

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **CONSTITUTION COMMITTEE**

**DATE:**               **WEDNESDAY, 16 OCTOBER 2013**

**REPORT BY:**       **DEMOCRACY & GOVERNANCE MANAGER**

**SUBJECT:**           **THE LOCAL GOVERNMENT (DEMOCRACY)**  
                                  **(WALES) ACT 2013**

### **1.00 PURPOSE OF REPORT**

1.01 To provide the committee with a summary of the above legislation that received Royal Assent in July 2013.

### **2.00 BACKGROUND**

2.01 Consultation on the Local Government (Democracy) (Wales) Bill was considered by the committee at its meeting on the 30 January 2013. Attached as appendix 1 is the response the Council sent to consultation following that meeting. The Bill completed its Parliamentary passage and received Royal Assent in July 2013. The various provisions in it come into effect on different dates with many of the provisions coming into effect on the 1 October 2013. Attached as appendix 2 are the various parts of the Act, together with the dates they take legal effect where this has been decided.

### **3.00 CONSIDERATIONS**

3.01 As can be seen from appendix 2 most of the provisions in the Act relate to the renamed Local Democracy & Boundary Commission for Wales and the conduct of reviews by either the Commission or by County Councils. The Council's response to consultation on these provisions was favourable (see answers to questions 1 to 5 of appendix 1). Flintshire's current community review is unaffected as it commenced before the Act received Royal Assent. Flintshire's review has in any case taken into account the provisions in the Act.

3.02 Part 5 of the Act is the Part that most directly affects the County Council and the sections in this Part are considered in more detail below.

3.03 Section 51 came into effect on the 1 October 2013. It enables Flintshire and other County Councils to have, if they so wish, a 'Presiding Member' and a 'Deputy Presiding Member'. The function of the Presiding Member is to include any function of the Chairman of the County Council in relation to its meetings and proceedings. Where County Councils decide to have a Presiding Member their Chairman is referred to as Civic Chair and retains

the other duties of the Council Chairman. Despite the response given to question 9 when consulted on the Bill there still seems to be the problem that the Presiding Member's office ends when there is an ordinary Council election so the first annual meeting following an ordinary election could not be conducted by the Presiding Member.

- 3.04 Sections 52 to 54 came into effect on the 1 October 2013 and relate to promoting or opposing private Bills in Parliament or in the Assembly. A local authority may only promote or oppose a private Bill where firstly, there has been at least 10 days notice in a local newspaper and secondly, the majority of Council members have agreed such a resolution.
- 3.05 Sections 55 to 57 deal with Community Council websites and the information required to be on them, together with requiring notice of their meetings electronically. The implementation date of these provisions has not yet been fixed.
- 3.06 Section 58 concerns registers of Members interests and again the date when this comes into effect has not yet been determined. It requires that registers of Members interests are published electronically. This applies not only to the County Council but also Town & Community Councils. There is also an obligation to publicise in a local newspaper the existence of the electronic register. Interestingly for Community Councils the Act places the responsibility for compliance on the Clerk rather than on the County Council's Monitoring Officer.
- 3.07 Sections 59 to 62 came into effect on the 1 October 2013. Section 59 concerns remote attendance at meetings of principal Councils and makes amendments to Section 4 of the 2011 Measure. Firstly, it lowers the statutory minimum number who must actually (rather than remotely) attend to not less than 30%. Councils can choose not to permit remote attendance or to have a higher percentage than 30% being in actual attendance in order for meetings to be quorate. There is therefore no need to change our current wording based on the 50% in the 2011 Measure. Secondly, the Act repeals the part of the 2011 Measure which prevented co-opted members attending meetings remotely where authorities have such remote attendance arrangements in place.
- 3.08 Section 60 also came into effect on the 1 October 2013 and amends the provision in the 2011 Measure relating to Democratic Services Committees. Democratic Services Committees are now enabled so that they can review 'at the request of the authority' any matter relevant to:-
- a) The support and advice available to members of that authority; and
  - b) The terms and conditions of office of those members.

This seems to be a late amendment made to the Bill as in June the intention was to remove the restriction in the 2011 Measure which limited the functions of a Democratic Services Committee. Instead this section has been enacted and contains some odd wording, particularly in paragraph (b).

In Flintshire it prevents the option of combining the Democratic Services Committee with the Constitution Committee as the functions of the Democratic Services Committee remain limited.

- 3.09 Section 61 came into effect on the 1 October 2013 and amends the provisions in the Measure relating to Audit Committees. Section 61 expressly provides that Audit Committees are subject to the political balance provisions of the 1989 Local Government & Housing Act. As the Council indicated in its answer to question 6 of the consultation it is not believed there was a need for this amendment as the 2011 Measure did not dis-apply the requirement for political balance contained in the 1989 Act. Flintshire has always regarded the requirement for political balance to apply to the Audit Committee.
- 3.10 Section 62 came into effect on the 1 October 2013 and amends a provision in the 2011 Measure concerning the Independent Remuneration Panel. It can now specify the number of special responsibility allowance (or as it calls it senior salaries) post-holders rather than the maximum proportion of the Council that is eligible. This is a technicality and of no practical effect.
- 3.11 Section 63 relates to the salaries of Heads of Paid Service and the date for its implementation has not yet been determined. It gives power to the Independent Remuneration Panel to make recommendations about proposed changes to the salary of an authority's Head of Paid Service.
- 3.12 Sections 64 to 67 came into effect on the 1 October 2013. They make further technical changes to the provisions in the 2011 Measure relating to the Independent Remuneration Panel. Unfortunately section 67 when it comes into effect will require Flintshire and other County Councils to publish information relating to all payments made to its Members by other public bodies. As the Council explained in its answer to question 7 when consulted on the Bill this will merely confuse the public and it should be for each public body to publicise the payments it makes. Also, it is not restricted to allowances and there is no requirement for those other bodies to provide such information to Flintshire by an appropriate date as was suggested in our response to consultation.
- 3.13 Sections 68 and 69 will come into effect on a date yet to be determined. Section 68 enables County Councils to establish joint Standards Committees and in response to consultation the Council had no objection to this. Section 69 enables Monitoring Officers to make reports to the Standards Committee of another authority.

#### **4.00 RECOMMENDATIONS**

- 4.01 For committee to note the summary of the Local Government (Democracy) (Wales) Act 2013.

## **5.00 FINANCIAL IMPLICATIONS**

The Welsh Government's cost benefit analysis of the provisions in the Act indicates that there are no anticipated additional costs for County Councils. This fails to take account of the costs of publishing in newspapers referred to in 3.04 and 3.06 above and the extra officer time required to comply with section 67 (paragraph 3.12 above).

## **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 Extra officer time in order to comply with section 67 (paragraph 3.12 above).

## **10.00 CONSULTATION REQUIRED**

10.01 None as a result of this report.

## **11.00 CONSULTATION UNDERTAKEN**

11.01 None as a result of this report.

## **12.00 APPENDICES**

12.01 Appendix 1 – Response to Consultation  
Appendix 2 – Parts of the Act

## **LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS**

Welsh Government explanatory memorandum of the Local Government (Democracy) (Wales) Bill dated June 2013

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