

Response to the draft Local Government (Wales) Bill

Key issues

- This briefing relates to proposed local government reorganisation in Wales and the draft Local Government Wales Bill
- It contains a summary of APSE's concerns on parts of the proposed Bill and a copy of APSE's response to the consultation
- Although this relates to proposals in Wales some of the issues raised will have similarities to issues of democracy, and accountability, as well as local authority powers, which reflect UK wide concerns for APSE member authorities

1. Introduction

The Williams review has been the subject of previous APSE briefings exploring the issues of proposed reorganisation of Welsh councils; it led to the development of proposals to reorganise local government in Wales by reducing the overall number of councils. In addition the draft Local Government Wales Bill introduces a number of proposed measures which mirror similar measures introduced in the Localism Act 2011, The Community Empowerment (Scotland) Act 2015 and the Local Government (Northern Ireland) Act 2014.

2. Summary of APSE's response to the Bill consultation

A summary of APSE's response to the consultation is as follows:-

The Association for Public Service Excellence (APSE) is a not for profit local government membership organisation working with over 250 local authorities across the UK. We work with 20 out of the 22 local authorities in Wales through APSE and APSE performance networks. As part of our response to this consultation we have consulted with our main contacts in member authorities and with our APSE Wales Council, which is our executive body for members of APSE in Wales.

As well as the detailed response in the attached consultation questionnaire APSE would like to draw to your attention to the main issues of concern to APSE and its' members in Wales.

Will reorganisation bring forward the savings required?

APSE is concerned that there is little evidence to suggest widespread reorganisation of Welsh Local Government will be effective in arriving at the required savings. Reorganisation will incur upfront costs, both through the transitional and administrative arrangements, and the cost of reducing staff numbers. However of equal concern is the lack of evidence about the size of the proposed councils; there is little to suggest that the new councils will be capable of working at optimal efficiency. Size does matter in service delivery terms. Loss of local knowledge, expertise, and a workable geographic area for service delivery, will create challenges that could ultimately undermine any assumed savings.

New bureaucratic structures, processes and costs

APSE is also concerned that, in what appears to be a response to criticism around disengagement of communities, because of the unwieldy size of the new councils, a number of new quasi-public bodies have been developed within the Bill such as Community Area Committees and an enhanced and expanding role for Community Councils (with Competence). These bodies, both existing and new, create new burdens on councils at the very point they would be looking to contract their overall expenditure. APSE is especially concerned about a loss of democratic accountability within these bodies and the potential for these bodies to fragment and undermine fairness and transparency in the level of services delivered to different communities.

APSE is particularly concerned by the offer of a General Power of Competence to Community Councils with Competence. We would question where the ultimate risk would sit for their activities in the event of failure (i.e. the 'parent' council) and the Bill contains little by way of comfort as to ultimate accountability.

APSE is also concerned that our member councils in Wales will see resources poured into supporting whimsical ideas that have gained little traction elsewhere in the UK, under the guise of community empowerment. Such measures have created bureaucratic processes which are not evidenced by any significant outcomes. APSE is also equally concerned that such 'community powers' are more likely to be exploited by the most vociferous communities rather than by those communities most in need.

The General Power of Competence

Whilst this is welcomed by APSE, as an addition to the already existing suite of powers available to councils in Wales, it is regrettable that this power was not brought forward much sooner rather than wrapping this up into the Bill. There is clearly an opportunity for local authorities to look at income generation strategies to make up the deficit in their operating budgets. The new GPC will arguably enable a new impetus to be given to the cultural change within councils to embed income generation strategies. However, APSE fears that innovation in service delivery will be stifled by the pressing issues of reorganisation, rather than allowing councils the opportunity to develop new modes of delivery and meet funding gaps through innovative models. Areas of reform such as addressing demand management, sharing from best performing authorities, and applying transformational techniques and service integration within and across public service boundaries could be lost in the rush to concentrate on structure rather than effective delivery. This misses opportunities for savings, and indeed could lead to cost inflation, in the short to medium term at exactly the point councils are already struggling financially.

