*.²⁵

The Local Government Act 2000 allows the Welsh Ministers to alter the way in which elections are held so that Councillors in Local Authorities are elected in phases, for example half of Council seats could be elected in one year and the other half the next. This would have the advantage of regular renewal of the body of Elected Members, though it would also have implications for political balance and the leadership of Authorities, particularly where there is not a decisive majority for one political group. There is, however, no evidence that the frequency of elections makes any difference to the turnout at Local Government elections in the UK, which is usually between 30% and 40%.²⁶

The Welsh Government is seeking views on both the length of Local Government election cycles and the appropriateness of phasing within a Local Authority area.

3.3 The Role and Responsibilities of the Leader

Leaders should be selected by the Council on the basis of the commitments they make. Therefore, Elected Members and the public have a right to know what they stand for. Where a candidate is standing for Leader, the Welsh Government believes it is right they should publish a written manifesto and present it orally to the Council before the election of Leader takes

24 The way forward: an independent review of the governance and organisational capabilities of Birmingham City Council, Sir Bob Kerslake, 2014 <https://www.gov.uk/government/publications/birmingham-city-councils-governance-and-organisational-capabilities-an-independent-review>

25 <http://www.bristol.gov.uk/page/council-and-democracy/future-elections-bristol>

26 Historic data for local, national and European elections are available at: <http://www.theguardian.com/news/datablog/2012/nov/16/uk-election-turnouts-historic>

place, and subsequently present an annual statement of progress in delivering that manifesto. The annual statement should set out the successes and challenges faced by their Council and the steps the Leader has personally taken to eradicate poor performance or to take action where it has happened. This will implement a specific recommendation of the Commission on Public Service Governance and Delivery.²⁷

Leaders depend on Cabinet Members and the Local Authority officers to deliver, delegating functions to them and holding them to account. The Leader, not the Chief Executive, is the political spokesperson for the Council, while the Chief Executive is responsible for management of the Authority and its staff. To ensure the public is clear on these issues, we propose the Leader (or Elected Mayor) of a Local Authority should be given a statutory duty to set objectives for each Member of the Cabinet and hold them to account each year for their progress, and for these documents to be published.

We also believe the Leader should be required to set objectives for the Chief Executive, on behalf of the Authority, assess their performance annually and make a report each year to Council. The Leader should hold the Chief Executive to account for delivering the Executive's priorities which will include their political priorities and their proposed well-being objectives under the Well-being of Future Generations (Wales) Bill. In this context, it is important to note that the Leader's manifesto and annual statement are separate and different from the Chief Executive's corporate plan and annual report (see 3.13 and 7.2 below). The former sets the Executive's priorities, whilst the latter sets out how the Chief Executive will ensure the Local Authority delivers those priorities operationally. There must be no confusion between these roles.

Leaders must also be powerful advocates for equality and diversity, translating this into positive action. Consideration should be given to the role of the Leader in promoting diversity, for example, when selecting Elected Members for the Cabinet. We accept that there will be circumstances where achieving diversity is not possible but in most cases, we can and should do better than we are at present. We therefore propose that Leaders should have due regard to equality and diversity objectives when selecting their Cabinet. It is essential Cabinets are able to draw on as wide a range of views as possible in order to give them insight into the issues of concern to residents of the area, especially those who may be disproportionately affected by Council decisions. We therefore believe, where Leaders are unable to select a balanced Cabinet, they should give serious consideration to co-opting additional, non-voting Cabinet Members, to act as advisors.

3.4 The Role and Responsibilities of Cabinet Members

The Cabinet and scrutiny system introduced by the Local Government Act 2000 was intended to improve the *"inefficient and opaque"*²⁸ committee system which it replaced. The Act made a clear distinction between the role of the Executive, comprising the Leader and Cabinet Members, and the role of non-executive Elected Members. All Local Authorities in Wales operate the Leader and Cabinet Executive model. The Leader and Cabinet system concentrates many Local Authority functions in the hands of a 'corporate' centre. This has significantly streamlined decision-making, however, there have been other consequences.

²⁷ Recommendation 40, paragraph 4.77 in the Commission's final report.

²⁸ Local Voices: Modernising Local Government in Wales, Welsh Office, 1998

An independent evaluation of Cabinet Executive arrangements in Local Government, commissioned by the Welsh Government,²⁹ assessed the impact the Cabinet system has had on decision-making, democracy and accountability, and the extent to which the overview and scrutiny arrangements of the Authority enable effective scrutiny of the Executive. As might be expected, the views of ruling administrations about the Cabinet system are positive, whilst the views of opposition Members are less so. While some Cabinets are transparent in the way they work and make decisions, there is evidence that a culture of making decisions behind closed doors continues in some areas and that scrutiny is often insufficiently robust to challenge this lack of transparency effectively.

This is a serious criticism of the current system, but there is no evidence a return to the committee system would lead to more effective decision-making or greater transparency. It indicates, however, a pressing need to put in place mechanisms to improve transparency and strengthen scrutiny (see Chapter 8), and to clearly differentiate between the roles of the Executive and senior management team. Numerous reports have found the Cabinet system has also led to a perceived diminution of the role of ordinary Elected Members.³⁰

There is good evidence that in some Councils there is too much blurring of roles between the Executive and senior management (see 3.1 above). Members of the Executive should not become part of the bureaucracy. They are there to set the political direction of the Authority, seeking to lead on behalf of the public, not to become part of the machinery of operation. Their role is to challenge the senior management team and to ensure both national standards and local priorities are delivered. At present, too often it appears that we have a full time professional political cadre in Local Government, on top of a full time professional bureaucracy, with too little separation of functions. This takes Local Government away from its roots and it is not at all clear this is what the public wants.

The system has also led to higher leadership costs. Under the Local Government Act 2000, the number of executive roles – the Leader and Cabinet Members – in a Local Authority in Wales may not exceed ten. At present, all Local Authorities in Wales have at least seven executive members and the majority have either nine or ten.³¹ Paradoxically, the trend in many Local Authorities in recent years has been to reduce the size of the senior management team to comprise a Chief Executive and a small number of corporate directors with a wide span of responsibilities, although this is certainly not true in all Local Authorities in Wales. This is in response to financial pressures, a conscious effort to break down service silos, and to streamline decision-making. It is not clear why the rationale which has reduced the size of senior management teams does not also apply to Cabinets.

A senior salary is payable to certain Elected Members whose work is considered to be full time. Each Cabinet Member is considered full time and is entitled to a senior salary, as are some other roles, such as chairs of scrutiny and the Council chairman. Some Cabinet roles come

29 An Evaluation of Welsh Local Government Executive and Scrutiny Arrangements, Downe et al, Welsh Government, 2015 <http://wales.gov.uk/statistics-and-research/independent-evaluation-welsh-local-governments-executive-scrutiny-arrangements/?lang=en>

30 See, for example, The Operation of New Political Management Structures in Local Government, Local Government and Public Services Committee, National Assembly for Wales, 2004, and Frontline councillors and decision making <http://www.jrf.org.uk/publications/frontline-councillors-and-decision-making>

31 Blaenau Gwent, Caerphilly, Carmarthenshire, Conwy, Gwynedd, Newport, Swansea, Wrexham (10); Cardiff, Neath Port Talbot, Pembrokeshire, Powys, Rhondda Cynon Taf (9); Ceredigion, Denbighshire, Flintshire, Monmouthshire, Torfaen (8); Anglesey, Bridgend, Merthyr Tydfil, Vale of Glamorgan (7).

with important legal responsibilities, for example, the Leader and the Cabinet Members for social services and education. These may with good reason be considered full time roles, given their responsibilities and the fact that education and social services account for two thirds of Local Government spend. However, it is not clear whether all Cabinet posts should be seen to be more or less full-time and whether the same levels of remuneration are appropriate for all members of the Cabinet. The same consideration applies to the other roles carrying senior responsibility allowances.

It may be that there should be full-time senior Cabinet and part-time deputy Cabinet positions. This would have the advantage of opening up opportunities for new or younger Councillors to experience executive decision-making without having to commit to a more or less full-time position. An alternative is to use legislation to limit the number of Cabinet Members per Authority, depending on size.

This raises the broader issue of the induction and training of Leaders and Cabinet Members, and succession planning. Members of the Executive have very significant legal and financial responsibilities and yet, at present, training for these roles is patchy or inconsistent at best. For example, we are only aware of one area in Wales – Torfaen – where Elected Members have been able to access degree level training.³² It is important we invest in our political leadership. We therefore propose there should be a development programme, led by our public service Academi, for new and existing Council Leaders, for Councillors with the potential to become Cabinet Members, and for leaders of the opposition who have a realistic chance of making the transition from opposition to government and become Council Leaders in the future.

We return to the issue of the remuneration of Elected Members and the appointment and remuneration of senior officers below.

3.5 The Role and Responsibilities of Elected Members

The Welsh Government also intends to clarify the expectations which an Elected Member of a Local Authority is expected to fulfil, including strengthening their roles as community advocates through Area Boards (see 4.5). We would set out their need to communicate with and represent their electorate, including the holding of surgeries and participation in community governance, to attend and participate in the committees to which they are appointed, and to hold the Executive to account through overview and scrutiny. All Elected Members must as a minimum be accessible to the public through electronic mail, and by preference also through the use of social media.

We should also require Elected Members to attend appropriate training. The responsibilities on Elected Members will increase in larger, merged Authorities and the Welsh Government believes it is prudent to invest in their skills. Under our proposals, Elected Members will need to commit to continuing personal development in order to develop high levels of expertise in finance, service and corporate matters to enable effective scrutiny of the Executive, and expertise in communication to enable effective community engagement. Some will wish to develop particular expertise in scrutiny, others in community engagement. At three recent (November 2014) Welsh Government workshops with Councillors and Local Authority officials on the impact of the Local Government (Wales) Measure 2011, the further training needs of Councillors were identified as: equalities, code of conduct, regulatory roles, legal responsibilities,

³² <http://www.uwtsd.ac.uk/wiwb/news-and-developments/unique-public-service-training-partnership-wins-national-award.html>

performance and risk management, freedom of information, data protection, use of social media, ICT, remote working, and the Councillor's role as a school governor.

Local Authorities are required to support Elected Members to publish annual reports and Members are encouraged to produce them, although fewer than half currently do so. Some Elected Members have argued that annual reports are not necessary as they are judged by the public in the ballot box. It is difficult to see how most members of the public could judge the achievements of individual Elected Members without being able to access regular information about their Council and community activities. Therefore, the Welsh Government considers all Elected Members should be legally required to produce an annual report. Whilst this should include information about their attendance, membership of committees and Area Boards (see 4.5), remuneration, training, case work and correspondence, they should focus more explicitly on qualitative information about what they have achieved during the year and how people and communities are better off as a result.

Elected Members are paid from the public purse and are responsible for significant decisions about public spending, so their actions must be open to scrutiny by any member of the community whose interests they represent, as well as other persons affected by their actions. The Local Government ethical standards framework guides Elected Members on the appropriate standards of conduct expected of them in undertaking their roles, whilst providing reassurance to the public that action will be taken if things go wrong. In our 2012 *'Promoting Local Democracy'* White Paper,³³ we said the standards framework remained fundamentally sound, but we proposed a number of changes to improve its overall operation, including the adoption of local complaint resolution policies for low-level complaints between Members and the capping of indemnities. The Welsh Government welcomes the positive response from all Authorities in adopting such policies.

The Local Government (Democracy) (Wales) Act 2013 makes provision for the establishment of joint Standards Committees, the electronic publication of registers of interests and powers to enable the transfer of misconduct reports and Member dispensation requests between Standards Committees to overcome potential conflicts of interest. These provisions will be brought into effect later this year. Also, this year, we will bring forward legislation to modify the model code of conduct for Local Authority Members to facilitate the operation of local resolution policies and to clarify the position of Members with constituency interests. We will also exempt Local Authorities from publishing misconduct reports during ongoing proceedings.

We believe these reforms will improve and strengthen the ethical standards framework. However, we are seeking views on whether there should be any further reforms, in particular in respect of the most serious cases. Standards Committees and Monitoring Officers already play a key role in supporting and advising Members on conduct matters. There should be a new power for Standards Committees to consider cases where there are serious concerns that an Elected Member is failing to fulfil their duties satisfactorily. We would provide Standards Committees with appropriate sanctions which could be imposed. There would need to be safeguards against vexatious complaints.

It is important Local Authorities take full responsibility for the poor performance of Elected Members and manage this internally in a transparent manner. It is also important that as part of this process we consider an appropriate appeals process for Elected Members, whether that

³³ <http://wales.gov.uk/consultations/localgovernment/promlocdemocracy/?lang=en>

be internally within the Authority, to the Adjudication Panel for Wales or another body. We are seeking views on the most appropriate procedure.

3.6 Diversity among Elected Members

The Welsh Government wants to reach a position where electors and communities can identify closely with their elected representatives. This is best achieved when the membership of elected bodies reflects, as much as possible, its electorate. This suggests an equal gender split, a balanced age profile and a fairer representation of black, Asian and minority ethnic people, as well as those with disabilities. This is not simply a desire to achieve greater equality, important though that is. It is far more likely that a Council will make decisions which meet the needs of the whole community if all interests are represented in the Council chamber. Unfortunately, this is not the case at present.

A recent report by the Expert Group on Diversity in Local Government, *On Balance*,³⁴ showed the make-up of Councils in Wales to be a poor reflection of the communities they serve. Around 25% of the population is aged over 60, but among Elected Members this rises to almost 60%. Women make up just over half the population overall, but among Elected Members, women are outnumbered by men by almost three to one. Only one Council has a female Leader (Ceredigion) and only three Chief Executives out of 22 are women (Ceredigion, Torfaen and Wrexham).

Out of 193 Cabinet Members in Wales, only 39 – one in five – are women. Only one Council, Carmarthenshire, has more than three women Cabinet Members. At the time of writing, two Councils, Anglesey and Bridgend, have no women in their Cabinets. It is quite possible there is a similar position in respect of other protected characteristics, such as disabled people and those who are lesbian, gay, bisexual or transgender, although we lack the necessary data. This poor representation, both generally among Elected Members and specifically in leadership positions, undermines trust in Local Government and in the eyes of many, also undermines its relevance and legitimacy.

There is greater diversity in the third sector and among social enterprises. For example, women account for a greater proportion of the workforce in the third sector (67%) than either the public sector (64%) or the private sector (40%). Among senior managers in the third sector, women represent 50% of the workforce, compared with 46% in the public sector and just 24% in the private sector.³⁵ However, very few people who work in the third sector consider becoming a Councillor in Local Government. This is a vital loss to local democracy. It deprives Local Government of committed community activists and prevents Local Government becoming a more diverse, more effective agent of change. In 3.12, we set out our proposals to make it easier for most Local Authority employees to stand for election.

If we want to encourage a more diverse range of people to seek elected office in Local Government, we must ensure our Councils are places where an open culture thrives and people are made to feel welcome and respected, whatever their background. Behaviour is key to this.

³⁴ <http://wales.gov.uk/topics/localgovernment/publications/expert-group-report/?lang=en>

³⁵ Women's leadership, employment and participation in the third sector and social enterprises, Third Sector Research Centre, Briefing Paper 40, 2010 <http://www.birmingham.ac.uk/generic/tsrc/research/workforce-and-workplace/women-in-the-third-sector.aspx>.

For further information on women in managerial roles in the third sector, see also Close to Parity, Rowena Lewis, Clore Duffield Foundation, 2010 <http://www.cloresocialleadership.org.uk/Rowena-Lewis.aspx>

For example, *On Balance* quoted research³⁶ which indicates that women, on achieving public office, are more likely to resign from positions held and then to drop out of activity altogether. We have seen evidence of this in Welsh Local Authorities, where the number of female Cabinet Members has fallen since the 2012 elections. Whilst other factors, such as the timing of meetings, may play a part, this also suggests that the atmosphere in our Councils may be overly “macho”.

Changing behaviours in a Local Authority requires leadership. Therefore, we propose placing a duty on Leaders, Group Leaders and Chief Executives to ensure diversity is respected. For Leaders, this duty will extend to ensuring that there are coherent anti-bullying and harassment policies in place for Councillors, not only in respect to Local Authority staff but also in respect of other Councillors. Group Leaders should also be required to ensure they are taking this responsibility seriously within their groups, and Chief Executives should be required to ensure there are anti-bullying and harassment policies in place for staff. **In each case, the Monitoring Officer and Standards Committee will have enforcement roles.** In addition, we need to support our Elected Members appropriately and they should be due similar entitlements to a balanced life as others working in the public and private sectors. For example, the Local Authority, the public and the media should support them when they take maternity or paternity leave, or when they need time out for caring responsibilities.

In 3.3 above, we set out our proposal that Leaders should be required to have due regard to equality and diversity objectives when selecting their Cabinet, and that they should give serious consideration to co-opting non-voting Cabinet members where they cannot achieve a balanced Cabinet. We also believe the same principle should apply to committees of the Council, including Scrutiny Committees, and that, where appropriate, Councils should make a decisive effort to co-opt additional members to committees in order to achieve a diversity which more closely reflects the local population.

The Welsh Government has published an action plan in response to the report of the Expert Group.³⁷ We have established a project, involving all relevant stakeholders, to pursue this plan and are determined, as a minimum, to work with political parties and other partners to achieve the goal of female candidates being selected in at least 40% of seats considered winnable by the nominating party. We will continue to pursue this agenda diligently.

However, it is difficult for National Government to have an immediate and direct influence on diversity in Local Government, or to legislate for diversity. Rather, Local Authorities, political parties, and bodies such as the Welsh Local Government Association and the Society of Local Authority Chief Executives in Wales, must work harder to encourage more diverse candidates at local elections and to ensure Elected Members are accorded appropriate flexibility and support in their roles. Prior to the last Local Government elections in 2012, the Welsh Government in partnership with the Welsh Local Government Association ran an information campaign to encourage people to become a Councillor, with a view to increasing the diversity of Councillors across Wales. While it is our intention to run a similar campaign in advance of the next Local Authority elections, we also believe that Local Government, in its own interests, must actively

³⁶ *Last in, first out – Gendered patterns of local councillor dropout*, Allen, P. A., 2013. *British Politics* 8(2) pp. 207-224.

³⁷ *On Balance: Diversifying Democracy in Local Government in Wales*, Report of the Expert Group on Diversity in Local Government, 2014 <http://wales.gov.uk/topics/localgovernment/publications/expert-group-report/?lang=en>

promote democracy and diversity in democracy. The report of the Councillors' Commission,³⁸ established by the UK Government in 2007, considered how to broaden participation in Local Government. It called for Authorities to be charged with responsibility for "*raising interest and providing information on becoming a councillor*" and "*actively promoting the role of elected councillors and their activities*", as well as facilitating other forms of civic participation.

Although provision in relation to this was included in the Local Democracy, Economic Development and Construction Act 2009, it was not commenced and has since been repealed. The Welsh Government believes it is time to implement the Councillors' Commission proposal. In 3.13 below, we set out our intention to put a duty on the Chief Executive of a Local Authority to promote engagement and diversity in democracy.

In many areas, Local Authorities already run Youth Councils whose work provides a crucial young people's perspective on the work of the Council. The Welsh Government has made clear its commitment to children and young people by adopting the United Nations Convention on the Rights of the Child (UNCRC) into law, through the Rights of Children and Young Persons (Wales) Measure 2011. We encourage all Local Authorities to adopt the UNCRC but we also believe they should give young people a voice and introduce them to local democracy through Youth Councils. As part of the Chief Executive's duty to promote engagement and diversity in democracy, we intend to require the Chief Executive to establish a Youth Council.

3.7 Remuneration of Elected Members

There is legitimate public and media interest in the remuneration of Councillors. People rightly expect that all those who choose to serve in Local Government uphold the public trust by embracing the values and ethics implicit in such public service. At the same time, people who give their time to serve their community through Local Government are entitled not to be out of pocket for doing so. If we did not compensate people for their contribution, local democracy would become the exclusive domain of the rich. Democracy must be open to everybody.

The salary of Cabinet Members is set by the Independent Remuneration Panel for Wales. The salary payable is determined by the size of the Council. Leaders earn between £43,000 and £53,000, Deputy Leaders £30,000 to £37,000, and other Cabinet Members £26,000 to £32,000. This is based on them being full-time roles.

Councillors currently receive a payment of just over £13,000 per annum. This is based on the role taking three days a week. The payment was introduced to replace an attendance allowance which was widely seen as subject to abuse. We do not wish to disadvantage anybody financially from being a Councillor as this would contradict our clear intention to increase diversity among Councillors. However, it has now become an expectation. The payment affects people differently. For a retired person, it is a significant extra income compared with the basic single person State Pension in 2014-15 of £5,881 per annum. This may help explain the over-representation of Councillors over 60. On the other hand, it may only partially compensate somebody whose ordinary job is higher paid, or disadvantage a single parent with a part time job by moving them into a higher tax bracket.

³⁸ Representing the future: The report of the Councillors Commission, Councillors Commission, 2007 <http://webarchive.nationalarchives.gov.uk/20080910134927/communities.gov.uk/councillorscommission/>

The total cost of Elected Members, including the costs of Cabinets and senior responsibility functions in scrutiny, is £21.7 million annually across Wales. We need to clarify whether we intend to compensate Councillors for their time or pay them for the work they do. There is an important difference.

The Welsh Government believes the system of remuneration for Councillors – Executive and non-executive – needs to be clearly spelt out in such a way as the public can see how the levels payable are arrived at. Councillors' remuneration in Wales should be more in line with the amounts paid in similarly sized Authorities in England, Scotland and Northern Ireland.

3.8 Release of Elected Members from Employment

Local Authorities play an essential role in improving the well-being and prosperity of our communities. Organisations in the public, private and third sectors benefit greatly from their work. Employers who release their employees to undertake civic responsibilities as a Councillor are making a significant statement about their corporate social responsibility.

Many Local Authorities now conduct a great deal of their Council and committee business outside of normal working hours. This makes it easier for those in employment to serve as a Councillor and is potentially an important factor in promoting more diversity among Elected Members. Nevertheless, Council business may still need to be conducted during the working day and not all employees work from nine to five. In order to promote diversity further and make it easier for people in employment to serve as a Councillor, the Welsh Government is seeking views on whether the devolved public service organisations should be required to release employees to undertake duties as an Elected Member, in the same way as many of these organisations already release staff to undertake voluntary work. Consideration would need to be given to the number of days per year that would be permissible. Given that Elected Members receive a payment for their Council duties, any such leave should be unpaid. We welcome views on this proposal.

If we were to proceed with these proposals, we would also encourage non-devolved public service organisations, as well as the third sector and private businesses, to release employees for Councillor duties on the same basis, as part of their corporate social responsibility.

3.9 Number of Elected Members

Our proposals to merge existing Local Authorities into a smaller number of new Authorities (see 2.7 above) will have implications for the number of Elected Members in Wales. On average, each Councillor in Wales serves a population of 2,401, significantly lower than England (3,814) and almost half that in Scotland (4,259).

The Welsh Government believes we should see an overall reduction in the number of Elected Members in Local Authorities to approximate more closely the position in the other parts of the UK. We are seeking views on the number of Elected Members in order to inform work which will be undertaken by the Local Democracy and Boundary Commission for Wales.

3.10 Term Limits for Elected Members

There has been significant research into whether there should be a restriction on the number of consecutive terms an Elected Member may serve on a Council. This is known as a 'term limit'. At present, there is no limit. The Welsh Government's survey of candidates in the 2012 Local

Government elections³⁹ showed that 83% of elected candidates had served as a Councillor in the past, suggesting that re-election is very common. The survey also showed that half of all Councillors in Wales have served at least ten years, and media reports have identified some have served over 50 years.

