

FLINTSHIRE COUNTY COUNCIL

REPORT TO: CONSTITUTION COMMITTEE

DATE: TUESDAY, 24 JULY 2012

REPORT BY: DEMOCRACY & GOVERNANCE MANAGER

SUBJECT: CONSULTATION ON WELSH GOVERNMENT WHITE PAPER "PROMOTING LOCAL DEMOCRACY"

1.00 PURPOSE OF REPORT

- 1.01 To inform the committee of the contents of the White Paper "Promoting Local Democracy" and obtain its views on how to respond to the consultation.

2.00 BACKGROUND

- 2.01 On the 17 May 2012 the Welsh Government issued a White Paper entitled "Promoting Local Democracy" for consultation purposes with responses to the consultation required by the 3 August 2012. Copies of the White Paper have been made available in Member Services and in the group rooms.

- 2.02 The White Paper covers the following areas:-

Proposals Requiring Legislation – Local Democracy (Wales) Bill

- Local Government Boundary Commission Wales
- Amendments to the Local Government (Wales) Measure 2011
- Access to Information Town & Community Councils

Other Issues

- Electoral Issues
- Local Government Ethical Framework
- Local Government Scrutiny
- Councillor Training & Development

- 2.03 The White Paper raises a total of 44 specific questions that it is seeking responses to as part of the consultation process. These are set out in appendix 1 to this report. None of these questions relate to the last two areas in the list in the above paragraph. In responding to consultation the Council is not confined to just answering the questions that are asked.

3.00 CONSIDERATIONS

- 3.01 Each of the seven areas covered by the White Paper are considered in turn and a draft response to the consultation is included in appendix 1.

Local Government Boundary Commission Wales

- 3.02 This part of the White Paper is largely dealing with the recommendations made by the Mathias review with these recommendations included at annex A of the White Paper. The first 7 specific questions in the White Paper seem straightforward ones to improve the Commission's working arrangements and the draft response in appendix 1 therefore agrees with these.
- 3.03 Questions 8, 9, 10 and 11 relate to the part of the White Paper dealing with community reviews and are not so straightforward. This part of the White Paper is proposing to give the Boundary Commission more powers in relation to community reviews and the committee may take the view that the existing arrangements are satisfactory. The answers in appendix 1 have been prepared on this basis.
- 3.04 The next section of the White Paper concerns electoral reviews and questions 12 to 16 seem to suggest practical improvements to the current arrangements and the draft response has answered these questions favourably.
- 3.05 With the exception of question 19 the remaining questions up to and including question 23 seem to be sensible practical improvements and the draft response therefore welcomes them. Question 19 is asking whether the Commission should produce draft proposals or orders in electronic format only. As there are still many people who do not use electronic communications it is believed that the response to this question should be in the negative.

Amendments to the Local Government (Wales) Measure

- 3.06 This part of the White Paper is proposing changes to the Measure which for the most part came into effect in April 2012. At present statutory guidance on these parts of the Measure are still awaited. It does seem odd that such recent legislation is already being amended prior to the guidance on it.
- 3.07 The first area that is considered in this part of the White Paper is that relating to the Independent Remuneration Panel for Wales. Most of the questions here are suggesting ways of improving the practical arrangements for the Panel and widening its remit to other public bodies. The draft response in appendix 1 has therefore answered questions 24 up to and including 28 in the affirmative.

- 3.08 Question 29 is asking whether the Panel should be empowered to require County Councils to publish information relating to all remuneration received by individual Councillors in connection with the performance of public duties. One of the changes that has only recently come into effect requires Flintshire and other County Councils to annually publicise the amount of allowances paid to individual Councillors from the North Wales Fire & Rescue Authority. The White Paper is proposing to widen this to payments received for the performance of all public duties. It is suggested that it should be for each public body that pays their Members to publicise those payments rather than the County Councils doing so. The proposal would give the impression that, for instance, Flintshire was paying the allowances that its Members receive from the North Wales Fire & Rescue Authority. It is also adding to the work involved in annually publishing the allowances received by each Member. There are payments made to Members by other bodies that County Councils would not know about and trying to trace all such payments could prove very time consuming.
- 3.09 Paragraphs 53 and 54 on question 30 of the White Paper relate to local authority area committees. The draft response in appendix 1 has indicated that the membership of area committees should be left to the local choice of each Council.
- 3.10 Paragraphs 55 to 57 and questions 31 and 32 relate to Audit and Democratic Services Committees. These questions show a lack of knowledge of the existing legal requirements. Both of these committees are already governed by the political balance and access to information legislation contained in the Local Government & Housing Act 1989 and the Local Government Act 1972 (As Amended in 1985).

Access to Information: Town & Community Councils

- 3.11 Part 3 of the White Paper is dealing with Town & Community Councils and the draft response in appendix 1 to questions 33 and 34 indicates that it should be left to the local choice of individual Town & Community Councils.