3. APSE's response to specific consultation questions

The following is a replication of APSE's response to the main consultation questions informed by our consultation and liaison with APSE member local authorities in Wales and APSE Wales council.

Consultation questions

These questions should be read in conjunction with the Draft Bill, draft Explanatory Notes and draft Explanatory Memorandum

PART 1

Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?

APSE has an over-arching concern that at a time when local authorities are facing the most wide-ranging and prolonged series of cuts in many years, and are introducing new ways of working, and delivering efficiencies to cope with these challenges, they are now faced with a large scale re-organisation which could seriously threaten these works. Local authorities will now need to focus on costly restructures instead of developing innovative and best practice services, this lack of focus could inadvertently lead to reduced resources for service provision. Added to this is the fact many of the proposed savings envisaged have a significant pay-back period raising the issue of how these will be affected if the global or national political environment were to change. Indeed it is believed that by 2020, existing proposed budget reductions will have delivered the efficiency savings required to maintain Welsh local government spending within the parameters set out in the spending review. As such many of the

reorganisation savings proposed may prove more of a high risk strategy during the period 2016-2020 when a great deal of additional unrest and disruption is least required.

APSE agrees with the principle of continuously working to make local authority services more economic and efficient but with a likely funding reduction of less than 2% for 2016/17, would it not be more prudent to consider and support the current work being carried out and gauge the savings and efficiencies it could deliver before a whole scale re-organisation is entered into?

In addition APSE's expertise in performance management and measurement, provides evidenced based assumptions which suggest that, contrary to often assumed judgements, that bigger will be cheaper, there is strong evidence to suggest that upscaling service delivery, beyond a point of optimal efficiency can in fact generate additional costs and inefficiencies. For example in areas like refuse collection the loss of local knowledge, and responsibilities spread over a larger geographic catchment, can lead to increased fleet and operational costs and inefficiencies in core strands such as recycling performance.

A final point is that reducing the current number of local authorities, to create larger local authorities in the name of efficiencies, has not always been borne out as the most practical way to make savings, and certainly public dis-engagement has often been a by-product of larger and seemingly unrepresentative models of local government. Indeed one can argue that by making such large geographical areas the 'local' in local government could be lost.

Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?

APSE would perhaps ask the question why the need for 2 or 3 authorities when North Wales have been regularly proving their success in joint working and innovative service delivery. This has not required large scale re-organisation to achieve and may well be stifled if new boundaries are introduced e.g. access to EU funding.

Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?

APSE has a concern that by creating larger local government areas such as those proposed, then this could lead to local authorities distancing themselves from the very people they are charged with serving, resulting in services becoming less relevant to local needs.

There are also more wide-ranging concerns about losing the 'local' in local government if organisations become bigger. Reliance upon local authority services in Wales is considerable, with more people employed in the public sector than in any other part of the UK, therefore reducing the number of local authorities and by association their workforce structures, could have enormous impacts on communities, local businesses and families, as jobs and local markets are lost. There is a concern around diseconomies of scale and any transition from a public sector dominated economy

towards a growing private sector model will take decades to deliver.

Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?

This would be a matter for the authorities concerned rather than general consultation.

Question 1.5: What are your views on the procedure for naming the new Counties?

The naming of the new local authority areas is very much a local issue but there is a need to ensure that the name chosen reflects geographical boundaries and are not simply convenient names, such as a local feature or historical person, as occurred in some areas within England. People will need to have a cultural/historical tie to the new local government area, thereby being able to locate themselves spatially. Equally names will need to be easily remembered, so brevity would be an advantage when choosing a new local authority area name – avoid 'x and y and z' This requirement will also be important for non-resident and businesses who may also be confused if the new name has no recognisable link to the previous area name.