Whilst the research is not conclusive, term limits have shown greater competition in elections and seen a more diverse pool of candidates.⁴⁰ The Councillors Commission⁴¹ recommended term limits should be introduced for Elected Members as well as for Leaders and Elected Mayors. There is some evidence that turnover among newly Elected Members in the UK is greater among younger, more diverse Councillors which has the effect of restricting diversity and strengthening the cohort of predominantly older, male Elected Members.⁴²

There are arguments against term limits, not least that the ballot box gives the electorate the opportunity to impose their own term limits. However, the Welsh Government believes overall there is merit in considering limiting the number of terms Elected Members, Leaders and Elected Mayors may serve. We are seeking views on a proposal the limit should be five terms for Elected Members, and a tighter limit of two terms for Leaders and Elected Mayors and for continuous service in a Council's Cabinet.

3.11 Recall of Elected Members

The Recall of MPs Bill,⁴³ currently making its way through the Houses of Parliament, causes a Member of Parliament to lose their seat and a by election to be held if ten percent of the electorate in the constituency sign a petition to call for this. Recall can only be triggered if certain conditions are met. Broadly speaking, these are that the MP has been convicted of an offence and imprisoned or they have been suspended from the House of Commons for at least ten days.

The Welsh Government would welcome views as to whether similar provisions should be put in place for Elected Members of Local Authorities. The conditions to trigger recall of an Elected Member in Local Government could include, for example, where sanctions have been imposed on a Councillor by a Standards Committee or the Independent Adjudication Panel following a breach of the code of conduct or failure to perform effectively as an Elected Member (see 3.5 above).

3.12 Electoral Qualification

There are certain legal restrictions on who may stand for elected office. For example, to stand for election to a Local Authority, a person must be over 18 and meet certain citizenship and local residency or working criteria. A person may also be disqualified from standing for a number of reasons, such as that they are employed by the same Local Authority or subject

39 Local Government Candidates Survey 2012, Welsh Government, 2013 <http://wales.gov.uk/statistics-and-research/local-government-candidates-survey/?lang=en>

40 For example, The Political and Institutional Effects of Term Limits, Sarbaugh-Thompson et al, 2004, Legislative Term Limits and State Aid to Local Governments, Yakovle et al, 2012

41 Representing the future – The report of the Councillors Commission, Councillors Commission, 2007 <http://webarchive.nationalarchives.gov.uk/20080910134927/communities.gov.uk/councillorscommission/>

42 <http://www.csbppl.com/2012/02/07/too-many-councillors-leaving-leaves-councils-too-homogeneous/> and The 2008 Survey of Local Election Candidates, IdeA 2008, <https://www1.plymouth.ac.uk/research/ceres/TEC/research/Surveys/Pages/2008-Local-Candidate-Survey.aspx>

43 <http://services.parliament.uk/bills/2014-15/recallofmps/documents.html>

of a bankruptcy restrictions order. This section seeks views on whether it should be easier for employees of a Local Authority to stand for election to the same Authority and whether there should be restrictions preventing Elected Members of Local Authorities also serving as either Assembly Members or Community Councillors.

The Assembly's Constitutional and Legal Affairs Committee, in its consideration of disqualifications from election to the Assembly, has raised the issue of Local Authority Elected Members serving as members of the National Assembly.⁴⁴ Given the demands on time and the potential for conflicts of interest, the Welsh Government would welcome views on whether Elected Members in Local Government should be disqualified from serving as an Assembly Member at the same time. Such a provision would be a matter for the Assembly and would not form part of the second Bill.

Almost half of all Elected Members of Local Authorities are also Members of one or more Community Council and many have served their political apprenticeship in Community Councils. It is important that this development path for elected representatives is preserved and encouraged. Nevertheless, we have seen very little evidence this has led to improved relations between Community Councils and Local Authorities, or to more extensive delegation of functions to Community Councils, or that Community Councils are an effective means for Local Authorities to engage with communities.

In addition, given the Welsh Government's intention to give powers to Local Authorities to review Community Councils (see 4.8 below), this would give rise to the potential for extensive conflicts of interest where Councillors serve on both Local Authorities and Community Councils. Therefore, we are seeking views on whether Elected Members of Local Authorities should be disqualified from serving on Community Councils.

Officers and staff in Local Authorities generally have a thorough understanding of their communities and a deep commitment to improving their well-being. Many would themselves make effective Elected Members, but there are restrictions on some senior employees of a Local Authority standing for elections.⁴⁵ In particular, although all Local Authority employees (including school staff) can stand for election unless they hold a politically restricted post (generally higher paid officers), none of them can stand for election to their own employing Authority. This makes sense from the point of view of them not being able to make decisions affecting their own employment conditions and the Welsh Government recognises the need for checks and balances to ensure the integrity and impartiality of advice offered by officers to Elected Members. However, given that Local Authorities are major employers in all areas of Wales, these restrictions may be preventing a wide range of suitable candidates from diverse backgrounds from coming forward to stand for election in their local area.

Whilst any person who is disqualified currently from standing may resign their post to stand for election, this is a significant disincentive due to the risk it carries for the individual. We are therefore seeking views on whether this disqualification should be reviewed to make it easier for the majority of Council officers to put themselves forward. In line with the recommendations of

⁴⁴ Disqualification of Membership of the National Assembly for Wales, Constitutional and Legislative Affairs Committee, National Assembly for Wales, 2014 <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=3542>

⁴⁵ Various restrictions are set out in the Local Government Act 1972 and the Local Government and Housing Act 1989. See <http://www.electoralcommission.org.uk/i-am-a/candidate-or-agent/local-elections-england-and-wales>

the Electoral Commission,⁴⁶ we propose that Local Authority officers – other than those holding politically restricted posts – should be entitled to stand for election to their own Authority. Only if elected should they be required to resign their paid employment with the Authority. This will widen the pool of potential candidates while ensuring there is no conflict of interest once the candidate is elected.

3.13 The Role and Responsibilities of the Chief Executive

The term “Chief Executive” (occasionally “Managing Director”) is widely used throughout Local Government in Wales to denote the head of a Local Authority’s administration, but the title is not found in Local Government legislation. The principal responsibility of Chief Executives is to ensure the good governance of their Local Authority so that the organisation is capable of delivering the Executive’s objectives and discharging the other statutory functions of the Authority, in a way which is lawful and fiscally appropriate.

Section 4 of the Local Government and Housing Act 1989 places a duty on Local Authorities to designate one of their officers as the “head of their paid service” and Local Authorities must provide the Head of Paid Service with the staff, accommodation and other resources to allow him or her to perform their duties. The 1989 Act also places certain duties on the Head of Paid Service, namely that they must report to the Local Authority on the following “matters”:

- the manner in which the discharge by the Authority of their different functions is coordinated;
- the number and grades of staff required by the Authority for the discharge of their functions;
- the organisation of the Authority’s staff; and
- the appointment and proper management of the Authority’s staff.

The statutory role of Head of Paid Service is almost always exercised by the officer more usually referred to as the Chief Executive (or Managing Director), but there is nothing in legislation to require the Head of Paid Service to be combined with that of the Chief Executive, nor is there any statutory definition of any other duties of a Chief Executive in a Local Authority.

Chief Executives, where they are also the Head of Paid Service, are afforded an unusual degree of protection in their role, along with some other chief officers. This is to protect them from political interference. However, if the Chief Executive is failing in their responsibilities, this imperils local democracy and there must be a clear audit trail of objective setting and performance management to support the Council in taking decisive action. It is for this reason we have set out our intention in 3.3 above that the Leader should be required to manage the performance of the Chief Executive on behalf of the Council, and make annual reports to the Council on their performance. The protection afforded to chief officers, including Heads of Paid Service, must not prevent the Council from dismissing them without compensation where they are not performing their duties responsibly.

⁴⁶ Standing for election in the United Kingdom, Report and Recommendations, Electoral Commission, 2015 <http://www.electoralcommission.org.uk/>

We believe Local Authorities must have a Chief Executive and that this person must be designated the Head of Paid Service. This requirement should not prevent a Chief Executive from being appointed jointly by two or more Local Authorities. In addition, as part of ensuring local accountability for performance and improvement, we propose to put five specific duties on the Chief Executive to:

1. make arrangements to prepare and publish a corporate plan;
2. make arrangements to prepare and publish annual self-assessments of corporate improvement and service performance;
3. commission a peer review every two years and prepare a report for the Council on actions to be taken following the recommendations of the peer review;
4. put in place a performance management system for all employees of the Local Authority; and
5. promote engagement and diversity in democracy.

The purpose of these duties is to ensure the effective governance of Local Authorities and to provide the Council with a sound basis for judging the performance of the Chief Executive. The first three are discussed in detail in Chapters 6 and 7 below. The requirement for a performance management system, linked to the corporate plan, is self-explanatory. The duty to promote engagement and diversity in democracy is discussed in 3.6 above.

In addition, we believe the Chief Executive should act as the Electoral Registration Officer and Returning Officer for Local Authority elections in the area, and that there should be no separate payments for these functions, which we consider central to the role of the Chief Executive. When the opportunity arises, we will legislate to give effect to this.

3.14 Term Limits for Chief Executives of Local Authorities

The Welsh Government believes there should be term limits on the appointment of Chief Executives. There is reason to believe that, in some circumstances, Chief Executives retaining their posts for long periods can lead to an entrenchment of power and influence within the Authority which can serve as an obstacle to effective relations between Elected Members and officers and threaten the independence of the Executive.⁴⁷ This phenomenon is not restricted to Local Authorities.⁴⁸

In the Republic of Ireland, Chief Executives of Local Authorities are recruited through a competitive recruitment process organised by the Public Appointments Service. They are appointed for a period of seven years and the appointment may be extended by a maximum of three years.

In New Zealand, the Local Authority has to appoint a Chief Executive for a term of no more than five years. In the year before the contract expires, the Local Authority must review the Chief Executive's performance and their skill mix, and consider how the skill mix fits with the Local Authority's expected future needs. Based on that review, the Local Authority can then decide

⁴⁷ See for example the findings of the Peer Review of Carmarthenshire County Council, WLGA, 2014 <http://www.wlga.gov.uk/previous-peer-reviews/>

⁴⁸ See, for example, Long CEO Tenure Can Hurt Performance, Luo, Kanuri & Andrews, Harvard Business Review, March 2013

either to reappoint the incumbent for another two years, without advertising or any other process, or to advertise the pending vacancy and start afresh.

We would therefore welcome views on a proposal to either set a limit on the length of an appointment of a Chief Executive or set a term period which would lead to a review before re-appointment could be considered. We consider that the Public Services Staff Commission, once established, would be best placed to take forward this work and develop proposals.

3.15 The Cost of Senior Management in Local Government

With regard to the pay of the officers of a Local Authority, we have already taken a number of steps to increase transparency so that the public can find out who earns what in Local Government. Under the Localism Act 2011, Councils must publish pay policy statements which set out the Council's policy for remunerating chief officers, as well as the lowest paid employees. The Localism Act 2011 provides Welsh Ministers with the power to issue guidance, which Councils must have regard to, on the preparation of pay policy statements. Our current Guidance recommends a full Council vote on the salary of new appointments and severance packages of £100,000 or above.⁴⁹ Under the Local Authorities (Standing Orders) (Wales) Regulations 2006, any decision to determine or vary the remuneration of chief officers must be made by full Council. Under the Accounts and Audit Regulations (Wales) 2005, Local Authorities are required to publish details of the salaries of Chief Executives and chief officers.

A new system for guarding against excessive salary awards for Chief Executives in Local Authorities was introduced in April 2014. This requires Local Authorities to consult with the Independent Remuneration Panel before deciding on any variation to the salary of their Chief Executive which is proportionally higher or lower than other employees. We believe similar safeguards should be introduced for all chief officers across Local Authorities in Wales. The Local Government (Wales) Bill proposes to extend the powers introduced by the Local Government (Democracy) (Wales) Act 2013 to cover all chief officers of Local Authorities in Wales, but only does so temporarily and only in relation to Local Authority mergers. We intend to make this element of control a permanent reform which will apply to all Local Authorities in the future.

The salaries of the senior management team in Local Authorities are determined by the Council. The salary range for Chief Executives of Local Authorities in Wales in 2012-13, excluding any extra fees they earn as Returning Officers for elections, was in the range £105,851 (Conwy) to £194,661 (Pembrokeshire). In comparison, in 2012-13 the salaries of Chief Executives of NHS Health Boards in Wales were in the range £135,000 to £200,000; Chief Constables, £133,068 to £154,370; and Chief Fire Officers, £116,387 to £131,187.⁵⁰ The Authorities in England most comparable in terms of their functions to Welsh Local Authorities are the Unitary Authorities. The average (mean) salary of a Chief Executive of a Unitary Authority in England in 2013 was £147,150, reaching £168,483 in the top quartile and £131,278 in the bottom quartile.⁵¹

49 In other words, by a vote of all Elected Members, both Executive and non-executive. It is not a decision that may be taken by the Executive alone or by a committee of the Council.

50 Senior management pay across the Welsh public sector, Wales Audit Office, February 2014
<http://www.wao.gov.uk/publication/senior-management-pay-across-welsh-public-sector-memorandum-public-accounts-committee>

51 SOLACE evidence to the Communities and Local Government Select Committee Inquiry into Local Government Chief Officer Remuneration <http://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2010/chief-officers-pay/>

Under the Accounts and Audit Regulations (Wales) 2005, Local Authorities are required to publish details of their senior management, as defined by the CIPFA Code of Practice on Local Authority Accounting. The number varies considerably from place to place. According to Local Authority statements of accounts for 2013 14, in Blaenau Gwent and Neath Port Talbot there were just three senior managers, whilst in Caerphilly, Ceredigion and the Vale of Glamorgan there were four. Nine Local Authorities reported having ten or more senior managers, including 15 in Denbighshire and Merthyr Tydfil, and 17 in Conwy. Senior managers (excluding Chief Executives) earn salaries from £60,000 to almost £150,000. Across all Local Authorities in Wales, the total cost of Chief Executives and senior management was £25.7 million in 2013-14.

There is little justification for the wide variation in both the number and salaries of these senior posts, which is unrelated to the size of Councils. There is a good case for considering greater consistency across Wales.

The Welsh Government considers that the cost of senior management teams in Local Government in Wales is excessive. We intend to act to reduce the cost of politics and management of Local Government in Wales.

3.16 Senior Appointments to the New Authorities

We also need to consider the appointments procedure for Chief Executives and chief officers to the new Authorities. However, the issue of senior appointments in Local Government is part of the wider consideration that needs to be given to the development of leadership in the public service in Wales. The Commission on Public Service Governance and Delivery made a number of recommendations on leadership, culture and values. The Welsh Government committed to addressing these in the White Paper Devolution, *Democracy and Delivery: Improving public services for people in Wales*, by saying we were “exploring options for strengthening the process for senior public sector appointments, including developing a common framework of principles and considering the potential role of a public sector appointments commission”. There are existing models in New Zealand, the Republic of Ireland and Northern Ireland which could be adapted, one example of which is given below.

CASE STUDY: Public Services Leadership – New Zealand

There is much to learn from New Zealand about creating and maintaining a cadre of leaders and nurturing leadership capacity. The public service has a more defined single identity called 'New Zealand State Services', which includes over 100 organisations – the civil service, a wide range of government sponsored bodies and government owned enterprises, Crown Agents, the Police, further and higher education institutions, and health boards. New Zealand State Services does not cover Local Government, but leaders do work towards agreed national objectives. The role of the State Services Commissioner includes promoting collaboration, developing high-calibre leaders and evaluating their performance, overseeing workforce and personnel matters, and advising on the design and efficiency of public services.

The movement of leaders between 'Crown Entities' appears to be a cultural norm in New Zealand. Some ideas, such as common values, collective objectives, standards, and whole public service performance reporting, are becoming part of the way they do business. Growing talent at entry level and middle management is also important to provide strength, depth, challenge and capacity into the leadership cadre.

As a small nation, New Zealand routinely recruits talent from abroad, including from Wales. Economic migration from New Zealand is also common. New Zealand State Services maintain links with their leaders who choose to work abroad. Their talents and experience are utilised whilst abroad and when they return.

There also appears to be a stronger and more integrated delivery relationship between the public and private sectors. In New Zealand, public organisations often own organisations run on a commercial basis, providing services such as utilities, forestry and transportation. Whilst the primary intention is service delivery, as a by-product there is also a more fluid interchange at senior levels between the public and private sectors. This provides a wider and more dynamic leadership cadre at political, Board and officer levels.

The policy objective would be to give a more structured approach to developing the skills and careers of public service leaders in Wales, including the kind of entrepreneurial skills which Local Authority leaders will require to work with communities to establish new co-operative and social enterprise models of service delivery. There are a range of different options available. It may be possible to establish a Public Sector Appointments Commission to manage all senior appointments to Local Government. Its role would be to ensure all senior officers had appropriate leadership skills and competencies. Potentially this pool of leaders could be employed on a common basis so that as they moved between roles and between organisations in Wales, the public service was not subject to unnecessary severance and recruitment costs.

Alternatively, a Public Sector Appointments Commission could test the competence of potential candidates, based on role descriptions and grading provided by the Public Services Staff Commission (see 2.9 above). Local Authorities would be required to make appointments from among candidates who were approved by the Commission.

If there was no Public Sector Appointments Commission, the Public Services Staff Commission could be tasked with developing a framework and process for evaluating and grading all senior roles in the new Authorities, a role not dissimilar to that of the Commissioner for Public Appointments in Northern Ireland. It would remain the responsibility of the Local Authorities or shadow Authorities to make the new appointments but there would be consistency in the processes followed and the role descriptions and remuneration packages of the appointees.

The approaches outlined above would have the advantage of building a cadre of leaders with shared public service values, one of the central recommendations of the Commission on Public Service Governance and Delivery. We welcome your views on the establishment and remit of a Public Sector Appointments Commission.

3.17 We would like your views

The Consultation Survey asks questions on the following themes:

- Local Government elections
- The roles and responsibilities of Leaders, Cabinet Members and Elected Members
- Standards Committees
- Diversity of Elected Members
- Remuneration of Elected Members
- Number of Elected Members
- Restrictions on Elected Members and Electoral qualification
- Recall of Elected Members
- The role and responsibilities of Chief Executives
- Term limits for Chief Executives
- Remuneration and appointment of senior officers

4. Connecting with Communities

At the heart of our vision for Local Government in Wales is a new relationship with local communities. We propose to achieve this by giving Elected Members a leadership role at the head of Area Boards within their Local Authorities, in order to ensure the new, larger Authorities are closer to their communities.

As part of this, we need to raise the ambition of Community Councils so they are better placed to deliver important community services in the future. This means building their capacity and capability, as well as strengthening their governance and their engagement with other services and the third sector. We propose to give a power to Local Authorities to review Community Councils in order to achieve these objectives, and to complete these reviews by 2022.

4.1 Introduction

Rising pressures on public services and diminishing resources means in future Local Authorities may have to do less directly in some areas themselves. Activist Councils must be agents of change in communities, supporting and enabling communities to do more for themselves. Local Authorities have always had a role in building community capacity, capability and resilience but traditional service based departmental structures and Cabinet portfolios have sometimes served to reinforce silos, rather than joining up services based on community needs.

There is growing consensus that the future of public services lies in the quality of the relationship between service providers and local people⁵² and we agree with the Wales Council for Voluntary Action that we should be “*putting people at the centre*”, treating people and communities as equals in design and delivery.⁵³ We commissioned research into how we could better bring the power of local people into local public services.⁵⁴ This clearly showed we can and should be involving services users, the people who support them and front-line staff at every stage: prioritising, commissioning, designing, delivering and assessing services. This is not about consultation. It is essential, of course, that Councils should engage and consult with the public over big strategic decisions, like the annual budget or Council Tax levels. But consultation is not the same as involving people routinely in how services are delivered.

For most people, most of the time, Council services happen as a matter of routine. The bins are collected, the day care centre opens, there is internet access in the library. Most of us engage more intensively from time to time, such as when we have to choose schools for our children,

52 See, for example, The Relational State, IPPR, 2012 <http://www.ippr.org/publications/the-relational-state-how-recognising-the-importance-of-human-relationships-could-revolutionise-the-role-of-the-state>

Making Sense of the Future, INLOGOV, University of Birmingham, 2013 <http://www.birmingham.ac.uk/schools/government-society/departments/local-government-studies/news/2013/07/new-book.aspx>

Moving beyond the market: a new agenda for public services, NEF, 2014

<http://www.neweconomics.org/blog/entry/the-market-is-failing-public-services-whats-the-alternative>

The Condition of Britain, IPPR, 2014; <http://www.ippr.org/publications/the-condition-of-britain-strategies-for-social-renewal>

53 Putting people at the centre, WCVA, 2014 <http://www.wcva.org.uk/about-us/news/2013/10/putting-people-at-the-centre-will-transform-public-services>

54 Bringing the Power of the Citizen into Local Public Services – an Evidence Review, Tony Bovaird and Elke Loeffler, Welsh Government Social Research, 2014 <http://wales.gov.uk/statistics-and-research/democracy-community-governance/?lang=en>

arrange home services for an elderly parent or respite care for a disabled child. At these times, people expect to have a say because what happens affects us greatly. They may need to make new travel arrangements, or change their work patterns, or make adaptations to our home. As service users, or families of service users, their own contribution is an essential part of the solution.

People also want a say before Local Authority services are changed or stopped. Sometimes they value such services sufficiently to get involved in community action to preserve them. Community bodies have a right to be given that opportunity and to be granted sufficient time to develop proposals and make arrangements. Councils can play a crucial role helping communities come together to form social enterprises or community trusts to take over facilities and services which are important to them. We will deal with this aspect in the next Chapter.

However, people demand more than this of our Councils in the 21st Century. They want to know their Councils are shaping the places where they live to make them great places to be. People want to know their Council is attracting investment and jobs, connecting the places where people live with the places where they work, joining people together through superfast broadband, making sure there are rich and vibrant amenities – lively high streets and shopping centres, theatres, museums, sports stadiums, conference centres, parks and green spaces, waterfronts and great events. In Wales, we want activist Councils.

This demands civic leadership. It depends on trust between Councils and residents, and people feeling able to influence decisions. It means the Council workforce involving people in decisions and shaping services, and Councillors who stand up for those they represent to make sure this happens. Of all the public services, Local Government is unique in having elected representatives whose whole purpose is to nurture this relationship with the public. It is time to revitalise the civic leadership role of Elected Members .

4.2 Community Leadership

The Local Government Act 2000 introduced the concept of community leadership. This was not a new concept for Local Authorities and recognised the important role they have always played in standing up for the people they represent. However, the Act enabled Local Authorities to exercise this role through the preparation of Community Strategies, in conjunction with local public service partners. These strategies are intended to enhance local well-being by improving policy and service coordination, tackling cross-cutting issues and targeting resources at community policies.⁵⁵ They are also intended to shift the focus from the service provider to the service user.

The Welsh Government's evaluation of Community Strategies⁵⁶ found they were not engaging Elected Members and local communities, and were being submerged under a welter of other partnerships, plans and strategies. In response, the Welsh Government rationalised the statutory plans, leading to the introduction of Single Integrated Plans in 2013. The Well-being of Future Generations (Wales) Bill goes further by proposing to make Public Services Boards

⁵⁵ The Limits of Co-ordination: Community Strategies as Multi-purpose Vehicles in Wales, Sullivan & Williams, Local Government Studies, Vol.35, No. 2, pp.161-180, April 2009

⁵⁶ People, Plans and Partnerships: A National Evaluation of Community Strategies in Wales, Welsh Assembly Government, 2006, 1.9 <http://wales.gov.uk/topics/localgovernment/research/communitystrategies/?lang=en>

statutory partnerships, whose members⁵⁷ share joint responsibility for preparing local well-being assessments and Local Well-being Plans, which will replace Community Strategies and Single Integrated Plans.