Electoral Issues

- 3.12 Paragraph 63 and question 35 of the White Paper cover payments made to local government officers when undertaking election work. The question of individual payments can only be considered in the context of the cost of, and responsibilities for, running elections and not in isolation. The systems for electoral costs and payments have been modified over time by the bodies that 'contract' Councils to run their elections on their behalf but have not been reviewed in totality. Therefore, a review of the level of payments to Councils to run elections as a 'contractor' and their purpose (i.e. for European Union,

Parliamentary and Welsh Government elections and ad hoc national referenda), and the costs they incur for their own local elections, should not be denied. It should be noted however that the Welsh Government would have no jurisdiction over contracted payments made to Councils for European, Parliamentary and other UK level elections (e.g. the election of Police Commissioners). The White Paper is proposing that in future local government officers only receive remuneration under the Returning Officers' Fees and Charges Order for work they undertake outside of their normal working hours. The position is not that straightforward. The duties undertaken by Returning Officers and senior and other electoral officers would need to be evaluated on (1) level of responsibility (2) level of risk and (3) level of additional work required over and above their contracted roles with their Council. The question could also be posed who could run the elections more cost-efficiently and effectively than Councils e.g. the private sector. Each year, for example, Flintshire runs elections well, without challenge, and always within its allocated budget and returns efficiencies to the paying body. It is essential to the efficient running of elections that there are sufficient willing senior officers of the calibre, experience and expertise required. The proposal in the White Paper could lead to a loss of expertise if officers refuse, over and above their contracted work, to undertake these duties. The draft response in appendix 1 suggests that this issue is best addressed outside of any White Paper by negotiations between the interested parties to come up with a practical national protocol to be followed.

- 3.13 Paragraph 63 and question 36 is more straightforward and funding mechanisms to reward efforts in improving registration levels are to be welcomed.
- 3.14 The third electoral issue raised in the White Paper is whether the National Assembly should have legislative competence for introducing primary legislation dealing with electoral registration, or the conduct of local or Assembly elections. It is for Members to consider whether they believe the Assembly to have the necessary expertise and experience to draft legislation dealing with electoral registration and the conduct of elections.

Local Government Ethical Framework

- 3.15 This part of the White Paper is likely to attract a lot of interest. The Members' ethical framework and the Members' code of conduct were introduced under the Local Government Act 2000. More recently the Localism Act 2011 has swept away this statutory framework for English authorities and police authorities in Wales. Paragraph 70 of the White Paper indicates that the Welsh Government remains of the view that the current statutory framework in Wales provides an appropriate balance between guiding Members on the standards of conduct and giving reassurance to the public that misconduct will be dealt with consistently and appropriately.

- 3.16 The White Paper goes on to indicate that the Welsh Government is of the view that there is scope for a more local approach to the resolution of low level complaints without immediate resort to the full and potentially costly investigatory role of the Ombudsman. In considering how to respond to this part of the White Paper Members may wish to consider whether Town & Community Councillors should continue to be governed by the ethical framework and whether the provisions in the Members' code in relation to personal and prejudicial interests should be simplified.
- 3.17 The White Paper then goes on to consider indemnities given to Members for the legal costs associated with them defending themselves in relation to complaints of breaches of the Members' code. Paragraph 79 criticises the giving of indemnities or insurance provided to Members for their legal costs. It fails to recognise that such arrangements will only assist those Members who at the end of the process are found not to be in breach of the code, or to have made a minor transgression of it.
- 3.18 The last issue raised in this part of the White Paper concerns removing barriers to greater collaboration on a regional basis on dealing with Standards Committee matters. Question 44 is asking what are the perceived barriers to the establishment of regional Standards Committees. Members may take the view that the perceived barriers to this are that it will increase the cost of travel and the difficulties in securing attendance at regional Standards Committee meetings.

Local Government Scrutiny

- 3.19 Paragraphs 84 to 86 indicate that the Welsh Government proposes to reintroduce the scrutiny development fund as an initiative to raise general standards and capacity for scrutiny across Wales. To the extent that this is implicitly criticising the current standards of scrutiny. Members may wish to include a comment that there are good arrangements for overview & scrutiny within Flintshire but nevertheless the reintroduction of a scrutiny development fund is welcomed.

Councillor Training and Development

- 3.20 Paragraphs 87 to 89 are un-contentious paragraphs stressing the importance of Member development and that the Welsh Government will continue to work and support the WLGA in its ongoing programme of Member development. In its response to consultation, the committee may wish to include a comment about the detailed Member development arrangements within Flintshire.

4.00 RECOMMENDATIONS

- 4.01 To consider the contents of the White Paper.
- 4.02 To determine how the committee wishes to respond to the consultation taking account of appendix 1 and paragraphs 3.13 to 3.19

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

None as a result of this report.

12.00 APPENDICES

- 12.01 Appendix 1 - consultation response form and draft response to questions 1 to 36.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS

The Welsh Government White Paper "Promoting Local Democracy"

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