Question 1.6: What are your views on the proposed changes to the Local Government election timetable?

It is not clear if this question is seeking views on the proposed terms of office or the transitional arrangements or both. Any new electoral arrangements will place a burden on local authorities during the course of reorganisation. As to the proposed terms of office five years is longer than that in place in other UK administrations. Whilst there are advantages to long term planning during an electoral cycle it is important that the term of office also balances the ability for the local electorate to have an effective mechanism through the ballot box to hold their councillors to account.

Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?

Whilst these provisions are largely concerned with the process of amalgamating the technical and financial provisions of local government finance, to enable the new authorities to operate with lawful budgets, the provisions illustrate the added administrative burden, and cost, associated with local government reorganisation.

In addition they do not appear to allow for any transitional arrangements on current council tax for 'predecessor' authority areas compared to the new authority area. This could potentially lead to widespread changes in council tax bills for residents – and indeed would therefore require both detailed management of the changes to billing, with all of the associated upfront costs to be carried by the new authority, as well as the political sensitivities of harmonising the levels at which council tax would be paid.

It would be essential that greater consideration is given to the way in which harmonisation of finances would be possible and appropriate 'smoothing' arrangements put into place.

Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?

APSE believes that the answer to this question could be found within a cross-party and multi-authority working group to share best practice, and identify the most prevalent, and costly, forms of avoidance or misuse of categories for non-domestic rates. This would then allow for benchmarking to provide an evidenced based approach of what interventions and actions work best to minimise (if not eradicate) the most prevalent forms of avoidance. By taking this approach one would hope to maximise the impact of anti-avoidance measures rather than concentrating on the most obvious but potentially least costly forms of avoidance. This would provide the maximum financial benefit to the public purse.

Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?

APSE does not purport to be an expert in the regulatory measures on Non-Domestic Rates however our member authorities have suggested a review and simplification of the regulations may be needed. This would also include disputes being resolved at the Valuation Tribunal rather than the magistrates court whereby local authorities are restricted to just £70.00 in court costs, which is woefully inadequate for the true costs incurred. In addition there is very strong support for the review of charities relief which can be misused by commercial property companies. Encompassing a review of this provision would assist genuine charities but hopefully prevent misuse by those who are clearly not a charity.

Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?

As detailed above in Q1.8 and 1.9 collaborative working would be of help. In addition support when needed from the Welsh Government on any significant precedent cases and the possibility of a code of practice.

Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the counties in existence after 1 April 2020?

APSE member authorities have no strong views on this issue and would appear to regard this as merely consequential in nature.

Question 1.12: Are there other matters of a technical nature which should be considered?

No comment.

PART 2

Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?

APSE is supportive of the General Power of Competence but it is worth noting that this is nevertheless limited and is something of a misnomer. As with the Localism Act 2011, where a GPC was provided to English local authorities – which the Welsh Government could have adopted – the GPC as drafted does not provide a true general power as the provisions are restricted by any pre-commencement limitations. As such this means that local authority lawyers, relying upon GPC, would need to still make vigorous checks that they are not otherwise restricted in relying upon the power.

The repeal of the wellbeing powers is sensible and consistent with the broader reach of the proposed GPC.

It would appear that the proposals would also extend the GPC to Community Councils with Competence. This therefore raises questions of accountability. For example a Community Council with Competence could arguably set up a Trading Company, which could take on liabilities which could then revert back to the local authority as the 'parent'. Under the accounting framework for English authorities any wholly owned Trading Companies ultimately sit within the local authority accounts. It is not clear if this would be the case for Welsh authorities with the adoption of GPC as a framework.

APSE would therefore be concerned about accountability measures for Community Councils with Competence and what their legal personality would be deemed to be. This therefore raises further questions of accountability and indeed the status of any companies they might establish – would they be considered to be local authority controlled or influenced companies but not 'wholly owned'? In addition would such companies therefore fall outside of the current exemptions around Teckal (as codified under the new EU Public Procurement Directive 2014/24 EU) for these companies to carry out work on behalf of the parent local authority?