While this will strengthen the integration of public services, with a strategic focus on ‘place’, we believe there needs to be a strengthening of the role of Elected Members within larger Local Authorities to ensure voices in their area are heard and given a clear path to influence decision-making in their Local Authority and Public Services Board. We believe the representative role of Elected Members can be strengthened by putting in place new area governance arrangements which give a prominent role to Elected Members.

4.3 Community Governance in Wales

Community governance is the way in which people in local areas or neighbourhoods organise themselves to identify their priorities, manage their assets and influence the decisions of public services. There are a variety of community governance approaches in Wales, some statutory, many voluntary (but governed by charitable law), and some informal. These include but are not limited to:

- Area Committee arrangements in Local Authorities;
- statutory bodies, such as Community Councils and Community Health Councils;
- partnerships between Local Authorities, other public services, voluntary groups and others, such as neighbourhood partnerships and area boards;
- third sector bodies such as Community Voluntary Councils, community development trusts, advocacy groups, social enterprises;
- partnerships which are a result of public funded programmes such as Communities First and regeneration partnerships;
- partnerships developed by other public services, such as environmental partnerships and the Partnerships and Communities Together (PACT) community engagement approach of the Police.

This crowded landscape is rich, but also makes it difficult for the views of the community to be expressed and heard in a coherent way. Individual groups, including those representing the vulnerable and marginalised, can struggle to get access to decision makers, or enter into a dialogue with public services. Building relationships of trust with public services is problematic and ‘bottom up’ initiatives are difficult to develop and implement. Without a conduit for communities and Local Authorities to engage on a continuing basis, engagement usually happens too close to decisions being made or even after decisions have been made. This results in lost opportunities for communities to manage their future.

The Welsh Government is proposing Elected Members should have a strengthened role in leading their communities and providing this conduit. We believe this is essential to ensure open and transparent decision-making and so people can see the difference their involvement in local democracy makes. This will demand new skills of Elected Members. As the former Archbishop of Canterbury put it in his Bevan Foundation lecture of 2002:

⁵⁷ The proposed statutory members of Public Services Boards will be Local Authorities, Local Health Boards, Fire and Rescue Authorities and Natural Resources Wales.

“one of the things we are short of at the moment is brokering skills in communities ... By brokering, I mean the presence of those who are able to facilitate conversation about common goals, conversation beyond competition, and to ask about corporate needs and opportunities.”

We will expect to see a system of community governance form the core of an Authority's values and determine the design of its corporate systems and operating model, that is, its management and workforce structures, its performance systems and its engagement processes.

4.4 Community Governance Case Studies

The Commission for Public Service Governance and Delivery recommended that Local Authorities should develop, adopt and implement a neighbourhood management⁵⁸ or similar approach to engaging with local people to identify, prioritise and address local social, economic and environmental issues. The Welsh Government agrees. We commissioned research into the extensive literature on community governance to help develop our options.⁵⁹ This research highlights the key rationales for adopting an area or neighbourhood approach as:

- civic rationale: allowing a more meaningful dialogue between people and public service providers;
- social rationale: involving people in commissioning and delivering public services;
- political rationale: enabling people to understand how decisions are made locally and how they can influence those decisions;
- economic rationale: commissioning services in a joined up way to address the specific needs of different neighbourhoods.

These support precisely the reform we wish to see in the relationship between Local Government and local communities.

Neighbourhood or area management can take a number of different forms with different names but they have a great deal in common, as the following case studies illustrate.

⁵⁸ For further information on neighbourhood management see, for example, Neighbourhood Management Pathfinders: Final Evaluation Report <http://www.sqw.co.uk/files/5713/8712/8264/80.pdf>

⁵⁹ Community Democratic Governance: Evidence Synthesis and Advice, Tony Bovaird, INLOGOV, University of Birmingham, Welsh Government Social Research, 2014. <http://wales.gov.uk/statistics-and-research/democracy-community-governance/?lang=en>

CASE STUDY: Neighbourhood Partnership – Wales

The neighbourhood partnerships approach in Cardiff was developed by the Cardiff Partnership Board as a response to significant inequities in outcomes for people living in different areas of the city.⁶⁰ There are six multi-agency neighbourhood partnerships, each led by a lead Elected Member and supported by a neighbourhood officer who is an employee of Cardiff Council. Each partnership has an action plan which addresses the neighbourhood's priorities within the framework of Cardiff's Single Integrated Plan, for example, by providing community grants or shaping local programmes to tackle the problem of young people not in employment, education or training. The Cardiff Council ward Members for each neighbourhood meet together regularly to review progress and provide strategic oversight.

The Wales Audit Office conducted a two-part review of Cardiff's neighbourhood approach, in 2012 and 2013.⁶¹ Their overall conclusion was that by working collaboratively with partners, the Council has engaged with local people to identify local priorities and support activities and schemes which deliver improvements but the sustainability of arrangements and performance management need further development.

Similar approaches are emerging elsewhere. For example, Newport is implementing an approach based on three areas, while in Monmouthshire there are four areas. Powys is piloting a similar approach in Newtown, anticipating roll out focusing on seven market towns and their surrounding areas across the county.

⁶⁰ http://www.cardiffpartnership.co.uk/content.asp?nav=263&parent_directory_id=2

⁶¹ *ibid*

CASE STUDY: Area Boards – Wiltshire

The Wiltshire Area Boards are a way of working to bring local decision-making back into the heart of the community. They are a formal part of Wiltshire Council that try to find solutions for local issues such as road repairs, traffic problems and speeding in villages, litter, facilities for young people and affordable housing.

People who work with the 18 Area Boards include Councillors, community area managers, democratic service officers, together with one member of the Council's Cabinet. It also includes the local NHS, fire and emergency services, Police, town and parish councils, community area partnerships and many other groups.

By working in partnership with local communities, the Council believes it can achieve much more than it ever could on its own. They hope this will lead to better services, better communities and a better quality of life for everyone in Wiltshire.

CASE STUDY: Community Boards – New York

There are 59 Community Boards in New York City. The Boards are made up of members appointed from the neighbourhoods in the community, with an ex officio role for the New York City Councillors for the area.

The Boards have a strong advocacy role. The Community Board's district manager will deal directly with the service delivery organisations in the area to resolve problems and improve services. The organisation of front-line services is aligned with the Community Board areas. Each Board has a local community plan and each year prepares a 'Statement of Community District Needs' which it presents to the New York City Mayor and City Council. The Mayor must show how he has responded to the Community Boards' statements of needs in his annual budget.

All Community Board meetings are open to the public who may address the Board on any community matters.

CASE STUDY: Counties and Municipal Districts – Ireland

In Ireland, the reforms introduced by the Local Government Act 2014 abolished Town Councils, the lower tier of government. The reforms are designed to enhance democratic governance, subsidiarity and accountability, removing the anomaly of residents in many towns having double votes and two sets of Councillors (Town and County), with some small centres having a Town Council while certain other larger centres had not.

The 31 Counties are now divided into 95 Municipal Districts. The Councillors elected to the Municipal Districts collectively form the County Council. The County Council provides a single county wide executive and operational structure and exercises strategic functions. The Municipal Districts have community functions delegated to them. They are decision-making bodies but they are not corporate structures.

4.5 Member-led Community Governance

The Welsh Government considers that an inclusive and participative neighbourhood or area approach, led by Elected Members, is a model of community governance which can and should be adopted by all Local Authorities in Wales. This will ensure, with fewer, larger Local Authorities, that communities play a greater role than at present.

The case studies above are a mix of statutory and voluntary arrangements. Neither is necessarily more effective. However, the Welsh Government does not consider the Area Committees which exist in some Welsh Local Authorities are fit for purpose. Just as we are asking the Executive in Local Authorities to share more power with ordinary Elected Members, so Elected Members must share power with their communities. This is because we do not believe that representative democracy and participative democracy are mutually exclusive. Area Committees which do not give an equal place at the table to community bodies, the third sector or other public services, and which engage directly with and are directly accessible to the public, including children and young people, are not sustainable.

Our research suggested a number of ways forward, from entirely voluntary arrangements to an imposed national system.⁶² Our preferred option is a national framework which requires Local Authorities to put in place a community governance system meeting certain guidelines, but passing responsibility to Local Authorities for how this is designed in their area. In particular, this would include how the ‘operational’ Area Boards, whose focus is on making an immediate and tangible difference in communities, will work with the ‘strategic’ Public Services Boards proposed under the Well-being of Future Generations (Wales) Bill, whose focus is generally on the longer term. We are therefore intending to introduce legislation to ensure Local Authorities establish ‘Area Boards’ which reflect modern, inclusive, participatory principles, with a guaranteed role for community bodies, the third sector, Community Councils and other public services.

We recognise the potential for increasing complexity if Area Boards are imposed on top of existing structures, but we do not believe this is a significant risk. In areas which are already implementing neighbourhood or area approaches, this is encouragement to go further, faster. In areas where there are currently Area Committees, these should be replaced with a more inclusive approach. In Local Authorities where no such approach is currently in hand, this is a clear signal that the Welsh Government considers Member-led community governance to be an essential part of local democracy.

The real issue is the extent to which Area Boards might have responsibilities and budgets delegated to them and whether they are able to influence services in their area by entering into a dialogue directly with the Local Authority officers who have day to day responsibility for delivering those services. Leaders and Executives in Local Authorities must recognise the value of supporting Member-led community development and be bold and ambitious in empowering Area Boards to achieve this.

In addition to managing local responsibilities and budgets, there is an opportunity for Area Boards to take on the current and future responsibilities for area based initiatives, including those funded by UK and Welsh Government programmes. Work that has been undertaken on

⁶² Community Democratic Governance: Evidence Synthesis and Advice, Tony Bovaird, INLOGOV, University of Birmingham, Welsh Government Social Research, 2014. <http://wales.gov.uk/statistics-and-research/democracy-community-governance/?lang=en>

Total Place and community budgeting has a direct relevance here.⁶³ The Welsh Government considers there are significant further opportunities for rationalising partnership working at the local level and bringing it under the control of Elected Members. This is an agenda which should be taken forward vigorously by Local Authorities.

4.6 Definition of Areas

The Well-being of Future Generations (Wales) Bill makes provision for the Welsh Ministers to determine the 'communities' in each Local Authority area or, where they have not done so, for Local Authorities to do so themselves. In the Bill, 'communities' has a general meaning of places within the Local Authority, which together cover the whole of the Local Authority area. It does not mean communities, as defined in the Local Government Act 1972, which are the small geographic units that form the basis for Community Councils.

In the Bill, the reason for defining communities is to ensure the assessment of local well-being is conducted in a way which enables the Public Services Board to identify the different needs of different parts of the Local Authority area. We believe the communities which will be identified under the Bill, when it is enacted, should form the basis for Local Authorities' Member-led Area Boards in the future. However, our view is that no Local Authority can engage effectively with large numbers of community governance structures, such as the 111 Community Councils in Powys. Local Authorities should take a pragmatic view, drawing on best practice elsewhere.

4.7 Community Councils

The report of the Commission for Public Service Governance and Delivery (3.120-3.130) expressed major concerns around the number, scale, representativeness and accountability of Community Councils, concluding the sector was in need of reform and Community Council areas should be merged or enlarged. The Welsh Government agrees.

Community Councils: Headline Facts⁶⁴

735 Community Councils cover approximately 96% of Wales' land surface, including 70% of its population. There are few Community Councils in Cardiff, Merthyr Tydfil, Newport, Neath Port Talbot, Rhondda Cynon Taf and Swansea.

Community Councils spend over £40 million a year, of which £30 million is raised through a precept on the Local Authority Council Tax. On average, Community Council precepts rose by 88% between 2002-03 and 2012-13. The highest precept is £959,930.

At the last election, only one in five Community Councillors was elected through public poll. 67% of seats were uncontested and there were no candidates in a further 12% of seats.

On average, 45% of County Councillors are also Community Councillors. This ranges from none in Merthyr Tydfil to 87% in Wrexham and 99% in Flintshire.

⁶³ Total Place and, more recently, community budgeting are two similar approaches which aim to take a 'whole area' approach to public services, leading to better services at less cost. They seek to identify and avoid overlap and duplication between organisations, delivering a step change in both service improvement and efficiency at the local level, See, for example, <http://www.communitybudgets.org.uk/>

⁶⁴ Developing a Comprehensive Understanding of Community and Town Councils in Wales: Evidence review for the Welsh Government, Woods, Aberystwyth University, 2013 <http://wales.gov.uk/statistics-and-research/developing-comprehensive-understanding-community-town-councils-wales/?lang=en>

There are 8,069 Community Councillors. 68% are men; 80% are aged over 50, 60% over 60. 99.5% are white.

72% of Community Councils serve populations of less than 2,500, but they range from 179 (Ganllwyd) to 45,145 (Barry).

There is just one Community Council in Merthyr Tydfil, 77 in Pembrokeshire, and 111 in Powys.

One of the great strengths of Community Councils is that they are closer to local people than any other tier of government. Yet, in practice, the quality and openness of interaction with the public by Community Councils can vary significantly.⁶⁵

As Community Councils are not required to submit reports or be subject to performance or improvement regimes, there has historically been a dearth of information about their activities and added value. A report by the Wales Audit Office in 2013 on Community Council accounts found systemic weaknesses, and in 2014 they reported there had been little improvement.⁶⁶ The Welsh Government commissioned research into their role, functions and potential in 2002,⁶⁷ a survey of Community Councils in 2010⁶⁸ and further research in 2012.⁶⁹ The reports identified a range of good practice and potential for further development but they also acknowledged some key issues:

- the limited extent to which Local Authorities have delegated functions to Community Councils;
- a range of capacity issues associated with smaller Community Councils;
- the quality of their relationship with Local Authorities;
- the legitimacy of their democratic mandate;
- the financial management structures of smaller Community Councils;
- the demographic profile of Community Councillors; and
- their connection with local communities.

In 2014, the Welsh Government commissioned a survey of the public's perceptions of Community Councils.⁷⁰ The report highlights that there is generally a high level of awareness of Community Councils, they are valued by communities and effective engagement increases satisfaction. However, there is a lack of awareness of what they do and some confusion with

65 *ibid* section 23

66 Improving Financial Management and Governance: issues from the Audit of Community Council Accounts 2011-12, WAO, 2013 <http://www.wao.gov.uk/publication/improving-financial-management-and-governance-issues-audit-community-council-accounts>; Financial Management and Governance in Local Councils 2012-13, WAO, 2014. <http://www.wao.gov.uk/publication/financial-management-and-governance-local-councils-2012-13>

67 Research Study into the Role, Functions and Future Potential of Community Councils in Wales, University of Wales Aberystwyth for Welsh Government, 2003 http://www.aber.ac.uk/communitygovernance/39204_ENGLISH.pdf

68 Community and Town Councils Survey 2010: Findings report, Welsh Government, 2011 <http://wales.gov.uk/topics/localgovernment/research/commtcsurv1011/?lang=en>

69 Developing a Comprehensive Understanding of Community and Town Councils in Wales: Evidence review for the Welsh Government, Aberystwyth University for Welsh Government, 2013 <http://wales.gov.uk/statistics-and-research/developing-comprehensive-understanding-community-town-councils-wales/?lang=en>

70 Community and Town Councils in Wales, IFF Research for Welsh Government, 2014 <http://wales.gov.uk/statistics-and-research/developing-comprehensive-understanding-community-town-councils-wales/?lang=en>

Local Authorities' functions. There is considerable confusion over the amount of precept raised by Community Councils.

4.8 Local Authority Review of Community Councils

The Welsh Government recognises the good work that Community Councils can do (see 5.2 below, for example). However, we also believe there is a clear case for reform. Community Councils must be more ambitious, partnership orientated, open and transparent if they are to play an active role in meeting the needs of communities and providing vital public services during a period of continuing financial austerity. They can no longer continue to do the same things in the same way, raising the same precept and be merely 'the icing on the cake'. In particular, we wish to see Community Councils being more actively involved in participating in services which meet the needs of vulnerable groups in communities, such as children and families, young people, and the frail elderly.

The Well-being of Future Generations (Wales) Bill will require Community Councils with a turnover of £200,000 or more to show how they are contributing to achieving the well-being objectives in their area, as set by the Public Services Board. This is an important reform, because it establishes the work of Community Councils as part of the wider public service and requires them, locally, to contribute to shared public service objectives. This is a proper and effective use of public money.

However, only a small number of Community Councils, fewer than ten percent, will be affected by the Bill's provisions. We believe all Community Councils are part of the public service and should be contributing to the well-being objectives in their Local Authority area, working with the Elected Member-led Area Boards proposed above. This is why we concur with the findings of the Commission on Public Service Governance and Delivery that there should be fewer, larger Community Councils.

Many Community Councils have also argued the Principal Local Authorities should delegate more responsibilities to them. We agree, but in order for this to happen they must have appropriate capacity and capability. Implementing structural reform, as proposed by the Commission, either through merging or enlarging Community Council areas, will help achieve this.

The Welsh Government is responsible for leading reform of Local Authorities in Wales. On the principle of subsidiarity, we believe reform of the Community Council sector should be led by the Local Authorities, as happened previously under the Local Government Acts of 1929 and 1958. They are best placed to do this through their community leadership responsibilities, and as part of establishing coherent Member-led community governance in their areas. Local Authorities currently have powers to conduct community reviews, and the Local Democracy and Boundary Commission for Wales has a role in reviewing all Local Government areas in Wales and the electoral arrangements for Community Council areas.

We propose to give more extensive powers to Local Authorities to review the structure, role, and governance of Community Councils within their areas, with a view to achieving fewer, larger Community Councils, and for this to be completed by 2022. We welcome views on how this could be achieved effectively.

4.9 Community Council Governance and Standards

In addition to the structural reform of Community Councils, detailed above, there is a strong case for bringing more consistency to the sector, with higher standards of governance and financial management, professional capacity and capability, and greater democratic accountability. This would enable Local Authorities to work effectively with the sector, and provide communities with more confidence in their Community Councils. The Welsh Government is proposing a number of ‘competency’ tests, with Community Councils who meet these tests being deemed ‘competent’. These tests might include:

- a democracy test: at least two-thirds of the Councillors on a Community Council have been declared elected at either an ordinary election or a by-election;
- a capability test: the Community Council must employ a clerk with relevant professional qualifications. Relevant qualifications might include Certificate in Local Council Administration; Certificate of Higher Education in Local Policy; Certificate of Higher Education in Local Council Administration; the first level of the foundation degree in Community Engagement and Governance awarded by the University of Gloucestershire; or qualifying professional status such as a lawyer or accountant;
- a capacity test: the Council has a minimum annual budget of £200,000; and
- a governance test: the Council has implemented a sound system of financial management and internal control in line with statutory requirements,⁷¹ and meets certain other criteria such as having a website on which it publishes agendas, minutes and accounts and being contactable by email.⁷²

We propose that competent Community Councils should acquire a number of privileges over other Community Councils:

- we will extend the general power of competence to competent Community Councils, while prescribing that Community Council funding can not be used for political purposes. A competent Community Council would not be subject to the section 137 limits of the Local Government Act 1972;
- they will be deemed to be community bodies, with certain rights or entitlements, as set out in the next Chapter; and
- they will not necessarily be subject to capping of the precept. We propose other Community Councils should be subject to a cap on the annual increase in the precept which could be the same as the percentage increase in the Principal Local Authority’s Council Tax in the same financial year.

More generally, given their greater capacity and capability and on the principle of subsidiarity, we would expect to see more extensive delegation of functions from Principal Local Authorities to competent Community Councils.

Community Councils which can demonstrate they meet these competency tests will need to pass a resolution to that effect and notify a committee of the Local Authority in their area. The Local Authority would be required to nominate one of its committees for this purpose.

⁷¹ The Accounts and Audit (Wales) Regulations 2005

⁷² Local Government (Democracy) (Wales) Act 2013

The committee nominated by the Local Authority should have powers to require a Community Council at any time to demonstrate its continuing competence and if it is not satisfied, revoke the Community Council's competency qualification.

At present, fewer than ten percent of Community Councils pass the proposed capacity test (annual budget of £200,000). We wish to see this number rise significantly. We will expect the review of Community Councils by Local Authorities to significantly reduce the overall number of Community Councils and increase the number of potential competent Community Councils.

We will also consider what other governance and transparency arrangements should apply to Community Councils, as they do to Elected Members of Local Authorities, in order to improve their accountability. This might mean, for example, a requirement on the Chair of the Community Council to publish an annual report, which could also incorporate the reporting requirement which is proposed in the Well-being of Future Generations (Wales) Bill, to set objectives for, or otherwise manage the performance of, the clerk to the Community Council, and for the public to have a right to attend, speak at and record meetings of their Community Council, including film and video recording. We will also clarify the legislative framework governing community polls.

4.10 Community Councillors serving on more than one Community Council

In 3.12 above we seek views on whether a Community Councillor should continue to be able to serve as an Elected Member of a Principal Local Authority at the same time. At present, some Community Councillors also serve on more than one Community Council. We are seeking views on whether a person should be able to serve on more than one Community Council at the same time.

4.11 We would like your views

The Consultation Survey asks questions on the following themes:

- Member-led Area Boards
- The reform of Community Councils

5. Power to Local Communities

In order to realise our ambition of Local Authorities which actively share power and responsibility with the communities they serve, we set out in this Chapter the role we see for mutualism, co-operation and shared ownership in the transformation of public services. We set out the way in which communities can engage with Local Authorities in joint endeavour and how people can protect land and property of community value for the future.

We intend to achieve this by giving community bodies a number of rights which they can exercise in relation to services and assets.

5.1 Introduction

Effective community involvement requires us to establish a framework which allows for greater sharing of power and responsibility between Local Authorities and the communities they serve. This will enable communities to go beyond having their voice heard to actively taking responsibility for the changes and improvements they wish to see in their community.

Our vision for Local Authorities in Wales is that they become activist Councils, taking action to support and improve the well-being and resilience of their communities.

We believe that control over public services in a place should be democratically led, and we will retain the public sector as the primary deliverer of our priorities in Wales. Improving performance and cost reduction can be assisted by contestability through comparison, challenge and collaboration.

The Welsh Co-operative and Mutuals Commission argued in February 2014 that a historic opportunity has opened up for an alternative approach to economic development, public policy and service provision, based on mutualism, co-operation and shared ownership, creating the opportunity for better government and a fairer society.

The Commission concluded that new ways of delivering public services must be found, with co-operatives and mutuals playing a vital role in this process, encouraging innovation, developing new sources of income and meeting people's needs. The Commission believes strongly that public service providers should seek advice on co-operative and mutual business models from specialist business advisors, and engage early and in a meaningful way with its workforce when they are considering changes. However, it found that there are at present few sources of specialist expertise.

We will work with Local Authorities and the third sector to create meaningful contestability, so that Local Authorities procure services from the best value provider, subject to exacting social principles. We will help Councils work with other Councils, Community Councils, co-operatives and mutuals, and their local community to develop new models of service delivery. We welcome insourcing where this provides better value and better services for our communities.

5.2 New Models for Future Delivery

There is a long tradition of ethical entrepreneurship in Wales. The Welshman Robert Owen was one of the founding fathers of the co-operative movement in the nineteenth century. His legacy in Wales today includes hundreds of small community trusts, co-operative firms, mutuals and social enterprises. But there are also some big players – the housing associations who build, manage and maintain much of our social housing; Glas Cymru, owner of Dŵr Cymru Welsh Water; agricultural and dairy co-operatives; firms at the cutting edge of innovation such as Dulas and Aber Instruments; as well as credit unions and building societies such as the Principality. The Welsh Co-operative and Mutuals Commission recently identified a range of new opportunities for ethical enterprise in major sectors such as energy, social care, leisure and transport.⁷³

Some Local Authorities have shown growing enterprise in stimulating opportunities for social and community enterprise, although their actions are often motivated by financial necessity rather than innovation and opportunity. Therefore, we believe communities must be empowered to initiate action themselves. We will give community bodies a range of rights which will enable them to become involved in local services and take responsibility for community assets.

Local Authorities will need to provide the leadership and expertise to make things happen, and Elected Members will have a crucial role as agents of change in the community.

In July 2013, for example, Torfaen County Borough Council transferred three major sports and leisure facilities – Pontypool Ski Slope, Cwmbran Stadium and Fairwater Leisure Centre – to a community trust. Torfaen Leisure Trust is run by a board of trustees made up of local volunteers with a huge range of business and public sector experience, as well as Elected Members.

The Trust is now able to access the finance to make major improvements. Just across the Afon Llwyd river from Cwmbran, Croesyceiliog and Llanyrafon Community Council have created a community trust jointly with the Woodland Road Sports Association to run the Woodland Road centre. The centre has over 35,000 visits every year and the community trust will enable them to bid for funding to improve the facilities. During 2014, Neath Port Talbot County Borough Council transferred a number of library facilities to different community groups, including to community trusts and Community Councils. In Powys, a dance company which has been run by the Local Authority for the past 35 years is at present being handed over to a charitable incorporated organisation with a board of trustees.

The Welsh Government believes there is significant untapped potential in the power of community enterprise. The Social Services and Well-being (Wales) Act 2014 will require Local Authorities to promote the development of co-operatives and mutuals in the field of social care. In the coming months, we intend to work with and through the Wales Co-operative Centre to develop best practice guidance for Local Authorities and facilitate the engagement of social enterprises, co-operatives and community groups in future service provision. We also provide support for the Wales Council for Voluntary Action, who are leading the way on innovative funding models, such as the Wales Well-being Bond. We now need to empower communities to innovate.

Managing this complex environment will require a different approach to local governance and leadership of the highest calibre. This is not a license or an encouragement for Local Authorities

⁷³ Report of the Welsh Co-operative and Mutuals Commission, Welsh Government, 2014 <http://wales.gov.uk/topics/businessandconomy/business-wales/welsh-coop-mutuals-commission/?lang=en>

to wash their hands of some services or not to care about some aspects of well-being in their area. Quite the opposite. In addition, in transferring assets or services to community bodies or social enterprises, it is essential Local Authorities ensure the rights of children and young people and Welsh language speakers are protected.

5.3 Community Participation

The Welsh Government considers that a community's ability effectively to influence how local services are delivered is dependent on their being able to engage in discussions with a Local Authority about the services that matter to them.

Where a community body (see 5.6 below) believes it could help improve a service, it will be able to make a request to the Authority setting out how it considers it could help improve that service. The Local Authority would be required to respond promptly and engage actively with the community body to take the work forward, unless there were valid reasons for not doing so. There would need to be safeguards to prevent abuse and vexatious requests.

We envisage community bodies using such a power to open a dialogue with their Local Authority as to how a service could better meet the needs of the community or specific users. This might mean, for instance, agreeing improvements in the way services are designed, how they are delivered, such as where, when and by whom, or enhancing the service with additional community effort where appropriate, such as volunteers working alongside Council staff or joining up statutory and voluntary services. This will provide a formal route for communities to work with Local Authorities, combining the experience and insight of service users and communities alongside professional expertise.⁷⁴

A community body could, subject to their having the necessary capacity and capability, propose that they take on the delivery of the service themselves. If the Local Authority agreed, in most circumstances this would then trigger an appropriate procurement process.

This proposal will require Local Authorities to develop new skills to facilitate joint working around the needs of services users. They will need to focus not only on the resources available to them within the Council but also on harnessing the capabilities of communities and the third sector. This will need a significant cultural change within Local Government and leadership which actively seeks opportunities to share power with communities.

5.4 Property Transfer to the Community

Local Authorities own a large variety of property or assets, both land and buildings, which contribute to community well-being. In the broadest sense, these assets already belong to the community but in certain circumstances, Local Authorities may wish to transfer the running or ownership of property to a community body. Asset transfer is not a new concept. The Local Government Act 1972 (General Disposal Consent (Wales) 2003) provides that Local Authorities may dispose of land, including for less than market value, where the disposal is in the interests of the economic, social or environmental well-being of its area.

The ownership or management of property by a community can deliver positive benefits by increasing community confidence, allowing the community to drive its own regeneration

⁷⁴ The theoretical underpinning for this approach is set out in a briefing note commissioned by the Welsh Government, Bringing the power of the citizen into local public services, Bovaird and Loeffler, 2014 <http://wales.gov.uk/statistics-and-research/democracy-community-governance/?lang=en>

objectives, tailor services to their needs and increase local jobs and skills. The Welsh Government has an excellent record of supporting communities to own and manage property and land. The Community Asset Transfer Programme was a £13 million joint venture between the Welsh Government and the Big Lottery Fund, while the current Community Facilities Programme offers capital grants of up to £500,000 to community and voluntary bodies, including social enterprises. As the proposed merger of Local Authorities proceeds, the Welsh Government expects the new Local Authorities will have assets which they will wish to release. These provisions are intended to facilitate more widespread transfer of assets to the community.

At present, asset transfer must be initiated by the Local Authority. We are proposing that eligible community bodies should be able to start the process of asset transfer through a request to their Local Authority. This right could also be used by a community body where a Local Authority is proposing to close a facility and has not first offered the community sufficient opportunity to take it over. This will guarantee community bodies a certain amount of time in which to develop their plans.

A community body would need to demonstrate the viability of its proposed use of the property and evidence that it has the capacity to appropriately manage and develop the property. Community bodies will need to demonstrate community support for their proposals and a commitment to accountability, open access and maximising the use of an asset by and for the community. There will be a need to ensure community assets are retained in community ownership, with appropriate safeguards to prevent sale into the private sector.

Following feedback received from a number of stakeholders and departmental representatives within Welsh Government regarding the challenges of budgetary pressures, inconsistencies in approach in terms of asset transfers, expectation of increased numbers of community asset transfers, expectations of community groups, together with capacity and capability concerns, a best practice toolkit is being developed, in conjunction with partners from across the wider public and third sector. The toolkit will help community bodies to demonstrate the viability for the proposed use of the property, and develop capacity and capability in managing the asset following transfer.

Community asset transfers are not intended as a route to surplus asset disposal but should be seen as an opportunity to help a neighbourhood develop a thriving and resilient community and sustain long-term use of property, assets and services. The toolkit will be an important instrument to help realise this ambition. It is expected that the document will be published in March 2015. Details of surplus public sector assets will also be made available through the *SpaceCymru* portal on the *AssetsCymru* website.

5.5 Community Ownership

It is not only land or buildings owned by the Local Authority that can contribute to the well-being of a community. Communities may wish to have a greater say over the future use of property in private ownership, such as a village pub or shop, or property owned by another public body. These facilities can often have a significant influence on community cohesion, local employment opportunities or the protection of Welsh language communities. This would mean communities having the right to 'first refusal' when these properties came up for sale, and a period during which the community body could raise the necessary funds to buy the property at an agreed market value. It would also give communities an accelerated procedure for bringing abandoned or neglected property back into productive use.

Rural communities in Scotland have had the ‘right to buy’ land and property for the last ten years through the Land Reform (Scotland) Act 2003. The Community Empowerment (Scotland) Bill, which is currently passing through the Scottish Parliament, includes provisions to extend this right to urban communities. According to data in the Scottish Register of Community Interests in Land (December 2014),⁷⁵ 175 applications had been received since the 2003 Act came into force, with another 34 registrations ongoing. Of these, the right to buy has been activated in 17 cases, that is, those which are in the process of purchasing and those that have purchased.

Whilst purchases under the right to buy are generally made at market value there have been instances where a nominal amount is paid. The Machrihanish Airbase Community Company bought the 1,025 acre former Machrihanish Airbase estate from the Ministry of Defence for £1 in May 2012. In addition to purchasing land, examples of purchases include a sporting estate (Assynt Foundation), forestry (Bute Community Land Company & Crossgates Community Woodland), Army/Air force bases (Comrie Development Trust & Machrihanish Airbase Community Company), a lighthouse (Covesea Lighthouse Community Company) and a church (Catrine Community Trust).

Sunart Community Company is purchasing a raw water intake and associated infrastructure on the edge of their community from Scottish Water. The infrastructure is no longer used as a water supply. The community proposes to adapt this to provide a micro-hydro generation facility, which once operational will be maintained on a regular basis.

We intend that communities in Wales should have similar rights giving them an opportunity to safeguard assets of community value. We wish to do this in a way which keeps bureaucracy to a minimum, which helps answer questions about access to funds as well as opportunities to buy, and which includes protections for private property owners. We will be consulting further on the detail of these proposals following discussions with representative organisations.

As part of the work being taken forward by the National Asset Working Group to develop community asset transfer guidance, we are exploring with Cabinet Office whether e-PIMS Lite, the Wales public sector land and property database, could be used as the register to record assets of community value in Wales.

5.6 Community Bodies

With rights come responsibilities. It is essential that the proposed community rights set out above are delivered in a manner which minimises risk or negative impact on the Local Authority, the wider public sector, other communities or local people. This is of particular relevance in respect of community ownership where the delivery of benefits to one community could have a detrimental effect on other communities. The public would require assurance that these rights could not be abused by special interest groups that did not genuinely represent the community’s interests.

Broadly speaking, we will define community bodies as voluntary sector organisations, co-operatives, mutuals, social enterprises and Community Councils. In the case of Community Councils, we are proposing that only competent Community Councils, in the meaning set out in the previous Chapter, would be eligible to exercise these rights.

⁷⁵ <http://rcil.ros.gov.uk/RCIL/default.asp?category=rcil&service=home>

Any community body wishing to take on a more active role in delivering services would be required to meet certain standards with regards their organisation and membership, including having well-defined aims and purposes which relate to improving the economic, social or environmental well-being of the community. There would need to be appropriate standards of governance, financial management and transparency which would be defined in legislation. In order to ensure the body adequately represented the entire community, membership would have to be open, although the majority of members would need to be members of the community the body was representing, with these members having control of the body.

Any community group seeking to initiate asset transfer or purchase property of community value would be required to meet appropriate governance and financial standards, such as being registered as a company limited by guarantee with appropriate financial management arrangements. It is also envisaged that the body would be required to be of a certain size.

We expect that Elected Members of Local Authorities will have a role to play in facilitating the use of these entitlements through their role on Area Boards (see 4.5 above). For example, this could mean helping community bodies identify opportunities to exercise their rights, encouraging joint working between community bodies with common aims, and signposting community groups to support and advice.

5.7 We would like your views

The Consultation Survey asks questions on the following themes:

- Community participation
- Property transfer and community ownership

6. Corporate Governance and Improvement

We believe visionary and focused leadership is the most important factor for ensuring Local Authorities are able to provide sustainable outcomes for local areas. This leadership must be supported by a capable, adaptive and strategic corporate management team. In this Chapter we discuss how Local Authorities might be best supported to improve their leadership capacity and capability.

We propose the following changes:

- strengthening the role of Local Authority Audit Committees;
- repealing Part 1 of the Local Government (Wales) Measure 2009;
- introducing a system of annual self-assessment, complemented by biennial peer-review, to support Local Authorities to improve their corporate capability and capacity; and
- giving Welsh Ministers powers to commission independent reviews of Local Authority corporate capability and capacity, and dependent of the findings, to take action to support change and improvement.

We also ask for views on whether there are any elements of the Local Government (Wales) Measure 2009 that should be restated within the new arrangements, and whether they can be built on or strengthened.

6.1 Introduction

The public and the people who work for Local Authorities expect them to be well run. In the context of the immense pressures facing public services, their leaders must be capable of steering their organisations through some of the most profound changes since Local Government was established. This will require visionary leadership and sound corporate governance which is capable of innovating and taking managed risks to achieve the transformation necessary. Openness, transparency and challenge are at the heart of managing this change.

In recent cases where the Welsh Government has formally intervened in Local Authorities experiencing service failure, the diagnosis has always pointed to corporate failings and governance weaknesses. Often this has been due to leadership and management being unprepared for the pressures they are experiencing, sometimes compounded by an unhealthy culture which holds power for its own purposes, rather than to deliver services for the public. As we set out in 3.1 above, it has also resulted from a blurring of the roles of the political Executive and the senior management team. This must change.

There is no common, consistent and shared understanding of how administrative costs relate to service delivery across Local Government in Wales. Given the significant financial challenges we face, compiling and using good quality information on how we spend our money is essential, particularly in relation to workforce planning, developing better delivery and creating effective shared services. The Welsh Government has commissioned an independent review of

administrative costs across all Local Authorities in Wales. This review will identify and compile consistent data that will enable us to compare and contrast patterns of spending between Authorities, identify best organisational practices, and make recommendations to help focus their resources to front-line services. We anticipate publishing this research in the summer of 2015.

Removing cost from unnecessary bureaucracy and redirecting it to the frontline is essential. However, the Commission on Public Service Governance and Delivery found that in releasing efficiency savings, Authorities' corporate capacity has often been the casualty of cuts and this may have restricted some Authorities' ability to improve. It is essential Local Authorities retain resilient governance capability and strategic capacity. Local Authorities are large, complex organisations, spending hundreds of millions of pounds of public money. A capable, adaptive and strategic corporate apparatus is a prerequisite for managing change and improving services.

6.2 Corporate Governance

Corporate governance is about how well an organisation is running its business. As set out in 2.6 above, the Well-being of Future Generations (Wales) Bill establishes five ways of working, which provide the context within which all public bodies should operate their approach to corporate governance.

As a minimum, effective corporate governance must focus on:

- how the organisation identifies and manages the risks it faces;
- whether there are appropriate internal controls in place, for example, in relation to corporate and workforce planning, performance management, grants management, procurement, major programmes and project management, fraud and corruption, and business continuity;
- whether the Authority is able to demonstrate compliance with equalities, Welsh language and other statutory duties and legislative requirements; and
- whether there are finance systems and procedures in place to manage and monitor budgets, and to promote economy, efficiency and effectiveness in the use of resources.

We set out in 3.13 above our proposal to make it a statutory obligation of the Chief Executive to make arrangements for securing systematic improvement in their Authority through a number of specific duties. The processes outlined above enable the Chief Executive to give assurance to the Executive and the public that the Local Authority is well run and the public's taxes are well spent. In addition, in order to ensure a Local Authority operates within the law, it is the duty of the Monitoring Officer to report to Elected Members if any decision of the Authority is likely to be illegal. Monitoring Officers, therefore, play an important role in reminding Members and officers that they must act within the law and with honesty, integrity and propriety.

Local Authorities are required under the Local Government (Wales) Measure 2011 to establish an Audit Committee. Effective challenge by the Audit Committee is a key part of the corporate governance assurance process. Strengthening the role of internal audit procedures and of the Audit Committee will be essential if Local Authorities are to be less reliant on external assurance. External audit will continue to play a crucial role in determining whether internal controls are adequate.

On the basis of these corporate governance processes, the senior management is able to determine what the priority matters for improvement are. If corporate governance does not operate effectively, the risk of financial deficit and service failure rises, fraud and corruption become more probable, and the public is more likely to come to harm.

6.3 The Local Government (Wales) Measure 2009

Welsh Government has been working to develop support for improvement in Local Government for over a decade. Most recently, the Local Government (Wales) Measure 2009 placed a duty on Local Authorities to make arrangements to secure continuous improvement by setting improvement objectives and publishing their plans for achieving this improvement for each financial year.

The 2009 Measure aimed to establish a broad definition of improvement that includes action Authorities would undertake to improve strategic effectiveness (i.e. delivering the Authority's community strategy), service quality, service availability, fairness (i.e. equality and social inclusion), sustainability, and efficiency and innovation. The Local Government (Wales) Measure 2009 gives Authorities broad powers which allow them to collaborate with others in order to achieve these objectives. The intention was to bring greater focus to delivery and align performance more closely with community strategies. The requirement to publish information is intended to enable the public and other stakeholders, including Welsh Government, to have better access to improvement data. The Wales Audit Office, in conjunction with other external review bodies, publishes an annual assessment of whether an Authority has achieved its planned improvements and whether it has the capacity to improve further.

The Local Government (Wales) Measure 2009 gives the Welsh Ministers powers to offer support to failing Local Authorities and to intervene where necessary. It also places responsibility on the Auditor General for Wales to coordinate more effectively the work of auditors and inspectorates with Authorities.

To assist Local Authorities in achieving the improvement objectives they have identified, the Welsh Government has concluded an Outcome Agreement with each Authority. Outcome Agreements are linked to a grant, which will be paid in full or in part to an Authority, according to the extent to which the Authority has achieved the outcomes in its Agreement.

Evaluation of the impact of Outcome Agreements – and by extension Part 1 of the Local Government (Wales) Measure 2009 – found that they have generally been effective in achieving better corporate focus on improvement and outcomes, although it was difficult to assess whether they had led to performance improvements.⁷⁶ The *Learning to Improve*⁷⁷ report found improvement plans have fallen short in supporting the public to hold their Councils to account, and are not sufficiently used by local Scrutiny Committees. *Learning to Improve* also raises questions about the consistency, objectivity and usefulness of the Welsh Audit Office's annual improvement assessments in supporting Local Authorities to improve. The annual assessments focus on making improvement 'auditable' has led to too much reliance on external assessment rather than local accountability. This does not always provide either the Local Authorities, Welsh Ministers or the public with the assurance they are seeking. As *Learning to Improve* states

⁷⁶ Do Outcome Based Approaches to Service Delivery Work? Local Authority Outcome Agreements in Wales, Dr Jennifer Law, University of South Wales, 2013, <http://caspp.southwales.ac.uk/publications/>

⁷⁷ Learning to Improve, Welsh Government, 2013, <http://wales.gov.uk/statistics-and-research/7945310/?lang=en>

(Part 2, p.80), *"there have been a number of examples of councils – in Wales and other parts of the UK – whose management processes have been judged to be satisfactory by inspectors and auditors but where serious problems with performance have subsequently come to light"*.

The Welsh Government believes a more risk-based approach to improvement and innovation would permit Local Authorities to respond more quickly and effectively to the challenges they face and return accountability for improvement to the local leadership. We therefore intend to repeal the provisions in Part 1 of the Local Government (Wales) Measure 2009, put specific improvement duties on the Chief Executive and strengthen Local Authorities' internal accountability processes. We are seeking views on whether any aspects of Part 1 of the Local Government (Wales) Measure 2009 should be restated in new legislation.

National Parks Authorities and Fire and Rescue Authorities currently fall within the scope of the 2009 Measure. It is not our intention for the reforms set out in this White Paper to apply to these Authorities. We will consult separately on proposals for reform of these Authorities.

6.4 Managing Improvement

Repeal of Part 1 of the Local Government (Wales) Measure 2009 would require the strengthening of Local Authorities' corporate governance arrangements, including the role of the Audit Committee. We therefore propose to amend the Local Government (Wales) Measure 2011 to clarify the responsibilities and remit of Audit Committees, rename them Corporate Governance and Audit Committees, and expand their independent membership, including requiring that they be chaired by a suitably appointed independent person. The Audit Committee will be a powerful force to assist Chief Executives of Local Authorities to discharge their new statutory improvement functions, set out in 3.13 and below, in order to provide the Executive with assurance that the Authority is well run and has the systems and procedures in place to secure continuing improvement.

We are proposing that in order to discharge their improvement functions, the Chief Executive should be required to undertake an annual self-assessment of the Authority's corporate governance and service performance, and to provide a report to the Leader on matters of concern. The report should include how the Chief Executive has taken action in response to reports of the Audit Committee, self-assessment and peer review, and is to be published. We are also proposing the Chief Executive should in addition make arrangements every two years for a peer review to be undertaken, in order to provide external challenge to the self-assessment process.

These proposals would implement our policy objective of ensuring Local Authorities are accountable to Elected Members and the public for their performance and improvement, based on sound corporate governance and independent challenge. The proposals also clarify the distinction in roles between the Executive and the senior management of the Authority.

We suggest the new approach might be framed around the following principles:

- Rapid and responsive: providing timely and relevant evidence to management and members.
- Risk based: focused on where there are problems or weaknesses.
- Trusted and respected: commanding the confidence of those who are subject to the arrangements and those who use the data.

- Open and transparent: outcomes from the work must be frank, honest, clear and in plain language.
- Consistent and mutually reinforcing: avoiding duplication and nugatory work.

As discussed in Chapter 2, we would expect the values set out in each Local Authority's constitution to reflect its approach to transparent corporate governance and how it engages with Elected Members and the public on these issues.

We believe such a system can be developed and that all partners will be committed to working constructively to design it. Whilst the Welsh Government will set out in legislation a requirement for Local Authorities to undertake self-assessment and peer review, we propose the specifics of the new arrangements would be set out in regulations and/or statutory guidance rather than in primary legislation. This will enable us to develop arrangements in partnership with stakeholders to ensure they are fit for purpose and capable of changing over time as conditions change.

6.5 Self-assessment and Peer Review

An approach based on annual self-assessment and biennial peer review will allow Authorities the freedom to determine the best arrangements to secure improvement in the way they conduct their business, suited to their own circumstances. There will continue to be a role for the Wales Audit Office to provide critical independent assessment, for the social services and education Inspectorates to assess service performance and, where absolutely necessary, swift intervention from Welsh Government in the event of failure which has not been addressed by the Authority.

Peer review involves giving suitably qualified and experienced professionals full and open access to an Authority's staff and systems to identify areas for improvement. Peer reviews are already established in Local Health Boards and are embedded in the new three-year budgeting and planning regime.⁷⁸ Many Authorities in England and Wales have already conducted peer reviews and these have proved to be honest and informative. For example, see the reviews of Blaenau Gwent, Powys, Cardiff and Carmarthenshire.⁷⁹ The reviews are typically 'short and sharp' lasting no more than a week. The reviewers are normally Executive Members and senior officers from other Local Authorities (including from outside Wales), retired Members and officers, and professionals with expertise in particular areas, such as the law, ICT, HR and finance. Reviews should also include suitably qualified individuals from the private and third sector. Trust, credibility and transparency are critical elements which make peer review effective.

The Local Government Association has produced a number of guides, case studies and an evaluation⁸⁰ as to the effectiveness of peer review, or 'peer challenge' as it is also known. The findings of this evaluation show that peer review can bring about positive impact in five key areas: greater self-awareness, improved external reputation, behaviour change, organisational change, and service transformation.

⁷⁸ <http://www.hiw.org.uk/the-peer-review-programme>

⁷⁹ <http://www.wlga.gov.uk/previous-peer-reviews/>

⁸⁰ Corporate peer challenge adding value (2013) and Supporting Councils to succeed: Independent evaluation of the LGA's corporate peer challenge programme (2014), Local Government Association <http://www.local.gov.uk/peer-challenge>

A peer review of an Authority is a 'reality check' and an essential part of encouraging organisations to be more ambitious. A formal and regular programme of peer review would also help to develop a wider culture of sharing and learning.

Self-assessment and peer reviews might include the following aspects:

- strategic vision for the Authority;
- corporate planning, including financial management;
- governance arrangements;
- quality and timeliness of management and service information;
- leadership, recruitment, talent development and retention;
- equality and diversity, and Welsh language standards;
- efficiency;
- procurement and the value delivered to local communities through third party expenditure;
- engagement with the public, workforce and partners;
- responding to demographic, financial and demand pressures;
- service innovation; and
- effective working arrangements and collaboration with other Public Services.