It would seem to be more sensible to operate the GPC at the local authority level and allow for the usual forms of delegation rather than to potentially complicate matters or inadvertently open up services to costly and avoidable 'competition' measures. It is not clear why the Community Councils with Competence would require a separate GPC to that of the local authority.

Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?

APSE member authorities appear to view the further development of Community Councils as being potentially burdensome on local authorities and this raises questions as to responsibility without being able to enforce accountability or governance measures. As drafted the Bill appears to pass on additional responsibilities over these 'connected bodies' but over which the new authorities would appear to have little control.

PART 3

Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?

Whilst it is appreciated that the aim is to involve local communities in local government the manner in which this is proposed could add additional burdens to already stretched staff and financial resources. Most councils have communication methods with local communities both through local councillors and via other techniques such as friends groups, social media and consultation and participation events. By formalising the system the spontaneity which often helps these processes may be lost.

Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?

As previously mentioned it is felt placing a duty on local authorities is introducing an unnecessary burden, which may be difficult to enforce and not meet the stated aims of gaining public participation.

Consultation can, on certain issues, produce very selective participants who may not provide a representative sample, particularly if some local authorities who have been amalgamated do not have well developed public communication systems. It should be left to individual authorities to develop their own communication/participation strategies which themselves could be opened to further scrutiny by for example peer authorities or the Welsh Government as to their effectiveness.

Question 3.3: How should community representatives to sit on community area committees be sought and selected?

APSE members are very concerned that this whole process of Community Area Committees could give greater weight to those with the loudest voices rather than taking into account the democratic wishes of the majority. The CAC proposals add a further layer of cost and bureaucracy without adequate accountability.

Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?

APSE disagrees with this proposal. There are existing powers enabling delegation to town and community councils so it is not clear why or how it would be helpful to permit further delegation to a body that is not fully and democratically elected. Furthermore to delegate functions and potential funding to CAC raised questions about procurement issues and the need to avoid bias or falling outside of the need for openness and transparency in public spending.

Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?

This would be a matter that is different for individual authorities dependent upon their position and not one which APSE would therefore wish to comment on.

Question 3.6: Do you have any comments on the revised provisions for 'improvement requests' or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?

APSE feels there is again a desire to formalise a process which is already working in local authorities. People are able to raise concerns about aspects of service delivery via a number of different routes: local councillors, petitions, FOI requests and day to day contact with council officers, all of which can bring about changes. To introduce such a duty will require considerable amount of staff time to receive requests and formally consider each one on its merits. Multiple requests from communities about a particular service, which may be geographically or technically contradictory could cause significant logistical problems.

APSE has significant experience of the problems created when a similar measure was introduced under the Localism Act 2011 in the form of a Community Right to Challenge. The subsequent guidance on the Community Right to Challenge provided an additional burden on local authorities but without any measurable improvement in community engagement. Moreover, a fear that the measure could be used as a Trojan Horse for privatisation, or be mischievously used for vexatious or political purposes, meant the measure was greeted with suspicion in many quarters. There does not appear to have been widespread take-up of the right to challenge and conversely anecdotal evidence suggests where communities have raised issues it was simpler and more effective to deal with such matters outside of the cumbersome guidance. It is also noted that, as with the Localism Act in England, there are reserve powers to the Minister to impose further regulations.

Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?

APSE members view these measures as overly prescriptive and again could carry a cost burden. If a person is elected as a council leader or an elected member then the degree of effectiveness and accountability to local democracy is ultimately tested at the ballot box. Standard broadcasting and recording of meeting is unlikely to be suitable on all occasions and could be open to mischievous misuse.

Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?

APSE members have generally welcomed measures to strengthen the involvement of young people and are able to demonstrate examples of good practice with, for example, the way in which they operate Youth Councils.