We believe this approach will enable rapid and responsive assessment of an Authority's capability as well as being highly flexible to local circumstances. Peer reviews should be open and transparent. We would require the results of these reviews and the Local Authority's response to them to be published as a matter of routine and considered by the Audit Committee, and by the full Council.

6.6 Powers to Intervene

With greater emphasis on local accountability, it is appropriate to consider whether existing arrangements for intervention by the Welsh Ministers remain appropriate. In certain circumstances, the Welsh Government will continue to have a role in intervening as a last resort. The Welsh Ministers have powers to intervene where there are failings within specified service areas, such as social services or education. Given the risk of harm to vulnerable individuals where these services fail, the public will continue to expect the Welsh Government to take action when required. Therefore, we do not propose to change these powers.

We also need to consider the Welsh Ministers' powers to intervene in Local Authorities where they are considered to be failing at a corporate level. The Local Government (Wales) Measure 2009 makes provision for the Welsh Ministers to intervene on the basis of advice received from the Auditor General for Wales. Where this has happened over recent years, there is good evidence from the reports of the Wales Audit Office and the Inspectorates that problems were entrenched and often known about for some time, but local leadership had not taken action or sought support from the Welsh Ministers at an early stage.

We believe the proposals in Chapters 6 and 7 to strengthen corporate governance and performance management will reduce the risk of this happening in future. Nevertheless, where there is evidence that performance is falling short of the mark for a sustained period, the public

would expect the Welsh Ministers to intervene and provide support to the Authority to improve. If the Local Government (Wales) Measure 2009 is repealed, as we intend, we believe there is a need to legislate to ensure the Welsh Ministers continue to have powers to intervene in the event of corporate or service failure.

We propose the Welsh Ministers should have the power to commission an independent review of the corporate governance of a Local Authority. An independent review might be triggered when the Authority's performance is lagging significantly, or for a sustained period, behind its peers in key areas; where there are concerns raised by the Authority itself or its Members; where concerns are raised through whistleblowing; where information and intelligence provided by auditors and inspectorates identifies concerns; or there is significant public concern about an issue.

Depending on the evidence and advice put forward as a result of an independent review, the Welsh Ministers would need to consider whether additional support or formal intervention is necessary. We envisage a differentiated approach, for example, directing the Local Authority to take action, mandating peer led support, or stepping in directly to provide support, for example through the use of commissioners.

In addition, we propose to consider the current Local Government and Support and Intervention Protocol⁸¹ in light of the changes proposed in this White Paper to ensure it remains fit for purpose.

6.7 We would like your views

The Consultation Survey asks questions on the following themes:

- The Local Government (Wales) Measure 2009
- Strengthening the role of Corporate Governance and Audit Committees
- Self-assessment and peer review
- Ministerial intervention

⁸¹ <http://wales.gov.uk/topics/localgovernment/publications/lg-support-intervention-protocol/?lang=en>

7. Performance in Local Government

In this Chapter we discuss the management and improvement of service delivery in Local Authorities. Key to this is effective corporate planning to inform decisions and policy development. We consider the importance of management information and data in service planning, performance management and assessment by Scrutiny Committees, the public, external review bodies and other stakeholders.

We propose the following changes:

- a statutory requirement for all Local Authorities to produce and publish a corporate plan which covers the short, medium and long term. This will be complemented by a requirement for the Local Authority to produce an Annual Report setting out their performance over the preceding year. The corporate plan and Annual Report will incorporate the Authority's well-being objectives, as intended by the Well-being of Future Generations (Wales) Bill;
- the creation of a single online information portal where comparable information will be published regarding the performance of all Local Authorities, as well as other key documents such as the corporate plan, self-assessment, peer review and inspection reports; and
- a statutory requirement for all Local Authorities to have an online (and offline) complaints process. We will require Local Authorities to publish information on complaints, including how complaints have been considered and action taken.

7.1 Introduction

People expect and deserve excellent public services in their Local Authority area. Expectations are changing. The public expects services to be responsive, personalised and increasingly delivered or accessed through digital channels. Previous chapters explain our vision for community-centred Local Authorities which are a distinct, democratically accountable part of the governance of Wales. Authorities are directly accountable for the performance and improvement of the services provided by them to their local communities.

The Welsh Government sets the policy and legal frameworks within which Local Authorities operate. It is the Welsh Government's role to set out national expectations and to articulate the standards which local people can expect Authorities to meet. While ensuring that minimum standards are delivered across Wales, Local Government's role is to ensure services are appropriate to the communities that they live in, and should increasingly be focused on prevention and early intervention. One size does not fit all and Local Authorities have a responsibility to ensure they are considering what is most appropriate for all the different communities that they serve. Providing the right services, however, depends on effective corporate planning based on robust evidence, a performance management framework based on timely management information and procedures for benchmarking performance against the best. It also requires Local Authorities to work in collaboration with public sector partners.

Where Local Authorities can bring forward a sound business case for service transformation which requires additional revenue at the outset in order to generate future savings, the Welsh Government can assist through our Invest-to-Save fund.

The Commission for Public Service Governance and Delivery identified performance management arrangements in public services in Wales, including in Local Government, as an area of concern. The Commission drew attention to the complexity of performance management information, the multiplicity of indicators and fragmentary performance management systems. Without a foundation of effective performance management, it is difficult for an Authority to identify current performance levels, let alone develop a plan to improve or sustain services. Poor information on performance weakens governance, prevents managers from making the right decisions, frustrates improvement and hinders scrutiny. We agree with the Commission's analysis. This Chapter focuses on the arrangements which are needed to ensure Local Authorities are delivering good and improving services.

7.2 Corporate Planning

For Authorities to perform at their best, they must understand the aims, objectives and goals to which they are working and use them to shape their corporate planning. These goals will be determined by local priorities as well as national policy direction set by the Welsh Government.

It is the intention of the Well-being of Future Generations (Wales) Bill that the National Assembly for Wales will, for the first time, set out long-term well-being goals for Wales. There will be national indicators to measure progress towards the achievement of the well-being goals. Local Authorities and other public services would align their objectives to the achievement of the national well-being goals. This would mean a much improved focus on what Local Authorities are seeking to achieve in order to improve the economic, social and environmental well-being of Wales, for current and future generations.

Our proposals for a new performance framework will start with those national goals and indicators. The local well-being plan, required by the Well-being of Future Generations (Wales) Bill, will set out the collective public service plan for an area, developed by the Public Services Board in conjunction with the people and communities who live there. Based on evidence, the well-being plan will identify the outcomes which are the priorities of all public services for achieving the long term well-being in their area. These will include the Local Authority's priorities for action in planning its service provision needs.

The Leader's manifesto (3.3 above) will set out the Local Authority Executive's political priorities and in 3.13 we set out our proposal that Chief Executives of Local Authorities must produce a corporate plan to put these actions into effect. The corporate plan is a tool of management at present and we intend that to continue but the Council should no longer approve the plan. This is meant to clarify the functions of Elected Members of the Council (Executive and non-executive) and the administrative management of the Authority respectively. It will increase the responsibility on the Executive and Scrutiny Committees to hold the Chief Executive to account for delivering the Council's priorities. The Council must approve the budget and its committees and the Executive will be required to scrutinise the senior management team on delivery of their objectives through the corporate plan. Many are already doing this, of course, but we believe it is time to make it a statutory requirement.

Local Authorities are highly complex organisations. Each year, they spend many billions of pounds of public money, delivering hundreds of services to millions of people. We should expect

them to be run with high standards of financial rigour, careful consideration of the current and future needs of their people and communities, and focused on continuing performance improvement. It is important that the range of services is managed coherently so as to make the maximum use of skills, resources and experience.

The corporate plan will set out how the Authority intends to address the Executive's priorities in the short, medium and long term. It will set out what the Local Authority plans to achieve, how they will achieve it and what funding will be required to deliver this. It will bring together the Authority's arrangements for strategic planning, financial planning and workforce planning. This public document will support the Authority in engaging with the public about strategic issues which affect the whole Local Authority area, as well as issues which affect specific communities and or particular services.

We will work with Local Authorities and other stakeholders to develop guidance to help Local Authorities prepare their corporate plan. We will expect the corporate plan to explain throughout how duties in respect of the Welsh language and equalities will be delivered. As a minimum we envisage the corporate plan would include:

- strategic population outcomes for the area, as agreed in the local Well-being Plan;
- corporate priorities for service delivery and improvement, including Welsh language standards, and the steps to achieve the objectives in the local well-being plan;
- financial management plans, including medium-term financial planning, corporate procurement strategies and asset management plans;
- workforce plans, including the strategic equalities plan;
- the risk register;
- existing service performance and benchmarking data;
- public engagement and involvement strategy, including in relation to setting of annual budgets and council tax;
- planned performance levels for the short, medium and long term; and
- an Annual Report setting out achievements and performance outcomes of the previous year, which could also be used discharge the Local Authority's proposed duty under the Well-being of Future Generations (Wales) Bill to report on how they have delivered their objectives in a manner consistent with the sustainable development principles.

The Auditor General for Wales is the statutory external auditor for Local Authorities in Wales. This means that he audits their accounts and his role includes examining how public bodies manage and spend public money and how they achieve value in the delivery of public services. In addition, it is proposed there will be a new duty on the Auditor General under the Well-being of Future Generations (Wales) Bill that requires him to examine and report on the application of the sustainable development principles in both the setting and the achieving of objectives by Local Authorities. This means looking at the arrangements they have in place to ensure they take account of the long term, the need for an integrated approach, working with others, involving people, and taking preventative action in both setting and taking steps to meet their well-being objectives.

The Auditor General would therefore be able to consider issues such as whether the body can show that it has organised itself to have robust mechanisms and procedures in place and

whether these are actually being used, that is, are the sustainable development principles being applied when the body is making key decisions about setting well-being objectives and also when taking steps to achieve them.

The statutory corporate plan we are proposing for Local Authorities could be an essential source of evidence for the Auditor General both in his routine auditing of Local Authorities and in his examination of the application of the sustainable development principles. It will also be vital for Scrutiny Committees to challenge the Executive effectively, and to provide the public with the information they need to understand how public funding is being spent.

7.3 Comparing services through objective real-time data

Timely and accurate management information and the ability to analyse this information effectively will be essential to support the development of the corporate plan and to underpin self-assessment and peer review.

Effective use of good quality and timely information is critical to delivering better service outcomes and achieving improvement. There are two main elements of information that we wish to consider:

- the data required so the performance of Authorities can be compared, such as national performance tables and comparative statistics, enabling the Authority to be held to account by elected representatives and the public; and
- the information about an Authority which would be used by its management and the scrutiny process to maximise capability and delivery.

The Commission on Public Service Governance and Delivery argued the current plethora of performance management frameworks imposed by the Welsh Government are too complex, bureaucratic, costly and insufficiently focused on outcomes for people.

In *Improving public services for people in Wales*,⁸² we committed to strengthening performance management across public services through developing a common approach for performance measurement. This would focus on outcomes, as well as rationalising and aligning the many sets of performance measures. The Government accepts the challenge and will develop a new approach to performance data across the range of its activities, starting from the premise that we must collect fewer, more meaningful measures.

The right information used by managers to support the improvement of services is critical. When published it can be a powerful motivation for improvement. The Welsh Government accepted this sometime ago and created the web-based 'mylocalschool'⁸³ information source which provides detailed data on individual schools. More recently, the Welsh Local Government Association has launched the 'mylocalcouncil'⁸⁴ website and the Local Government Association in England has also developed 'LG Inform.'⁸⁵ While these websites provide information on Local Authority services, they give no meaningful context to help the public or Elected Members interpret variations. The challenge now is to encourage the widespread use of data and analysis.

82 *Improving public services for people in Wales*, Welsh Government, 2014
<http://wales.gov.uk/topics/improvingservices/devolution-democracy-delivery/?lang=en>

83 <http://mylocalschool.wales.gov.uk/>

84 <http://www.mylocalcouncil.info/>

85 <http://lginform.local.gov.uk/>

Driving up public service performance requires the pull of public demand as much as the push of Government expectation.

We believe the use of digital technology should be expanded across all public services to ensure all those with an interest have access to data for their communities, for their Local Authority and for Wales as a whole. Therefore we propose establishing a single, accessible portal to provide regular, timely, and comparable information to challenge variations in performance. We propose including data for the UK to ensure our services are compared against the very best. Contextual information which can help to interpret raw data should also be made available on this portal. This could include reports by the Wales Audit Office and the Inspectorates, self-assessment and peer review reports, the corporate plan and complaints information. We would require Local Authorities to publish this information, using agreed definitions, by a set date.

We aim to work with public sector organisations, regulators, auditors and inspectorates to produce:

- a more strategic approach to performance management across the whole public sector;
- outcome indicators and performance measures to support public service leaders in their decision-making;
- better value for money from collecting performance information; and
- more transparent reporting of information which will have a greater impact.

We will consult on how they are designed and developed in due course.

In the future, corporate plans will include a standardised set of performance outcomes and measures. We have also received evidence during our recent consultation that the inclusion of minimum standards⁸⁶ would drive performance and this is something we will consider as part of our new performance management framework. In setting minimum standards of performance, it may be appropriate to consider the use of financial penalties for non-compliance. We are seeking views on the use of minimum standards and financial penalties.

7.4 Procurement supporting sustainable provision of services

Collectively, Local Government is responsible for almost two-thirds of total annual public procurement expenditure in Wales. It is essential the public have confidence their taxes are being well spent. Governance of procurement is managed through a non-statutory Procurement Board and locally procurement capability is assured through Procurement Fitness Tests. The Procurement Board oversees the procurement improvement plan across Wales and also receives reports on the performance of individual Local Authorities. In order to develop better understanding of procurement outcomes and to support collaboration across Wales, we will work with Local Government to agree a common structure for classification of procurement expenditure.

7.5 Digital Councils

We have seen examples of ways in which digital technology is being used to engage with the public, enhance transparency and improve services, and so improve performance in a number

⁸⁶ See for example the WLGA response to the Reforming Local Government White Paper <http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?status=closed&lang=en>

of areas of public service delivery, including education and social services. Local Authorities have the opportunity to become digital pioneers, creating bespoke services which can be adapted by other public service users. However, while there are certainly examples of good digital practice among Welsh Local Authorities, we are not yet witnessing the wholesale transformation of both the corporate model, public engagement and service delivery through the use of digital technology which is evident in other sectors. We question whether most Local Authorities fully understand the kind of cultural change required to achieve the greatest impact.

It is not an issue of better network management, the corporate needs of the Authority, or infrastructure issues, although we expect Local Authorities to make use of the new Public Service Broadband Aggregation contract. The focus needs to be on ease of use and open access, not command and control. It is about the potential of digital technology to improve service delivery and the service experience of residents, communities and front-line staff through much greater ease of access. This includes the use of data collected by Local Authorities, which could be a rich source of information for future service configuration.

In the *Reforming Local Government White Paper* we set out our intention to legislate to require that all full Council and Executive meetings must be broadcast online, at the same time encouraging the broadcasting of committees. We now wish to go further to ensure the work of Councils is as fully accessible to the public as possible, having regard to restrictions around confidentiality of data and commercially sensitive information for example, so that they can engage more closely in decisions about matters that affect them. The broadcasting requirement will provide an accurate public record of Local Authority proceedings, therefore we believe it is for individual Authorities to decide whether the public may film or record any of their proceedings. We will enable Local Authorities to make provision for recording of proceedings through their standing orders. However, given the importance of social media in stimulating dialogue and engagement, we consider the public should have a right to report live from any Council proceedings through written or electronic media.

We also consider that the public should have a right to have their say on matters being discussed by the Council. We therefore intend to put a duty on Local Authorities to make arrangements to enable the public to make their views known on any open agenda items of the full Council, the Executive or any Committees of a Local Authority, and for those views to be taken into account. This will require that existing requirements to publish agendas and meeting papers in advance must be closely adhered to.

7.6 Complaints

All feedback, including complaints, offers valuable information which can lead to improvements, but there has to be the right organisational ethos to enable this to happen. Complaints, often a mechanism through which people interact with their Local Authority, should be reported on, where appropriate, in an accessible, open and transparent way. Analysis and understanding of complaints is essential for informing service improvement and for improving governance arrangements. It is therefore important complaints and concerns are considered, even if it is not possible or appropriate to fully address them.

A recent review of complaints handling in the NHS⁸⁷ raises a number of issues that apply in the Local Government setting. Those who need to complain must have confidence in the complaints process and where the issues raised are serious, it is particularly important that the process is timely and independent. The review also highlights that it should not be painful or difficult to complain and when it is necessary to make a complaint, the onus should not be on the individual complaining to follow up progress.

The Older People's Commissioner produced a scoping study⁸⁸ of complaints procedures in 2010 which highlights the importance of complaints in improving services, and issues faced by older people in particular. The report raised issues with regards to individuals tracking their complaint, but also the need for greater transparency in the way that organisations publish information in a comparable way.

We intend to require all Local Authorities to establish a streamlined online complaints process. The use of digital technology can facilitate the processing and tracking of complaints, provide an auditable trail and enable the Authority to build up a comprehensive picture of issues with service delivery, governance and the views of the public. We propose to require the Local Authority to provide a regular report on complaints to the Authority's Audit Committee. This report will include information about the Authority's approach to complaints handling and how they are used to improve services, as well as data such as number and categories of complaints raised and resolved.

7.7 We would like your views

The Consultation Survey asks questions on the following themes:

- Corporate planning
- Single information portal
- Minimum performance outcomes and financial penalties
- Complaints

⁸⁷ A Review of the NHS Hospitals Complaints System Putting Patients Back in the Picture, Ann Clwyd MP and Professor Tricia Hart, October 2013 <https://www.gov.uk/government/publications/nhs-hospitals-complaints-system-review>

⁸⁸ A Scoping Study of Complaints, Susan Lambert for the Older People's Commissioner for Wales, 2010 http://www.olderpeoplewales.com/en/news/news/11-07-28/A_Scoping_Study_of_Complaints_for_the_Older_People_s_Commissioner_for_Wales.aspx

8. Strengthening the Role of Review

This Chapter discusses the role of scrutiny by Elected Members (internal review) and audit, inspection and regulation bodies (external review) in supporting Local Authorities to deliver better outcomes for local areas. We do not believe internal and external review processes work together well enough. We discuss how we will strengthen internal review to ensure it has more impact on Local Authority decision-making. We also discuss the benefits of sharing information between the different external review bodies and with internal review.

We propose the following changes:

- requiring Local Authorities to set out, regularly, the ‘key decisions’ they will be considering so as to enable internal review to be planned more effectively;
- strengthening Scrutiny Committees’ forward planning by requiring them to make reference to ‘key decisions’ and corporate plans, as well as setting out what they intend to scrutinise and who they will engage with in doing so;
- requiring external review bodies to share information with each other and with local Scrutiny Committees;
- requiring external review bodies to co-ordinate their work in respect of Local Authorities and produce a combined assessment of each Local Authority every two years; and
- requiring external review bodies to produce a joint annual assessment of the state of Local Government in Wales.

We also ask for views on whether we should take further steps to protect the independence of the Democratic Services functions and the support they provide for Elected Members’ scrutiny responsibilities.

8.1 Introduction

The Commission for Public Service Governance and Delivery considered scrutiny to play a key role in democratic accountability. According to the Centre for Public Scrutiny:

*“Public scrutiny is an essential part of ensuring that government remains effective and accountable. Public scrutiny can be defined as the activity by one elected or appointed organisation... examining and monitoring all or part of the activity of a public sector body with the aim of improving the quality of public services.”*⁸⁹

However, the Commission found weaknesses both in the exercise of scrutiny functions and the status and resources it is afforded by Local Authorities. The Commission also noted the lack of integration of audit, inspection and regulation bodies and internal scrutiny by Elected

⁸⁹ <http://www.cfps.org.uk/>

Members. We agree that internal and external review is critical to securing corporate and service improvement through holding to account and challenge and that in order to be more effective internal and external review should work more effectively together to support improvement.

Performance and improvement is first and foremost the responsibility of the Local Authorities concerned and better leadership is needed in this area to reduce significantly the incidence of adverse audit and inspection reports and Welsh Government interventions as a result of poor performance. Audit and inspection have too often been the first line of defence against poor performance, rather than the last. The Welsh Government's role is to set the overall regulatory framework. Local Government should pursue and exceed the minimum standards and requirements, with local Scrutiny Committees holding Authorities to account. The audit and inspection bodies are there to provide independent assurance that internal controls are working effectively and to challenge under-performance. In addition to this regulatory function, they also have a crucial role in sharing good practice on improvement.

Good leaders, whether political or operational, embrace challenge from internal and external scrutiny. Challenge is not about defending the current position but listening to different perspectives and seeking out alternative options in order to make services better, whether that is more relevant, more efficient or more effective. While the cost of scrutiny, audit and inspection should be proportionate, it must not be considered a bureaucratic cost, it is the investment we make in improvement. Review, whether carried out internally by Elected Members, or externally by audit and inspection bodies, must be well informed, drawing on information, intelligence and data from a wide range of sources. Reporting should be timely, objective, evidence based and placed in the public domain.

8.2 Internal Review – Scrutiny by Elected Members

Internal review by Elected Members, or scrutiny, contributes to decision-making processes that are clear and accessible to the public, holding to public account those making decisions.

Scrutiny Committees are appointed by the full Council to examine the work of the Executive and other functions of the Authority, such as planning and regulatory functions. Their role is to support the Authority to maintain high service delivery standards, and to steer them towards improved efficiency and effectiveness, and better outcomes for local communities. Good scrutiny involves service users and the public and ensures they have opportunities to influence and improve the services they receive. The Local Government Act 2000 requires Local Authorities to have one or more Overview and Scrutiny Committees.

Overview and Scrutiny Committees can:

- review or scrutinise decisions made by the Local Authority in the exercise of functions (whether they are functions which are the responsibility of the Executive or not);
- make reports or recommendations accordingly; and
- make recommendations on matters which affect the area or its inhabitants.

Internal review by Elected Members can be divided into four broad categories:

Horizon-scanning scrutiny: looks at future social, economic, political and other changes which are likely to have an impact on Local Government, in order to help Authorities adapt to them accordingly. For example, this might mean examining the likely impact of changes to the welfare system, or the impact of an ageing population, or of major advances in digital technology.

Thematic scrutiny: examines a specific topic or area that has been highlighted as a matter of concern, such as systemic child abuse or modern slavery. In this way, scrutiny can help the Authority develop its policies and respond more effectively to local needs.

Pre-decision scrutiny: examines an Authority's proposals, objectives and draft programmes in order to inform their development before they are implemented. In this way, scrutiny can help the Authority to achieve optimum impact by avoiding mistakes and grasping opportunities in its policy-making and service delivery.

Post-decision scrutiny: examines the implementation of Authority policy and performance in terms of service delivery. It enables the Authority to review the effects of its decision-making, learn lessons, helping it to recognise any unforeseen consequences and assisting it to revise its policy and practice accordingly.

Scrutiny annual reports describe the work and outputs of Scrutiny Committee reviews, and give an early indication of future areas of planned review. They are formally reported to full Council.

8.3 Effective Internal Review

The Centre for Public Scrutiny has been undertaking work on the financial 'return on investment' as well as the 'social return on investment' of Scrutiny Committees.⁹⁰ The Centre has developed a model for establishing the return on investment of scrutiny. Their research shows that the impact of scrutiny can be measured and can offer a significant business benefit when done well.

In order to deliver on this, effective internal review must be appropriately resourced. Those supporting internal review should be highly skilled at analysis and interpreting information, and be aware of innovation from across the sector. Those scrutinising must provide constructive challenge to the Executive and senior management, ensuring they are aspirational in their goals, innovative in their approach, and proportionate in managing risk.

⁹⁰ Tipping the Scales, Centre for Public Scrutiny, 2012 <http://www.cfps.org.uk/publications?item=7137&offset=25>; Measuring what matters, Centre for Public Scrutiny <http://www.cfps.org.uk/publications?item=106&offset=0>; Valuing Inclusion, Centre for Public Scrutiny, 2012 <http://www.cfps.org.uk/publications?item=7303&offset=0>

A number of areas for improvement have been identified in current arrangements⁹¹ such as:

- improving the information available to undertake internal review;
- improving the planning process for internal review;
- ensuring that the impact of internal review is appropriately evidenced;
- recognising the importance, status and value of internal review;
- resourcing internal review appropriately;
- ensuring the process of internal review effectively engages with communities; and
- recognising that internal review is an essential part of the system for securing service improvement.

8.4 Strengthening Internal Review by Elected Members

We believe the relationship between the Executive and Scrutiny Committees is crucial. To be most effective it needs to be an open and engaged relationship. And, for internal review to be a critical part of improvement arrangements, Scrutiny Committees must be independent and have effective powers at their disposal.

In the *Reforming Local Government White Paper* we asked for views about how we could strengthen scrutiny to support service improvements. We have set out below a number of proposals for consideration which we believe will achieve this.

8.4.1 Ensuring Local Authorities resource local review

In 2009, the Councillors Commission Expert Panel for Wales published its report *Are We Being Served*.⁹² Several of the issues they examined related to the experience of Councillors since the introduction of Executive structures which make the majority of decisions. Their recommendations included giving consideration to introducing a legal separation of the Executive and Non-executive functions of the Council, with separate funding streams, which would protect the independent and unbiased provision of support for Elected Members' scrutiny responsibilities.

The Welsh Government set out proposals to strengthen scrutiny and community leadership in *A Shared Responsibility*.⁹³ Subsequently the Welsh Government legislated to strengthen the role and independence of scrutiny in the Local Government (Wales) Measure 2011 and made provision for the delegation of functions to Elected Members in relation to their

91 Good Scrutiny? Good Question!, Wales Audit Office, 2014 <http://www.wao.gov.uk/publication/good-scrutiny-good-question-auditor-general-wales-improvement-study-scrutiny-local>; Final Report, Commission on Public Service Governance and Delivery, 2014 <http://wales.gov.uk/topics/improvingservices/public-service-governance-and-delivery/report/?lang=en>; Annual Survey of Overview and Scrutiny in Local Government - 2013-14, Centre for Public Scrutiny, 2014 <http://www.cfps.org.uk/publications?item=11650&offset=0>; Joining Up the Dots: Overview and Scrutiny in Local Government Since 2003, Centre for Public Scrutiny, 2012 <http://www.cfps.org.uk/publications?item=7042&offset=50>; Explanatory Memorandum Local Government (Wales) Measure 2011, National Assembly for Wales <http://wales.gov.uk/topics/localgovernment/publications/lgmeasure11/?lang=en>; Chief Inspector's Annual Report 2012-13, Care and Social Services Inspectorate Wales <http://cssiw.org.uk/our-reports/annual-reports/2012-2013/?skip=1&lang=en>; Annual Report 2012-13, Estyn <http://www.estyn.gov.uk/english/annual-report/annual-report-2012-2013/>

92 Are we being served? The Report of the Councillor Commission Expert Panel Wales, 2009 <http://www.wlga.gov.uk/publications-and-consultation-responses-imp/are-we-being-served-the-report-of-the-councillor-commission-expert-panel-wales>

93 A Shared Responsibility, Welsh Assembly Government, 2007 <http://wales.gov.uk/topics/localgovernment/publications/sharedresponsibility/?lang=en>

electoral division, and for Members to refer matters to a Scrutiny Committee. The Welsh Government also made provision in relation to Democratic Services. The Democratic Services regime attempts to strengthen the hand of the non-executive Member but in practice the effectiveness of this varies from Council to Council.

The Centre for Public Scrutiny has also recently highlighted concerns about decreasing resources to support scrutiny. Overview and Scrutiny Committees have had their resources reduced by 20% in real terms over the last five years.⁹⁴ Given the importance of internal review in supporting service improvement, this needs to be addressed. Scrutiny must have appropriate and sufficient support, in the form of skilled officers and its own budget. To further support this we believe that there should be a requirement for the Head of Democratic Services to be a Chief Officer.

Following our recent review of the implementation of the Local Government (Wales) Measure 2011, we also intend to remove the requirement that the Monitoring Officer may not also be the Head of Democratic Services. The evidence we received suggested this prohibition is unnecessary and, indeed, that there is a great deal in common between the two roles.

We are also seeking views on whether we should take further steps to protect the independence of the Democratic Services functions and the support they provide for Elected Members' scrutiny responsibilities.

8.4.2 Strengthening Pre-decision Scrutiny

Reviewing a decision before it is made is more effective than looking at a decision after it is made. Pre-decision scrutiny allows Scrutiny Committees the opportunity to challenge assumptions that may have been made in the lead-up to a decision or how decision-makers have considered the positive impact or any risks that might arise. The Committee will often bring a different perspective which can improve the robustness of decision-making. Many believe that pre-decision scrutiny allows greater influence over decision-making.⁹⁵ Currently, however, there is no statutory requirement for Local Authority Executives to inform Scrutiny Committees of their proposed decisions.

In England, the concept of a "key decision" is defined in regulations.⁹⁶ A key decision is defined as:

"an executive decision, which is likely a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant [...] or b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions [...]"

Individual Councils in England have adopted varying definitions for what a key decision is, but they all reflect these two broad requirements. Since 2012 councils in England have been obliged only to give 28 days notice of planned key decisions (and there is also some provision for a shorter timescale in the case of urgency). In practice, however, most have chosen to retain a formal Forward Plan which is published every month, which sets out planned key decisions for the subsequent four months.

94 Joining Up the Dots, Centre for Public Scrutiny, 2012 <http://www.cfps.org.uk/publications?item=7042&offset=50>

95 Report into How the Local Government Act 2000 is Working, The Transport, Local Government and the Regions Committee <http://www.publications.parliament.uk/pa/cm200102/cmselect/cmtlgr/602/60203.htm>

96 The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

Generally only “key decisions” made by the Authority are subject to call-in for consideration by a Scrutiny Committee. Key decisions will for the most part be decisions made by individual Cabinet Members (where a power for individual Cabinet Members to make decisions is delegated from the Cabinet) or by Cabinet as a whole.

In Wales, the concept of a “key decision” does not exist but could be introduced to support more effective use of planning for pre-decision scrutiny.⁹⁷ We are seeking views on how this might best be introduced in Wales.

8.4.3 Planning for Scrutiny

The Wales Audit Office report *Good Scrutiny? Good Question!*⁹⁸ highlights the importance of effective planning of scrutiny. The Centre for Public Scrutiny has already done work to support better planning arrangements, and there is evidence of some good annual scrutiny programme planning within Local Authorities.⁹⁹ The Local Government (Wales) Measure 2011 already requires Scrutiny Committees to publish forward plans of their scrutiny work programme and consult with electors, but we are seeking a step change that will increase the impact of scrutiny by widening its focus to consider national goals as well as local priorities into its work planning. In Chapter 7 we set out proposals that Chief Executives of Local Authorities must set out short, medium and long term performance aspirations and performance plans as part of their corporate planning arrangements. For internal review to add real value to their Local Authority, Scrutiny Committees should mirror this approach to planning. We believe there is merit in requiring Scrutiny Committees to do the same and establish short, medium and long term scrutiny plans linked to the national goals and their Authority’s corporate plan, local well-being plan (as proposed in the Well-being of Future Generations (Wales) Bill) and key decisions.

To support others in contributing to the scrutiny process and strengthen the voice of local people, we propose that Scrutiny Committees should be required to set out in their forward plans how they will engage with service users and the public. This should include identifying which community groups and representatives they intend to call upon and engage with. In considering their calls for evidence, Scrutiny Committees should make particular reference to under-represented groups and increasingly consider the appropriateness of co-opting individuals to contribute to the debate. Guidance¹⁰⁰ was issued on co-option under the Local Government (Wales) Measure 2011 and we would encourage Scrutiny Committees to make reference to this.

8.4.4 Voting Rights on Scrutiny Committees

In Chapter 3, we explored the case for co-opting additional members both to the Cabinet and committees of the Council, including Scrutiny Committees, in order to improve diversity and secure more balanced representation when required. Currently, the law permits co-opted members of advisory committees to the Council to have voting rights, but it does not permit co-opted members of Scrutiny Committees to have voting rights.

The Welsh Government believes this restricts Scrutiny Committees from making the most

⁹⁷ Practice guide 2: Pre-decision scrutiny, Centre for Public Scrutiny, 2014 <http://www.cfps.org.uk/practice-guides>

⁹⁸ *Good Scrutiny? Good Question!*, Wales Audit Office, 2014 <http://www.cfps.org.uk/publications?item=113&offset=0>

⁹⁹ A cunning plan? Devising a scrutiny work programme, Centre for Public Scrutiny, 2011 <http://www.cfps.org.uk/publications?item=113&offset=0>

¹⁰⁰ Statutory Guidance from the Local Government Measure 2011, Welsh Government, 2012 <http://wales.gov.uk/topics/localgovernment/publications/statguide/?lang=en>

of the experience and knowledge of experts, service users and under-represented people. We believe consideration should be given to permitting Councils to grant voting rights to co-opted members of Scrutiny Committees in appropriate circumstances.

8.4.5 A Local Public Accounts Committee

Local Government and public services more generally are working in a complex world. This requires stronger public scrutiny and accountability for partnerships and joint or pooled budgets. To meet this challenge, the Centre for Public Scrutiny has developed a proposal for local Public Accounts Committees.¹⁰¹

This proposal would involve the introduction of independent, local Public Accounts Committees, with oversight over all public expenditure in a local area. A local Public Accounts Committee would have the power to scrutinise public expenditure in a local area. Its focus would be on the value for money achieved by the combined spending of public money in the local area, with a particular remit to assess whether planned outcomes are being achieved through partnership-working and pooled or joint budgets agreed under place-based finance arrangements. Local Public Accounts Committees could provide place based accountability and be an important link to Public Services Boards.

This work is due to be piloted in Westminster and Kensington and Chelsea Councils. We believe these proposals could merit further consideration and we are seeking views on the concept of introducing such a model in Wales.

8.5 Giving Communities a Voice in Scrutiny

People want to be involved and engaged if they believe they can make a difference. In Chapters 4 and 5, we set out our proposals to enhance engagement with local people and communities. This includes engagement in the assessment of service provision, such as through participation in scrutiny.¹⁰² While this is already happening in some places, it is neither systematic nor embedded as part of the culture of our public service organisations.

For example, the Care and Social Services Inspectorate Wales (CSSIW) has changed the way they carry out inspections of services to place the views of people using services at the heart of their work. They now spend more time listening, talking to people and observing. In 2013 and 2014, CSSIW piloted 'independent visitor' schemes in care homes for older people and people with a disability, and children's homes. Their National Advisory Board includes a wide range of representation from among service users, third sector and professional organisations. We consider this an example of good practice from which Local Government could have much to learn.

We intend to strengthen the opportunity for people to directly contribute to service improvement through local scrutiny, by requiring opportunities to be made available for local community based representative bodies to engage with scrutiny. For example, Scrutiny Committee calls for evidence should be directed to local community based representative bodies through the Area Boards we propose in Chapter 4 above, and information on which groups that Scrutiny Committee intends to engage with should be included in its forward plan. In addition, individuals and representative bodies should be able to petition Scrutiny Committees

¹⁰¹ A local Public Accounts Committee for every place: a CfPS proposal, Centre for Public Scrutiny, 2013
<http://www.cfps.org.uk/publications?item=11575&offset=0>

¹⁰² Bringing the power of the citizen into local public services: an evidence review, Tony Bovaird, INLOGOV, Welsh Government Social Research, 2014. <http://wales.gov.uk/statistics-and-research/democracy-community-governance/?lang=en>

on matters of Authority wide concern. Scrutiny Committees would be required to consider the appropriateness of exploring the matters raised and respond to the petitioner.

Direct engagement of the public with their elected representatives is a crucial part of the local democratic process. Some Local Authorities in Wales, such as Cardiff, already offer people the opportunity to question the Leader of the Council, and we propose this opportunity should be offered within all Local Authority areas.

8.6 Scrutiny of Regional Collaborative Working

Local Authorities are increasingly commissioning services jointly to be delivered across a regional area. These include services such as education improvement services, social services, children's services and technical services. Local Government has raised the issue of simplifying the scrutiny arrangements for services delivered collaboratively across a region.¹⁰³

The Local Government (Wales) Measure 2011 enables Local Authorities to form Joint Overview and Scrutiny Committees to undertake this task. However, the evidence suggests these powers are rarely used and, in some cases, may be exercised in addition to, rather than instead of, scrutiny by individual Authorities. It is onerous and bureaucratic for regional delivery bodies, whose services have been commissioned by Local Authorities jointly, to be subject to scrutiny separately by each of the relevant Local Authorities. We are therefore seeking views on whether it would be beneficial to simplify regional scrutiny. For example, legislation could require that where services have been commissioned jointly, they must be scrutinised by a Joint Overview and Scrutiny Committee, made up of elected members of the commissioning Authorities. The Joint Overview and Scrutiny Committee could be required to address any concerns raised by local Scrutiny Committees and report to them on action taken.

8.7 External Review – Scrutiny by Audit, Inspection and Regulation Bodies

The Welsh Government defines audit, inspection and regulation as follows:

Audit is concerned with accuracy. It considers whether a set of data about an organisation (e.g. its financial statements) is properly calculated and fairly presented.

Inspection is concerned with competence. It considers whether an organisation and/or the services it provides are of an adequate standard, whether in terms of public need or expectation or of an accepted professional practice.

Regulation is concerned with compliance. It considers whether an organisation's activities conform to legal or similar requirement; and may lead to formal action if they are found not to be.

The key bodies in Wales in relation to Local Government are the Auditor General for Wales and the Wales Audit Office, Estyn (education and children's services) and the Care and Social Services Inspectorate Wales (CSSIW).

External audit, inspection and regulation are vital parts of our current approach to testing and improving public services. We believe they play a valuable role in providing an authoritative and independent view of Local Authority performance which encompasses both corporate

¹⁰³ See for example, 3.5 in the Consultation – summary of responses to the White Paper, Devolution, Democracy and Delivery: Reforming Local Government <http://wales.gov.uk/consultations/localgovernment/white-paper-reforming-local-government/?status=closed&lang=en>

governance and service provision. Existing legislation defines the roles and duties of the audit, inspection and regulation bodies and provides a framework in which they operate.

Audit, inspection and regulation bodies play a critical role in working with Local Authorities to test a number of aspects of their business including propriety, accountability, service standards and improvement. Sometimes, their work is seen as burdensome or a distraction from the business of delivering services. While this may be understandable when staff and resources are pressed, external scrutiny plays a critical role in ensuring services are fit for purpose.

8.8 Strengthening Links between External and Internal Review

The Commission on Public Service Governance and Delivery proposed that *“auditors, inspectors and regulators who report on individual organisations must do so directly to the appropriate Scrutiny or Audit Committee. Where appropriate, they should assist the committee in its consideration and holding the executive to account.”* We agree. We believe this is critical to ensuring a stronger, more flexible and adaptive relationship between external review bodies which can better support Local Authorities to improve.

A strong relationship between internal review and review by external bodies is essential in ensuring a Local Authority is held to account for its governance arrangements and planning for improvement at the corporate centre and improving the Authority. We therefore intend to require external review bodies to share audit, inspection and regulatory reports with the relevant Audit or Scrutiny Committee. These committees would be required to review them and provide recommendations to the Authority. Where appropriate or when requested, the external review bodies would be required to present their findings and recommendations to members of the relevant Audit or Scrutiny Committee.

The Welsh Government is currently funding a project under the Scrutiny Development Fund to test this approach. The project is based in Cardiff Council, where the scrutiny team is working with external review bodies to make recommendations on how the functions of local scrutiny and external review can be better aligned and mutually supportive. A report is scheduled to be published in May 2015. In practice, some of this is beginning to happen.

Work is already underway to strengthen these links. Estyn and CSSIW are already sharing their reports with Elected Members. CSSIW has also developed their “New Deal” offer, working with Scrutiny Committee chairs and Elected Members to provide them with training to increase awareness and understanding of the sector and support them in their scrutiny process, providing regular publications to keep Members informed of best practice, and regular reports on local issues through dedicated Area Managers.

8.9 Strengthening Links between External Review Bodies

In Chapter 6, we set out a new system to drive improvement through self-assessment and peer review. We believe that by bringing together these evaluations, alongside reports from external review bodies it is possible to evaluate the ‘whole system’ at both a Local Authority level and for Local Government as a whole.

We propose to require the Wales Audit Office, Estyn and CSSIW to come together, drawing on existing reports and information, to produce a single ‘whole system’ assessment of each Local Authority. We anticipate this report would be produced on a biennial basis initially, alternating with the peer review cycle, to support Authorities to develop a better understanding of their

corporate 'health' and allow them to consider any additional action they need to take or support they might require to address issues or concerns.

To complement these assessments we will require the Wales Audit Office, Estyn and CSSIW to produce a single annual assessment of the state of Local Government in Wales and present this to Welsh Ministers and the National Assembly for Wales. This will support the major programme of Local Government reform and highlight areas for improvement support across the whole sector.

The Local Government (Wales) Measure 2009 (section 23) already requires the external review bodies to work together to coordinate their inspections to minimise the impact on Local Authorities and produce a timetable of work. Given our intention to repeal the Local Government (Wales) Measure 2009, we will restate these requirements in new legislation. To encourage greater openness and transparency, we will require this information to be included on the single information portal (see 7.3 above).

8.10 The Review of Audit, Inspection and Regulation

The Welsh Government recently commissioned an independent review of audit, inspection and regulation in Wales, encompassing the Wales Audit Office, Estyn, CSSIW and Healthcare Inspectorate Wales.¹⁰⁴ Following this review we are proposing a threefold approach. The Welsh Government will set the overall regulatory framework and it will be for local leaders and decision-makers to ensure they are complying with the framework and attaining national standards. Secondly, it is for Local Government scrutiny to hold the Executive to account, and to pursue performance excellence and challenge underperformance rigorously. Finally, it is for the audit and inspection bodies to identify areas for improvement and, in extreme circumstances, advise Welsh Ministers on the need for intervention.

The first phase of this review aimed to establish the purpose of audit, inspection and regulation. It resulted in the development of an external review framework, setting out the purpose, core functions and attributes of audit, inspection and regulation. These are set out below, we are seeking views on them.

This external review framework supports the need for a more effective and joined-up approach to audit, inspection and regulation, allowing for the identification of potential problems more quickly and informing improvement activities more effectively. The external review framework was developed as a means to identify current good practice and identify current barriers to the provision of a system which is well coordinated and successful in promoting improvement. As such, it can be used as a model to identify when and where external review work well in Wales and how this good practice can be replicated elsewhere.

Purpose:

- Protecting the interests of citizens by holding the use of public resources to account and by rigorously telling the story of how citizens experience services.
- Contributing to the wider improvement framework, within organisations, the Welsh Government and wider public sector.

¹⁰⁴ Phase 1 – Draft Report: Review of Audit, Inspection and Regulation, Shared Intelligence for Welsh Government, 2014 <http://wales.gov.uk/consultations/localgovernment/phase1-draft-report-review-of-audit-inspection-regulation/?skip=1&lang=en%20> (Additional Concluding Section to be published early 2015)

Core Functions:

- Assessing compliance with governance, financial stewardship and probity standards and regulations.
- Assuring the quality and cost effectiveness of service provision.
- Public reporting on the stewardship of public resources, service delivery against standards and the adherence to regulations.
- Contributing to improvement including by encouraging self improvement, acting upon a critical report and encouraging wider sectoral support.
- Identifying, acting upon and reporting early signs of ‘failure’ within a service or organisation.
- Informing policy and practice, beyond individual organisations.

Key attributes:

- **Proportionality:** proportionate to the risk, potential for improvement, likely benefit and interests of citizens. It applies in terms of deciding whether to use external review and in deciding its nature, scope and duration.
- **Independence:** it must not be constrained by any party in reaching its conclusions and publishing its findings. It must be free to make judgements about service delivery and report its findings into the public domain, and it must be able to decide how it discharges its responsibilities, once its focus has been agreed.
- **Accountability:** external review must demonstrate and report on the impact of its activities. Assessments and findings must be fair and capable of being defended.
- **Collaboration:** external review must collaborate in the interests of greater local impact, greater cost effectiveness and to reduce the burden on those being reviewed.
- **Value for money:** external review should be able to demonstrate it delivers benefits commensurate with its cost.
- **Transparency:** external review must be transparent in all its activities, its focus, decision making criteria, business processes, assessments and reporting. Reports must be clear, independent and consistent.
- **Professionalism and competence:** external review must be conducted in a way which demonstrates professional integrity and competence. It should be credible, consistent and impartial in all its activities.

It is clear audit, inspection and regulation should be focused on the outcomes which are achieved, rather than processes and methodologies used to deliver those outcomes, except where these processes are hindering delivery and improvement. As such, the arrangements which each Authority puts in place to deliver services should remain largely a matter for them, so long as they are clearly delivering the outcomes.

In view of our proposal to repeal Part 1 of the Local Government (Wales) Measure 2009, we propose to continue looking at the role of audit, inspection and regulation as part of the development of the new arrangements. This includes the promotion of a more joined up approach in relation to audit, inspection and regulation, and the benefits this could realise.

8.11 We would like your views

The Consultation Survey asks questions on the following themes:

- Democratic services
- Strengthening internal scrutiny
- Encouraging public voice
- Regional scrutiny arrangements
- Strengthening links between external scrutiny
- The external review framework

9 Reforming Local Government Finance

This Chapter discusses how the funding of Local Government will need to change to support the reforms outlined elsewhere in this paper and to provide a more effective framework for funding Authorities. It also discusses the need for clearer financial governance and accounting arrangements and how these may be simplified in the future.

We propose a phased approach to developing a Local Government finance system fit for the new Authorities, which in the shorter-term will include the necessary changes to effect mergers and the reforms proposed in this paper.

In the longer-term, we intend to consult on and bring forward further legislation to effect more fundamental changes to the Local Government finance system. The longer-term approach will enable us to design a system which takes account of wider changes to the powers and fiscal responsibilities of the Assembly, and could allow Local Authorities to raise more of their finance themselves.

9.1 Introduction

Reforming Local Government and the earlier Chapters of this White Paper set out what we want from Local Government in Wales and our proposals for reforming the way in which it operates and delivers services to produce improved performance and clearer accountability. These ambitions will need to be supported by changes to the way local services are funded and to the mechanisms for distributing, raising, managing and accounting for the funding.

Local Authorities in Wales (County and County Borough Councils) currently spend over £8 billion a year on running costs and capital spending in delivering services. This spending is funded from a number of sources. These include Welsh Government general and specific grants, redistributed non domestic rates, grants from other bodies, income from Council Tax, fees and charges, capital receipts and borrowing. Authorities also manage significant reserves and balances. The largest single source of funding is the Welsh Government's Revenue Support Grant which currently contributes around £3.3 billion a year, whilst centrally redistributed non domestic rates contribute a further £1 billion. The future financial and demand pressures have been well documented but the relative protection afforded to Local Government funding in Wales and the contributions from the various funding streams means, despite the recent reductions to the funding provided through the Revenue Support Grant, overall spending by Authorities in Wales has continued to increase, albeit modestly.