PART 4

Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?

APSE members generally view these provisions as being overly prescriptive and not consistent with those that the Welsh Government itself complies with. Elected members, on a democratic mandate, will for example put in place arrangements that provide for consultation with their constituents and avail themselves to meeting their constituents to support them; they do not feel, given the range of platforms on which they interact, that it is necessary or effective to prescribe the quantity or method of engagement. For example 'four surgeries per annum'. APSE would draw attention to its' own research on the role of elected members and the true position which emerges is one of a group of remarkably hard working and genuine local politicians working with their local communities.

Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?

Again APSE members feel this is overly prescriptive when Leaders are elected within their own party groups. The party system, though imperfect, is still a relatively effective mode of operation and as such it is imperative that democracy operating at this level is not fettered by inappropriate regulatory measures. It is noted that once again there are further reserve powers to the Minister. This appears to once again allow more centralised as opposed to devolved decision making as to the operation of democratic processes at a local level.

Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?

Delegation of functions is a matter considered across a range of existing local authority legislation and it is not clear what is being asked in the context and positioning of this question?

Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?

This measure gives rise to the potential for vexatious misuse of recall powers. Furthermore independence on remuneration is critical and the levels of intervention proposed will undermine that independence. Potentially this could be seen as political interference by the Welsh Government on the legitimate business of local government.

Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?

APSE would generally be supportive of the use of technologies which would help both access to meetings and potentially attract a more diverse range of people to stand for

elections – for example women with childcare responsibilities or disabled people who might otherwise have difficulty in travelling to physically attend every meeting. However cost and security considerations must be thoroughly assessed; this measure also needs to be supported by both operational and technical knowledge as well as the appropriate IT infrastructure being in place, including broadband.

Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?

The proposal for an Interim Returning Officer is sensible.

Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?

APSE would not support this proposal; as is often the case a necessary part of a Chief Executive's role in good governance would be to challenge elected members. Being fettered by a threat of a vote to dismiss them from employment would run diametrically opposite to the principles of good governance and indeed fair employment practice. May we be so bold as to say we operate as local authorities not as a football club dismissing a losing manager?

Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?

Councils should enjoy a flexible framework to determine their functions.

Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?

This is slightly misleading as it relates to the White paper and is not clear within the draft Bill. However in terms of its' equivalent 'English' leg of the Localism Act this appears to relate to the so called 'community right to buy' or 'assets of community value' providing at least an option of first refusal on a proposed disposal. The problems encountered with the practicalities of this legislation in England have been manifold and it has proven to be cumbersome and ineffective. Again a non-statutory approach is more practical and workable.

To genuinely keep regeneration at the heart of local authority areas, and local economic growth, the flexibilities needed by local councils, to fully utilise their asset base, may not always align with the preferences of one area, or indeed a group within a community or area. There is scope for the wishes of the few to skew the benefits of the majority and create unwarranted and mischievous delays. Councils are nevertheless committed to engagement and already do so in many ways before disposing of an asset. In addition the 'English' regulations require authorities to hold an asset register of the properties where there is a call for them to be regarded as an asset of community value and again this creates a bureaucratic and costly burden on councils. This could also limit local authority's responses around commercialisation of their asset portfolios as an approach to meeting funding gaps.

PART 5

Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?

APSE welcomes a strengthening of governance processes but is especially supportive of processes which allow for robust peer reviews and robust use of performance information.

Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?

APSE members are concerned that this could be confusing given other duties and responsibilities on local authorities – particular those stemming from the Wellbeing of Future Generations Act. If the governance arrangements are overly complicated rather than inform good governance it could lead to confusion.

Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?

APSE would support peer review processes but backed up by evidence based performance information. APSE's Performance Networks service is in its' 18th year of data collection making it the largest voluntary data benchmarking group, within local government, anywhere within the UK.