The current system for funding local services is complex. It is formed of different but closely interconnected parts and reflects choices made over time and for different aspects of the system. There are also specific arrangements for funding certain parts of Local Government not included in the figures above. Some of these, such as Fire and Rescue Authorities and Community Councils, form part of the *Reforming Local Government* agenda but there are others which do not. For example, the funding for police services in Wales is partly devolved and partly not – the Welsh Government distributes Revenue Support Grant and non domestic rates to Police forces in Wales and manages the framework for the Police component of Council Tax, whilst the Home Office is responsible for overall policy, spending plans and certain funding

streams including the Police Grant. This means there may be limits to the extent to which we might be able to develop and redesign parts of the system within the current devolution settlement for Wales. The opportunities for change could be much greater should a different range of powers be devolved to Wales at a future date.

9.2 Our Vision

We will review the mechanisms for funding Local Authorities and the frameworks which underpin the management of their income and expenditure to ensure they provide fit for purpose financial systems for the new Authorities. However, the mechanisms need to do more than this. They need to provide a funding environment which supports the reforms set out elsewhere in this White Paper. This means having financial mechanisms which enable the provision of better services as part of a stronger framework for determining which services are provided and how; for deciding how the available resources are used to fund them; for ensuring funding is used efficiently and to greatest effect; and for building clearer lines of accountability between the decision-makers and local people, including where possible the greater involvement of local people in making such decisions.

In particular, we want to consider how we can develop stronger links between funding, performance and the delivery of strategic outcomes. We will also seek to simplify the current funding arrangements where this is practicable and to ensure Local Government's funding and budgetary arrangements are more inclusive and transparent and are connected to our proposals for community governance and the role of Councillors, including their role in scrutinising proposals and decisions. This will entail greater access to information about how each Authority proposes to use its funding, how effective it has been in using it, and the extent to which this results in the delivery of better services. This will be a critical component of the corporate plan (Chapter 7). We also want a system which can be more responsive to the needs of Wales. The current system remains robust and sustainable, but many of its features were designed with the needs of the UK as a whole in mind.

The Welsh Government's role in relation to funding and financial management is to create the framework within which Local Government can operate to best effect. Authorities have clear responsibilities for setting budgets, taking account of local priorities, and for ensuring they manage their resources prudently, efficiently and effectively and deliver value for money. We want to maintain, and where possible reinforce, clear lines of accountability.

Our aim therefore is to develop:

- an effective and efficient system for funding the new Authorities;
- the framework for financial governance to ensure it provides for the effective management of resources by the new Authorities and provides clear lines of accountability; and
- funding and financial regimes which support the reform of Local Government democracy, governance and performance.

As such, the features of the new framework should include the following:

- create stronger links between funding and the delivery of outcomes, enabling improvement in service delivery, performance and efficiency;
- reflect existing patterns of need whilst, over time, seeking to reduce the disparity in need across Wales;

- encourage and enable innovative approaches to delivering services, for individual Authorities and for Authorities in partnership with public sector partners and other bodies;
- provide greater freedom to make decisions locally, allied to clear improvements in performance. Foster better planning with a more integrated and sustainable approach to balancing funding and service pressures;
- enable Authorities to manage demand for services over the longer term;
- offer a wider range of options for funding delivery, including more flexible arrangements for funding joint ventures;
- engage local communities in important choices and decisions;
- provide clearer information about how funding decisions have been made and by whom; and
- ensure this information is easily accessible to all.

9.3 Our Approach

We need to take a more strategic and longer term approach to reform of the finance system and its interconnected parts. We must ensure the approach integrates effectively with the way the Welsh Government takes forward wider constitutional and fiscal reforms, in particular, the need for a consistent framework for administering devolved taxes. Fundamental changes to the funding arrangements are not without their risks and any significant change may result in large or more frequent movements in funding between public service organisations. A feature of any new funding system should be that it is sufficiently stable to ensure where movements in funding are necessary, they do not pose a risk to the financial stability of organisations as a whole or to the key services which they provide to the public. We will need to take such risks into account in developing our proposals, as there cannot be any expectation of large injections of new money to mitigate such effects. Not all of these changes would need primary legislation, we can make many changes through secondary legislation, guidance or the promotion of good practice.

We intend to approach the reform of the funding framework in distinct phases. The first phase will identify and implement the essential changes needed to effect the merger of Authorities and the reforms set out in this paper. Any legislative changes required will be incorporated into the second Bill, referred to earlier in this White Paper, or taken forward in secondary legislation under existing powers.

The next phase will consider more fundamental changes to the way Local Government is funded. This may include looking at the balance between funding which is provided centrally and that which is generated locally through local taxes and other charges. It may also include considering whether the current forms of local taxation (Council Tax and non-domestic rates) need to be redesigned. It will also consider the findings of relevant work which is underway elsewhere, such as the report of Independent Commission on Local Government Finance in England, due to be published later this year. We expect this to lead to a further White Paper after the next Assembly elections in 2016.

This approach will enable us to design a system which takes account of wider changes to the powers and fiscal responsibilities of the Assembly, notably, the full devolution of non-domestic rates in April 2015, non-domestic rates revaluation in 2017 and new devolved taxes expected

to come into effect in April 2018. We will therefore develop and consult on more detailed proposals in due course.

Reforming Local Government offers a once-in-a-generation opportunity to effect a new approach and any fundamental reform of the funding will require considerable time and preparation to develop, design and implement. Therefore, we are seeking initial views on how the funding framework might be improved. The following sections distinguish between the areas which we believe will need to be addressed in readiness for the merger and reform of Local Authorities and those which might form part of a more fundamental and longer-term review of the funding framework.

9.3.1 Sources of funding

Local Government services and capital investments are currently funded through a mix of centrally provided and locally raised funding. The balance between these sources reflects the fact Local Authorities have a range of statutory duties to provide certain services but have discretionary powers to deliver additional services and also have some discretion as to the way in which they deliver certain statutory functions.

Within Local Government, there is a question as to whether the balance between the funding provided centrally and that generated locally should change. For example, a change in the balance of funding to give Local Government more discretion over local sources of funding could result in Authorities having greater flexibility to meet financial challenges. Any such change would need to go hand in hand with Authorities being more directly accountable to local people for the use of the funding at their disposal and improving long term financial and service planning to ensure the available funding is used to best effect.

This might include new or stronger mechanisms to ensure funding is used strategically, for example targeting it towards preventative spend which delivers sustainable improvements in public services. Funding should have clear links to the delivery of national policy outcomes and the approach to performance improvement set out in Chapter 6. It might also include consideration of how the funding system could reflect success in achieving longer term positive outcomes or, if necessary, deter or address poor performance.

9.3.2 General revenue funding – local taxation

The approach to funding the general revenue costs of Local Government in Wales has existed in its current form since 1993 when Council Tax was introduced. For Local Authorities, the main Welsh Government component of funding is made up of Revenue Support Grant and redistributed non domestic rates. It is determined by assessing the relative need of each Authority, based on a number of agreed indicators, and taking account of its ability to raise Council Tax (this depends on the number and value of properties liable for Council Tax in each area – its tax base). This annual process is carried out in detailed consultation with Local Government and is subject to formal approval in the Assembly.

Both Council Tax and non-domestic rates bear many similarities to previous funding mechanisms, in that they are related to the value of the property (domestic or non domestic) on which they are levied and the fact that they are raised within each Authority to generate funding for the local services provided in that area.

Whilst both systems have had their critics, they have stood the test of time as mechanisms for raising revenue to fund local services. The most comprehensive review of the Council

Tax system, the 2007 Lyons Review,¹⁰⁵ concluded that the system was “not broken”. The Review made a number of recommendations for improving the system, including the revaluation of properties and the extension of the bandings: these were implemented in Wales. Apart from a few specific exemptions, non domestic rates apply to all non domestic property, including public property and property occupied by non profit making organisations. Changes to the system in 1990 introduced a national approach with receipts being pooled and redistributed to iron out local variations and ensure sufficient funding is available for Authorities with small tax bases. Very few Authorities in Wales consistently raise more in non-domestic rates than they receive from the national pool.

Much of this local variation will be reduced by having a smaller number of larger Authorities and there will be substantial scope for economies of scale in administration and collection. However, replacing or redesigning either system would be costly and complex and could result in substantial shifts in liability for some tax-payers. Any replacement system would therefore need to offer clear benefits or improvements to justify the investment. We would also wish to ensure any large-scale redesign complements the approach taken in Wales to the collection and management of devolved taxes through the creation of the Welsh Revenue Authority and aligns to the tax principles of fairness, simplicity, stability and supporting growth outlined by the Welsh Government in November 2014. Therefore, as outlined in *Reforming Local Government*, we do not anticipate making major changes to the main features of the Local Government finance system in advance of the second Bill.

However, in the shorter term, we intend to take the opportunity to simplify and streamline the existing systems as much as possible to support greater efficiency and clearer accountability. Both the Council Tax and non domestic rates systems have grown incrementally over the past 20 years, with various relief schemes – such as Council Tax reduction schemes – new provisions, discounts, exemptions and so forth being added on. There are also some inconsistencies. We wish to review and design out some of these complexities to develop simpler, more understandable systems which are easier to manage. There is also a question as to how much local discretion should be allowed in the administration of the schemes. Non domestic rates are set nationally, whilst Authorities have discretion to set their Council Tax, with the Welsh Ministers having powers to impose limits (caps) where they consider increases to be unreasonable. We are seeking views on whether specific parts of the existing local taxation systems could be simplified.

9.3.3 General revenue funding – distribution

The available Welsh Government funding provided through the Revenue Support Grant and non-domestic rates is distributed between Local Authorities using a formula which is reviewed annually. It incorporates a series of indicators of the social and economic characteristics for each Authority, providing an assessment of their relative need on an objective basis. We intend to retain this needs-based formula approach but the process of mergers will require the development of a new basis for distributing the funding.

In the short term, we intend to consider any changes to the distribution system which are necessary to enable the Welsh Government to continue to distribute revenue funding to Authorities during the period of transition to new Authorities. Any necessary changes will be included in the second Bill or effected as part of secondary legislation.

¹⁰⁵ The Lyons Inquiry into Local Government, 2007 <http://www.lyonsinquiry.org.uk/>

In the longer term, we will conduct a fundamental review of the current distribution mechanism to ensure it can assess the relative need of the new Authorities, whilst ensuring the funding methodology does not in itself reinforce disparities in need across Wales. The review will look at the underlying methodology as well as the formula itself. The current approach draws on past spending patterns whereas we will want to explore the scope for the distribution to reflect a more outcome-based approach to performance and improvement. As well as reviewing the formula and the component indicators, we want to ensure the new distribution is as clear and simple as possible. We already publish comprehensive details about the way the funding is distributed but transparency is about clarity as well as openness.

The new approach will also need to take account of any changes to other tiers of Local Government where reform might have implications for the way those Authorities are funded. These might include, for example, Fire and Rescue Authorities and Community Councils (see 4.9 above). As each of these tiers is funded in a different way at present, we will also aim to develop funding arrangements which allow for a simpler and more consistent approach. We will develop this new approach in consultation with Local Government.

9.3.4 General revenue funding – council tax

The *Reforming Local Government* White Paper noted there should be no need for the overall Council Tax requirement to increase as a consequence of mergers whilst recognising there might be local impacts on Council Tax levels as a result of the redistribution of funding. It asked for views on the most equitable approach to raising revenues for local services and we will take the responses into account in designing the funding systems for the new Authorities.

9.3.5 Other revenue funding and flexibility

Welsh Authorities also receive a considerable amount of revenue funding in the form of specific grants from the Welsh Government (around £700 million a year) and from other government bodies. These grants provide funding for specified purposes and Ministerial priorities. We recognise there are administrative overheads associated with managing funding in this form and that Authorities want greater flexibility in how they use such funding. However, there is a balance to be struck in ensuring some funding is available for, and is targeted towards, national priorities and new initiatives. We will explore, as part of our initial work and the longer term review, the scope for managing such resources in ways which contribute to the delivery of better services and provide clearer accountability, including whether such funding might be better deployed by channelling it to other providers.

Authorities also generate over £1 billion a year in locally-raised fees and charges and other income. Greater local flexibility over the setting of fees and charges might assist Authorities in managing financial challenges. The Welsh Government recognises there may be some benefits in giving local discretion over the setting of fees and charges. A general power of competence, as referred to in Chapter 2, would provide for this but we would also want sufficient controls in place to ensure key services are affordable for those who need them and the services are delivered in ways which are consistent with national priorities.

Another source of funding available to Local Authorities is repayable grants administered by the Invest-to-Save Fund. Approximately £20m is available for distribution to public services each year through an annual bidding round. The Invest-to-Save Fund is also well positioned to provide support for innovation and service redesign.

We will also consider other areas where greater flexibility might offer Local Authorities more control over the planning and management of their budgets. We are seeking views on how greater flexibility can be designed into a new Local Government finance system, whilst safeguarding the need to target appropriate spend towards national priorities.

9.3.6 Capital funding

Like revenue spending, capital spending and investment is supported through a mix of central and local funding. The Welsh Government provides capital funding through general and specific grants, as well as through access to Invest-to-Save funds. Support for the cost of borrowing is provided through the Revenue Support Grant and through the Local Government Borrowing Initiative. Local Authorities complement this with the use of capital receipts and locally funded borrowing. Local Authorities also manage substantial portfolios of capital assets although these vary considerably from Authority to Authority.

There is already a well established framework governing capital spending which gives Local Authorities considerable autonomy whilst ensuring that any borrowing is prudent and affordable and assets are managed appropriately. Building on this, we want to ensure the capital funding system is fit for the 21st Century and to explore innovative approaches to funding and ways of ensuring capital infrastructure is developed strategically and managed effectively to deliver the best outcomes. Such considerations will form part of the longer term work on reforming the Local Government finance system. We are seeking views on whether there are any changes that would be achievable and desirable in the shorter term and as part of the second Bill.

9.3.7 Funding other tiers of Local Government

As well as the Local Authorities, the current funding arrangements encompass a number of other tiers of Local Government, including Police and Crime Commissioners, Community Councils, Fire and Rescue Authorities, and National Park Authorities and a number of smaller authorities, boards and committees. These do not all fall within the scope of Reforming Local Government but we will examine the options for making the funding arrangements more coherent and effective for those bodies which do.

Community Councils are currently funded mainly through each Community Council issuing a precept for Council Tax to its Local Authority. The precept for a particular Community Council forms part of the Council Tax bill for each household in the relevant area. These precepts are subject to different rules from those over the Council Tax set by a Local Authority or a Police and Crime Commissioner.

The proposals for community governance in Chapters 4 and 5 will have implications for the way services and functions are carried out within communities and, in turn, for the way such services are funded. We will want to ensure any new funding arrangements provide clear accountability and maximise the opportunity for communities to be engaged in decision making.

Fire and Rescue Authorities are funded through a levy on their component Local Authorities. The levy is apportioned according to the population base of the constituent Authorities but is funded from each Authority's general revenue funding. This means it is

funded through a combination of the Revenue Support Grant, redistributed non-domestic rates and Council Tax but the contribution from each of these sources is not identifiable. The arrangements will need to be reviewed in light of any reforms to how fire and rescue services are governed. The Welsh Government will be consulting separately on proposals for the governance of Fire and Rescue Authorities and any associated changes to funding arrangements.

Outside the scope of this White Paper, changes to the functions and governance of National Park Authorities are also being considered. We will keep the financial arrangements under review to ensure they support the effective operation and oversight of the national parks, integrate more effectively with other parts of the Local Government finance system and align with the vision outlined earlier in this chapter.

9.4 Financial Governance

The current framework for governing financial and accounting practices and audit requirements for Local Government finance is set out over an extensive body of primary and secondary legislation, supplemented by numerous pieces of statutory and professional guidance and codes of practice. In addition to the management of the various funding streams referred to above, it encompasses the management of reserves, treasury management functions, the management of assets and liabilities, the preparation of accounts, and forward planning to name but a few. One of the key features of the regime however, is that it is based on the principle that each Authority is a separate, democratically accountable body which has a considerable degree of flexibility in the way in which it exercises the duties placed upon it and provides services. The framework requires prudence in financial management and requires those responsible for making decisions to do so transparently and be accountable for the decisions they make. There are also specific fiduciary duties on each Authority's Section 151 Officer, as appointed under the Local Government Act 1972. All Local Authorities are subject to rigorous external audit.

We do not propose to change this central principle as we believe it is fundamental to the way Local Government operates and its relationship with the Welsh Government. Neither do we intend to separate the approach in Wales from that which currently exists and works within UK-wide professional frameworks. However, we will look to update, streamline and consolidate aspects of the framework to ensure decisions can be made in ways which lead to improved delivery and performance and focus spending where it has the greatest impact. We intend to consider improvements to the current system both in terms of accountability and community engagement, and also in terms of financial planning and access to information.

9.4.1 Accounting, accountability and engagement

The arrangements for financial governance should make the responsibilities for decision-making more transparent and provide clearer lines of accountability between the Welsh Government (and other funding bodies), Local Government and local people. Our vision for the future framework is one of greater openness and accountability, where people actively engage in the spending decisions which affect their daily lives and the end result carries with it a clear rationale. In support of this approach to openness and transparency and greater community engagement, we intend to issue statutory guidance on how Authorities should engage with the local community when determining their annual budget and Council Tax requirement. We would expect all Authorities to improve the transparency and accessibility of published accounting information by making information such as budgets,

balances and past expenditure levels available on the single information portal when established.

9.4.2 Financial planning

A key requirement of the future governance framework is that it needs to reconcile the enduring reality of funding constraints with the expected growth in demand for certain local services. We recognise this means difficult choices for spending. The corporate planning requirement set out in Chapter 7 will support more robust medium and long term financial management, asset management and workforce planning.

The Welsh Government has a clear policy to provide indicative settlements for Local Government where we have forward indications regarding the Welsh Government Budget from the UK Government. We do not intend to change this policy and we will use this information to support medium and longer term financial planning. Simpler, clearer financial planning systems should stimulate better focused and better performing local services which take account of priorities and funding pressures now and in the future.

9.5 We would like your views

The Consultation Survey asks questions on the following themes:

- Our vision and the proposed phased approach
- Balance of funding and flexibility
- General revenue funding – local taxation
- General revenue funding – distribution
- Financial governance and accounting arrangements

10. Conclusion

This White Paper sets out our vision for the future of Local Government in Wales. We want high performing, inclusive and accountable Local Authorities which operate transparently and openly, and plan effectively. We want Local Authorities, and Community Councils, to make best use of the resources available to them, sharing power and responsibility with the communities they serve.

Delivering this vision will need a proper relationship between those who provide a service and those who rely on it, through stronger local democracy and more effective scrutiny.

The Welsh Government cannot deliver the changes needed on its own, and neither should it. All our public services face complex and unprecedented challenges, as well as a future that will be politically, socially and technologically dynamic. Success will require astute and adaptive leadership commensurate with the challenges we face. We will find and we will support that leadership wherever it grows – in our Local Authorities, in our other public services, and most of all our communities themselves.

11. Glossary of Terms

Term	Explanation
Audit	Audit is concerned with accuracy. It considers whether a set of data about an organisation (e.g. its financial statements) is properly calculated and fairly presented. The independent examination of data, statements, records, operations and performance (financial or otherwise) of a Local Authority to ensure public money is being spent efficiently and effectively.
Cabinet	<p>The Leader and Cabinet model was introduced following the Local Government Act 2000. The Cabinet consists of the Leader and other Cabinet Members, usually formed by the majority party in the Local Authority. Each member of the Cabinet holds a separate portfolio, such as education, social services, culture, etc.</p> <p>The Leader and Cabinet are responsible for policies, plans and strategies, and for recommending them to the full Council.</p>
Community Council	A Community Council is a public representative body. It is established to attend to local interests and to organise community activities. Community Councillors are elected to a Community Council by public poll.
Community of Interest	A 'community of interest' is defined not by space, but by some common bond (e.g. feeling of attachment) or entity (e.g. farming, church group). It is a gathering of people assembled around a topic of common interest. Its members take part in the community to exchange information, to obtain answers to questions or problems, or to improve their understanding of a subject.
Community of place	A community of place or place-based community is a community of people who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. Such a community can be a neighborhood, town, coffeehouse, workplace, gathering place, public space or any other geographically specific place that a number of people share, have in common or visit frequently.
Constitution	Local Authorities are required by law to have a constitution which sets out their standing orders (the rules under which they operate) and various other matters such as how elected members must behave, and job descriptions for key roles.
Council	The Council is the full body of elected members in a Local Authority, including members of the Executive and all other Elected Members. It does not include any employees of the Local Authority. Some decisions may only be taken by full Council and may not be delegated to the Executive, committees of the Council or to employees.
Councillor	Another term for an Elected Member. It can refer to Elected Members of Principal Local Authorities or Community Councils – the meaning is generally clear from the context.
Elected Member	A person elected by public poll to a Local Authority
Executive	Within the context of this White Paper, this is another term for the Leader and Cabinet.

External review	Critical review of the decisions and actions of a Local Authority by external bodies, in particular the Wales Audit Office, and the bodies charged with inspecting social services (Care and Social Services Inspectorate Wales) and education (Estyn).
Head of Paid Service	A statutory role charged with providing and managing the staff of a Local Authority.
Inspection	Inspection is concerned with competence. It considers whether an organisation and/or the services it provides are of an adequate standard, whether in terms of public need or expectation or of an accepted professional practice.
Internal review	In this paper, this phrase is mostly synonymous with scrutiny, but it also includes other mechanisms such as review by the Executive of its performance or effectiveness, or the actions of internal audit and governance functions.
Local Authority	A County or County Borough Council in Wales. See also Unitary Authority. In this document we use the term Local Authority except where specified.
Local Government	Local government is a form of public administration which exists as a lower tier of administration. The term is used to contrast with offices at a higher level referred to as central or national government (i.e. the Whitehall Government or the Welsh Government). Local government act within powers delegated to them by legislation or directives of the higher level of government.
Local Service Board	Local Service Boards (LSBs) are non-statutory partnerships across the 22 Local Authority areas in Wales. They agree and oversee a single-integrated plan for the area; the single integrated plan brings together four statutory plans (the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Well-being Strategy and the Community Safety Partnership Plan). The membership, structure and approach of LSBs vary across Wales, but all have the key leaders and chief executives of the major public service providers in the area.
Non-executive member	An Elected Member who does not sit on the Cabinet of a Local Authority
Officers	Individuals employed by a Local Authority.
Peer Review	Critical review of the decisions and actions of a Local Authority conducted on the invitation of the Local Authority by capable individuals such as senior officers from another public body or retired senior officers.
Public service	The concept of public service is based on a social consensus that certain services should be available to all, regardless of income. Public services benefit all of society rather than just the individual who uses the service. A public service is a service which is provided by government to people living within its jurisdiction, either directly (through the public sector) or by financing provision of services.

Public Services Board	The Well-being of Future Generations (Wales) Bill proposes to change Local Service Boards into statutory Public Services Boards.
Regulation	Regulation is concerned with compliance. It considers whether an organisation's activities conform to legal or similar requirement; and may lead to formal action if they are found not to be.
Scrutiny	Investigation, enquiry or examination of the decisions of a Local Authority executive, or of the actions or decisions of a Local Authority officer, or into policy areas.
Seat	A place in an elected legislative or other body, individuals are elected to a seat by public poll.
Self-Assessment	Critical review of the capability and capacity of a Local Authority conducted by the Authority itself. Self-assessment is used to explore strengths and identify areas for self-improvement. Focused on supporting an organisation to develop their ambition and approaches to system and service transformation.
Social enterprises, mutual, cooperative and collective ownership models	<p>A business or service with primarily social objectives whose surpluses are principally reinvested for that purpose in the community, rather than being driven by the need to maximise profit for shareholders and owners</p> <p>The key characteristics of a social enterprise are:</p> <ol style="list-style-type: none"> 1. They trade, i.e. sell, goods and/or services and any profit or 'surplus' made as a result of their trading activities is either ploughed back into the business or distributed to the community they serve. 2. They have a clear social purpose. This may include job creation, or the provision of local facilities e.g. a nursery, community shop, or social care for the elderly. 3. They are owned and managed by their employees. <p>A social enterprise can be a Community Interest Company, a Company Limited by Guarantee, a Company Limited by shares, or an Industrial or Provident Society. Many also take charitable status, such as Housing Associations.</p>
Term Limit	A statutory restriction on the number of terms an official or officeholder may serve.
Uncontested seat	A seat on an elected legislative or other body where only one candidate is put forward. As such no votes are actually cast and the candidate is by definition the victor.
Unitary Authority	A Unitary Authority discharges all the main functions of a Local Authority. In England, and in Wales in the past, these functions have been shared between different tiers of Local Government, such as County and District Councils. In this document we use the term Local Authority except where specified.

ATODIAD / APPENDIX 2

National Assembly for Wales – Finance Committee – 21 January 2015

**Amendments to the
Public Services Ombudsman (Wales) Act 2005**

1. Introduction

- 1.1 The legislation governing the Ombudsman's office is the Public Services Ombudsman (Wales) Act 2005. At the time it was enacted, it was considered to be at the cutting edge of ombudsman legislation and is still highly regarded in the UK and internationally¹.
- 1.2 In 2015 the Act will be ten years old. New legislation has been introduced in the Republic of Ireland and elsewhere since 2005, while new legislation, drawing on the Welsh experience but designed to further develop it, is being introduced in Northern Ireland.
- 1.3 In addition, the Law Commission reviewed the legislation governing public services ombudsmen in England and Wales.² It commented favourably on the existing Public Services Ombudsman (Wales) Act but did make a number of recommendations for change one of which is referred to in section 2.5.
- 1.4 I have been in post since August 2014; during that time I have now had the opportunity to discuss legislative issues with my peers in all jurisdictions of the UK.
- 1.5 This paper sets out five key areas for change which have been informed from the experience of the office, developments of best practice elsewhere as well as the recommendations of the Law Commission.
- 1.6 The paper focuses on these five discrete parts in the hope that the suggested changes will be uncontroversial and can enjoy broad support for review and enactment by the Assembly in 2015. The suggested changes reflect four underlying priorities:
 - **Future proofing:** the proposals are intended to ensure that the legislation continues to be fit for purpose, but that it also addresses future challenges which will affect service users in an ageing society where there are greater levels of physical and emotional vulnerability.

¹ Ombudsman Legislation – time for a review? Peter Tyndall March 2013

² Law Com No 329 14 July 2011 <http://lawcommission.justice.gov.uk/areas/public-services-ombudsmen.htm>

- **Social justice:** the proposals ensure that citizens from more deprived backgrounds, who may be more reliant on public services, will find it easier to make a complaint.
- **Citizen Centred:** proposals will strengthen the citizen's voice and ensure that wherever possible processes will follow the citizen rather than the sector or the silo.
- **Drive complaint handling and public service improvement:** these proposals will make a real contribution to public service improvement and reform whilst offering excellent value for money. The changes can be achieved whilst maintaining the Public Services Ombudsman for Wales (PSOW) budget at no more than 0.03% of the Welsh Budget block.

2. Five Areas for Change

2.1 Own initiative investigations

- (a) Virtually without exception, public services ombudsmen throughout Europe, and indeed, internationally, have the power to undertake investigations on their own initiative. The Ombudsman in the Republic of Ireland already has such a power and it will shortly be introduced in Northern Ireland also. Outside of the UK, only five members of the Council of Europe have ombudsmen who do not have own initiative powers: Belgium, Luxembourg, Azerbaijan, Kyrgyzstan and Liechtenstein.
- (b) This is a power normally used sparingly to investigate where there is an obvious problem but no complaint has come forward or, more usually, to extend an investigation into a complaint to other bodies where it appears that the maladministration or service failure identified is likely to be systemic and affecting people other than the complainant.
- (c) The Ombudsman in the Republic of Ireland undertook five own initiative reviews between 2001 and 2010 on issues ranging from subventions in nursing home care, tax refunds to widows, refuse collection charges and the rights to nursing home care for elderly people.³
- (d) It would be important to frame any changes in such a way as to ensure that the power would be used only where appropriate and cases could be referred to regulators or commissioners where this was a more suitable alternative.
- (e) This power is likely to become more important as we see the impact of an ageing society with citizens in vulnerable positions either unable or afraid to complain.

³ A Paper Prepared by the Office of the Northern Ireland Ombudsman on a Power to Commence and Own Initiative Investigation

2.2 Access – oral complaints

- (a) The current legislation is generally helpful in providing access to the office. The Ombudsman's service is free of charge and the requirement for bodies in jurisdiction to tell people about their right to complain has ensured that people can access the office as they need to. There is a requirement that all complaints should be in writing. Whilst the Ombudsman has discretion to accept a complaint in another form if appropriate, this has to be considered on a case by case basis.
- (b) However, in view of the changing nature of electronic communication, and the considerable equalities issues about potentially excluding people who cannot write, including, for example, people with learning disabilities, there is a case to be made for modernising this area of the legislation so that it is explicit in the legislation that complaints may be made orally with the Ombudsman being obliged to justify to a body being investigated why he has decided to set aside the requirement for a complaint to be made in writing in individual cases. At UK level 94% of the population attain literacy level 1 or above, in Wales it is only 87%. Access for people who cannot write should not be discretionary. They should have the same access as any other service user in Wales. In England legislation has recently been reformed for the Local Government Ombudsman. There is a danger that in Wales we have a greater need but are lagging behind in this regard.

2.3 Complaint Standards Authority

- (a) In Wales, we have developed the model complaints policy to help to achieve consistency across public service providers. Take up has been patchy, but is improving. Adoption is voluntary, but strongly encouraged. In theory, with the recent changes to the social services statutory complaints procedure, all public services devolved to Wales should be operating a streamline two stage complaints procedure. However, the problem lies with enforcement. I am conscious of the arrangement in Scotland where a few years ago, the Scottish Ombudsman was given the role of Complaints Standards Authority. I know that the Scottish Ombudsman has found this arrangement to be particularly effective in enabling him to tackle problems in the standards of complaint handling within the bodies in his jurisdiction. I believe that there is a case for adopting such an approach in Wales so that any guidance I give to bodies on complaints handling has statutory force so that I can help support improvement in public sector complaints handling.

2.4 Extension and reform of jurisdiction- Healthcare

- (a) With an ever ageing society the integration of health and social care is an important part of public policy. Recently my jurisdiction was extended to include self-funded social care and hospice care; however I cannot investigate private healthcare, unless it was commissioned by the NHS.

- (b) Recently there was a case that I could not resolve where a patient had been treated by the NHS, then privately (self funded) and then again in the NHS. The patient sadly died. I was unable to investigate the private funded healthcare. Clearly there is a need to reform legislation where a patient chooses to be treated in both public and private sectors that the complaints process follows the citizen not the sector⁴. It has been recommended that the remit of the Parliamentary Health Service Ombudsman should be extended to cover the whole private healthcare sector.⁵
- (c) The inclusion of private sector providers raises issues around funding of complaints handling and also compliance. Whilst the investigation of private social care complaints is currently resourced from the public funding that I receive through the National Assembly, there might be a view that a different arrangement should be considered if private healthcare providers also came into jurisdiction.
- (d) Private sector ombudsman schemes are normally funded by the bodies in their jurisdiction. This is usually underpinned by statute. The funding mechanism may be an annual levy, or based on case by case charging, or often on a combination of both.
- (e) This has the dual function of ensuring that the cost does not fall to the public purse while also engaging the “polluter pays” principle, giving providers an incentive to avoid error and resolve complaints as a means of not incurring the costs. There is again a strong case for ensuring this is the case for any private provider in the office’s jurisdiction. This hybrid funding model is already in place at the New South Wales Ombudsman’s office, for example.⁶ However, as Lesley Griffiths noted as Local Government Minister: “The suggestion of a levy, for example, would be very challenging to put into practice”.⁷ The introduction of such a system is clearly a policy choice for the Committee.
- (f) Where the bodies in jurisdiction are public bodies, the existing powers of recommendation work well and there is no evident need for change. Thus far, no public service provider has refused to implement a recommendation. However, where private bodies are in jurisdiction, as is now the case with social care providers, the democratic process cannot be engaged in the same way and compliance may be harder to secure. Private sector ombudsman schemes normally have binding powers and it would be helpful to consider including this provision in respect of private providers only in the future.

⁴ With the Wales Act 2014 having received Royal Assent I am also aware that an amendment may be required to Schedule 3 of the PSOW (Wales) Act 2005 to give me jurisdiction to consider complaints against the new Welsh Revenue Authority

⁵ DoH Review of the Regulation of Cosmetic Interventions

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192028/Review_of_the_Regulation_of_Cosmetic_Interventions.pdf

⁶ Ombudsman Legislation – time for a review? Peter Tyndall March 2013

⁷ Letter from Lesley Griffiths AM to Christine Chapman Chair of Communities, Equalities and Local Government Committee

- (g) There is also an anomaly in the existing legislation whereby individual family health service providers (e.g. GPs or dentists, rather than surgeries or practices) are in jurisdiction. This has the unfortunate effect of personalising complaints in this sector whereas elsewhere, it is the public service provider, rather than an individual, who is in jurisdiction. Any change would have the effect of my naming the relevant practice or surgery in any report rather than an individual practitioner. This may also be unfair if the practitioner responsible for any service failure has since moved from the particular practice or surgery. However, I already have the power to name any person (other than the listed authority being investigated) if, having taken into account the interests of person aggrieved in any complaint or any other person I think it is appropriate and I consider it is in the public interest to do so.

2.5 Links with the courts

- (a) The Law Commission identified a number of areas where changes to legislation would be desirable. There is currently a statutory bar which prevents the PSOW from considering a complaint where the case could be considered by the courts. However, there is discretion to set this requirement aside. The Law Commission take the view that this bar should be set aside entirely, so that complainants can choose which is the more appropriate route for them.
- (b) In addition, there is currently no provision to allow the PSOW to consider a complaint when a judge determines that it would be the better means of resolution. Changing the law to allow the Administrative Court to “stay” cases and to refer them to the Ombudsman would address this issue, but the Law Commission recommend that the discretion as to whether to investigate or not should remain with the Ombudsman as at present.
- (c) Finally, the Law Commission have suggested that the PSOW should be able to refer a case to the court for determination of a point of law. They suggest that this will enable the PSOW to seek clarity on a legal point which might otherwise hinder or prevent an investigation as well as seeking clarity where there is doubt as to whether a matter is in jurisdiction.
- (d) This latter point clearly impact on the English and Welsh court system and advice is sought as to whether this latter change could fall within the purview of an amended PSOW Act.

3. The Cost of Change

3.1 Own initiative investigations

- Two full time investigation officers £80k-£100k, including on-costs.

3.2 Access – oral complaints

- No cost.

3.3 Complaint Standards Authority

- Two full time investigation officers – £80k-£100k, including on-costs.

3.4 Extension and reform of Jurisdiction- Healthcare

- Dependent on public or private funding method – £0k-£40k-£50k provision (dependent on policy choice re levy).

3.5 Links with the courts

- £20k Referrals from/to courts.

3.6 Total costs: £180k- £270k per annum.

4. The Case for Change

4.1 In considering the case of change, I have been keen to focus on:

- the need to future-proof the legislation and organisation
- improving social justice and making sure that voices of complainants from more disadvantaged backgrounds are heard
- making sure the Ombudsman’s work is Citizen Centred, rather than constrained to individual sectors or silos.
- driving improvement in public services and in complaint handling
- affordability and value for money.

4.2 I believe the suggested changes address these priorities, and hope that they will enjoy broad support.

Nick Bennett
Public Services Ombudsman for Wales
January 2015

Y Pwyllgor Cyllid
Finance Committee

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Bae Caerdydd / Cardiff Bay
Caerdydd / Cardiff
CF99 1NA

26 January 2015

Dear Sir/Madam

Consultation on an inquiry into the consideration of powers of the Public Services Ombudsman for Wales

The National Assembly for Wales' [Finance Committee](#) is undertaking an inquiry to consider extending the powers of the Public Services Ombudsman for Wales ("the Ombudsman"), should the evidence support the extension of the Ombudsman's powers the Committee may consider the introduction of a Committee Bill. The terms of reference for the inquiry are available on the [Committee's webpage](#).

Background

The role of the Ombudsman was established by the [Public Services Ombudsman \(Wales\) Act 2005](#).

The current Ombudsman, Nick Bennett and his predecessor, Peter Tyndall have both called for changes to the Act during their role. Five main areas have been highlighted for potential legislative changes to strengthen the Ombudsman's role, including:

- **own-initiative powers** – this would enable the Ombudsman to initiate his own investigations without having first received a complaint about an issue;

- **oral complaints** – at present, the Ombudsman can only accept complaints in writing;
- **complaints handling across public services** – this would enable the Ombudsman to have a role in advising on complaints handling across public services;
- **the Ombudsman’s jurisdiction** (to include private health services) –this would extend the Ombudsman’s jurisdiction to enable him/her to investigate when a patient has received private healthcare (self-funded, rather than being commissioned by the NHS) in conjunction with public healthcare; and
- **links with the courts** – the removal of the statutory bar to allow the Ombudsman to consider a case that has or had the possibility of recourse to a court, tribunal or other mechanism for review (this would give complainants the opportunity to decide which route is most appropriate for them).

The Ombudsman has submitted a [paper](#) to the Finance Committee which provides further background information and details of these proposals. To assist with its inquiry, the Committee would welcome your views on the questions attached at **Annexe A**.

Invitation to contribute to the inquiry

The Committee welcomes responses in Welsh or English from both individuals and organisations and will hold oral evidence sessions in due course.

Submissions should be no longer than five sides of A4, with numbered paragraphs, and should focus on matters set out above. Please see [guidance for those providing evidence for committees](#).

If you wish to submit evidence, please send an electronic copy (preferably **not** in PDF) of your submission to SeneddFinance@Assembly.Wales

Alternatively, you can write to:

Committee Clerk
Finance Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA.

Submissions should arrive by **20 March 2015**. It may not be possible to take into account responses received after this date.

The Committee would be grateful if you could forward a copy of this letter to any individuals or organisations that might like to contribute to the review. A copy of this letter will be placed on the National Assembly's website with an open invitation to submit views.

Disclosure of Information

The Assembly's [policy on disclosure of information](#) is available, please ensure that you have considered these details carefully before submitting information to the Committee. Alternatively a hard copy of this policy can be requested by contacting the Clerk (Leanne Hatcher 0300 200 6343).

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Jocelyn Davies', written in a cursive style.

Jocelyn Davies AC / AM
Cadeirydd / Chair

Consultation Questions

1. What are your views on the effectiveness of the current [Public Services Ombudsman \(Wales\) Act 2005](#)?

Own initiative investigations

2. Currently, the Ombudsman may only investigate a matter that is the subject of a complaint made to him/her. What are your views on 'own initiative' investigations powers, which would enable the Ombudsman to initiate his/her own investigations without having first received a complaint about an issue. Please explain your answer.

3. Do you have any concerns that own-initiative investigation powers could result in the Ombudsman's responsibilities overlapping with the responsibilities of other bodies? How could this be managed?

4. Do you have a view on the likely financial costs and benefits of the Ombudsman having own-initiative powers?

Oral Complaints

5. At present, the Ombudsman can only accept complaints in writing. What are your views on the Ombudsman being able to accept complaints made orally? Please explain your answer.

6. What other type/form of submission should be acceptable (e.g. email, website form, text messages)

7. Do you have a view on the financial costs and benefits of this provision?

Complaints handling across public services

8. At present there is no consistency in the way public bodies deal with complaints. Adoption of the model complaints policy issued by the Welsh government is

voluntary. What are your views on the Ombudsman preparing a model complaints policy which public bodies would be obliged to adopt. Please explain your answer.

9. Do you have a view on the financial costs and benefits of this provision?

Ombudsman's jurisdiction

10. What are your general views on the Ombudsman's current jurisdiction?

11. At present the Ombudsman can investigate private health care that has been commissioned by the NHS. The Ombudsman would like the jurisdiction to be extended to enable him/her to investigate when a patient has received private healthcare (self-funded not commissioned by the NHS) in conjunction with public healthcare. This would enable the complaints process to follow the citizen rather than the sector. What are your views on extending the Ombudsman's jurisdiction in this way?

12. How do you think the investigation of private health care complaints should be funded? (Possibilities include a levy, charging on a case by case basis or no charge.)

13. Do you have a view on the financial costs and benefits of this provision?

Links with the courts

14. What are your views on the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review? (ie this would give complainants the opportunity to decide which route is most appropriate for them.)

15. What are your views on the Ombudsman being able to refer cases to the Courts for a determination on a point of law?

16. Do you have a view on the financial costs and benefits of this provision?

Other issues

17. Do you have any specific examples where the Ombudsman having the additional powers proposed could have been useful in securing a successful conclusion to an issue?

18. [Schedule 3](#) of the current 2005 Act, provides a list of authorities that are within the Ombudsman's jurisdiction to investigate complaints. Please provide details of any other bodies/organisations that should be included in this list?

19. If extended powers were given to the Ombudsman in a new Bill/Act, at what point should the impact of this legislation be evaluated?

20. What unintended consequences could arise as a result of these provisions becoming legislation and what steps could be taken to deal with these consequences?

21. What factors should be measured to determine the cost-benefit analysis of this legislation being brought forward?

22. Do you have any comments on the following issues:

- **jurisdiction** – changes to the devolution settlement have led to new areas coming into jurisdiction over time, should consideration be given to other bodies being included in the Ombudsman's jurisdiction;
- **recommendations and findings** – should the recommendations of the Ombudsman to public bodies be binding. This would mean that bodies cannot decide to reject the findings;
- **protecting the title** – there has been a proliferation of schemes calling themselves ombudsmen, often without satisfying the key criteria of the concept such as independence from those in jurisdiction and being free to the complainant. Should anyone intending to use the title ombudsman gain approval from the Ombudsman;
- **code of conduct complaints** – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils' resolutions. Whilst a

local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice.

23. Do you have any views on any aspects of future planned or proposed public sector reforms that would impact on the role of the Ombudsman?

24. Do you have any other issues or concerns about the current Act and are there any other areas that need reform or updating?

Awena Walkden

From: Jenna Redfern <jenna.redfern@WLGA.GOV.UK> on behalf of Daniel Hurford <daniel.hurford@WLGA.GOV.UK>
Sent: 05 February 2015 09:18
To: Daniel Hurford
Subject: Inquiry into powers of the Public Services Ombudsman for Wales
Attachments: 150126 - Finance Committee - Ombudsman Inquiry.pdf; 150126 - Finance Committee - Ombudsman Inquiry - Background Paper.pdf

To Chief Executives, Monitoring Officers and Heads of Policy

Dear all,

The Assembly's Finance Committee has launched an Inquiry into the powers of the Public Services Ombudsman for Wales. Attached is the Committee's consultation letter, the deadline for which is 20th March 2015. The Committee has however requested that the WLGA give oral evidence on 25th February with written evidence submitted by the 18th February.

The Public Services Ombudsman Nick Bennett recently gave evidence to committee (as had Peter Tyndall previously) regarding where he felt that his powers could be clarified, updated or strengthened. It appears as a result however that the Committee is keen to explore whether the 2005 Ombudsman Act should be amended on its 10th anniversary this year – it seems as though the Committee is keen to be the first Committee to sponsor a Bill this term too.

Although the Ombudsman's proposals (below) appear largely sensible, we are concerned at the timing and would be concerned if this led to rushed legislation (it is particularly surprising that there is legislative space given the wider and more significant Bills in the legislative programme currently); there has been no prior dialogue or engagement around the proposals or around what other potential policy changes are needed in the Ombudsman's or complaints arena more broadly. The recently White Paper also proposes some changes, notably around the ethical framework.

Steve Thomas and I met with the Ombudsman Nick Bennett on Monday to discuss his proposals, which are outlined below including our initial thoughts (his proposals are outlined in more detail in the attached 'Background Paper') are as follows:

1. **Introducing 'Own-initiative' powers** – this would enable the Ombudsman to initiate his own investigations without having first received a complaint about an issue; - *in principle this might be appropriate, but would need appropriate safeguards and also clear processes to avoid duplication with, for example, the AGW*
2. **Allowing Oral complaints** - at present, the Ombudsman can only accept complaints in writing; - *in principle this seems appropriate and could be managed via digital recording*
3. **Statutory Complaints Process and Complaints Authority function** – ensuring consistency across public services and allowing performance to be compared and shared to identify any service specific or systemic improvement; - *21 of 22 councils already follow the model approach anyway, so statutory basis will have limited impact. There is scope for improved sharing of information to inform service design or performance improvements.*
4. **The Ombudsman's jurisdiction (to include private health services)** – this would extend the Ombudsman's jurisdiction to include private health services where patients had accessed public and private health care; - *in principle support*

5. **Links with the courts** - the removal of the statutory bar to allow the Ombudsman to consider a case which has or had the possibility of recourse to a court, tribunal or other mechanism for review (this would give complainants the opportunity to decide which route is most appropriate for them). –*unclear of the benefit. We understand WG feel that the current statutory bar is appropriate.*

There would of course be issues in terms of adequate and proportionate resourcing of the Ombudsman's office in the current financial climate.

The Committee's Inquiry however goes further, asking wider questions, including:

- **"code of conduct complaints** – the Ombudsman would prefer to focus on the element of his work that deals with service users and service delivery, rather than local authority and town and community councils" resolutions. Whilst a local resolution procedures exists and has been adopted by 22 local authorities, variance exists in practice."

This will need to be considered in light of proposals in the White Paper (page 31 and Page 35) referring to the ethical framework and proposals around local resolution, right to recall members and right of appeal.

Steve and I will be giving evidence to the Committee and we would therefore welcome colleagues' initial views on the attached please.

Regards,

Daniel

Daniel Hurford

Head of Policy (Improvement and Governance), Welsh Local Government Association
Pennaeth Polisiau (Gwella a Llywodraethu), Cymdeithas Llywodraeth Leol Cymru

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***** Efallai bod gwybodaeth gyfrinachol yn y neges yma. Os nad ydych chi'n ymwneud â hi yn benodol - nac yn gyfrifol am ei rhoi i'r sawl sydd wedi'i enwi - chewch chi ddim copïo na throsglwyddo'r neges. Yn y cyfryw achos, dylech chi ddileu'r neges a rhoi gwybod i'r sawl a'i hanfonodd trwy ebost yn ddiymdroi. Rhowch wybod i'r anfonwr os nad ydych chi neu'ch cyflogwr yn gadael i neb anfon negeseuon o'r fath ar y we. Dyw Cymdeithas Llywodraeth Leol Cymru ddim yn hyrwyddo nac yn cymeradwyo unrhyw farn, casgliad na gwybodaeth nad yw'n berthnasol i'w gwaith swyddogol yn y neges yma. Sustem ebost WLGA fydd yn prosesu pob neges at y cyfeiriad yma neu oddi wrtho ac, o bosibl, bydd rhywun arall ar wahân i'r sawl sydd wedi'i enwi yn ei harchwilio.