APSE Performance Networks uses measures of cost, quality and productivity as part of the key performance indicators helping councils to understand the efficiency and efficacy of frontline services. APSE would view it as essential that peer review processes are heavily supported by peer data on frontline service cost, quality and productivity; crucially it is adaptable to allow for local performance reporting by councils to their residents in a meaningful way. Examples of this would be the cost of collecting household waste or recycling or the cost of maintaining a local park or changing a street light.

APSE Performance Networks is itself led by local authorities for local authorities and operates under peer challenge and assessment on the performance data submitted; this consequentially allows for the sharing of data and best practice in performance outcomes as well as business process re-engineering based on what has been proven to work in other authorities. Equally APSE Solutions, which is an ethical not-for-profit consultancy service operated by APSE has vast experience in reviewing and assessing services, utilising core cost, productivity and quality data as well as exploring demand side cost reductions in services.

Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self-assessment, peer assessment, combined assessment and governance review?

Whilst APSE welcomes strengthening local accountability it is anomalous to assume that this would come from the appointment of a lay chair of an audit and scrutiny committee. It raises questions as to democratic accountability and conflict of interest. This should be a matter which councils determine for themselves.

Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?

APSE members have generally supported the rejection of this proposal but APSE is supportive of robust and transparent ways in which to hold public services and public service providers to account.

Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?

APSE would not wish to comment in the absence of a strong steer either way from its' member local authorities.

Question 5.7: If so, would they benefit from additional legal powers?

This should be a matter for ongoing review when fully operational.

Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?

*Local authorities already have many powers to share services through delegation, service level agreements and contracts and more commercialised approaches such as trading companies. There is often a mistaken view that the answer to shared services must lie within structural solutions when this is both more costly and often unnecessary. You are referred to the APSE Research Publication '**Shared services and collaborative working in a Welsh context: applying theory to practice**' (APSE and De Montfort University 2012).*

In terms of shared services across the boundaries, for example of Local Government and partners such as the NHS, there is the obvious risk that staff will work side by side on markedly different terms and conditions. There is nothing new in this dilemma but it is not the main reason to prevent shared services. Indeed in the context of integration of health and social care it is the willingness for collaboration that has made schemes work rather than the structures or differing terms and conditions of staff.

APSE has also extensively researched the use of cooperatives and mutuals in public service delivery. Our findings are that there is little to suggest that these models work – particularly in the context of reductions in budgets as they are often financially immature and are placed in a position of bidding for work in open competition. It is not

a model of delivery that lends itself to greater processes of collaborative working or shared services. Conversely the powers which already exist within councils, and which will be enhanced by the new General Power of Competence, provides a solid framework for councils own services to be innovative in working across traditional boundaries – both geographic and sectoral.

PART 6

Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?

APSE supports greater training and development opportunities for councillors but this should be a matter of local choice as opposed to imposition.

Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?

Yes

Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?

There would be a call on council resources to implement the recommendations so to avoid this APSE would support the Boundary Commission itself taking responsibility which appears to also be supported by our members.

Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?

This would again create a cost burden. Training should be determined locally alongside any budget for this.

Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?

APSE members appear to support this proposal but we would again caution on the length of terms and the balance of accountability.

Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?

We are unclear as to the intent of the question given our response to Q.6.4 above.

Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?

One would expect that a Community Clerk would have objectives set as standard practice.

Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?

In a modern era e-petitions are generally supported providing this does not exclude those within internet access.

PART 7

Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?

APSE is concerned that these workforce provisions could undermine existing bargaining frameworks within Wales, which have served trade unions and their members, in addition to the Welsh employers, well over a number of years. Also APSE is concerned that workforce planning matters should be locally determined. Workforce planning is indeed integral to developing strategies to implement the policies and modes of service delivery determined democratically by the elected members. There is no justifiable reason for centralist interventions.

In terms of the Staff Commission it is disappointing that the proposed arrangements do not reflect the Independent Local Government Reform Joint Forum set up to assist local authorities in Northern Ireland transition to the new authority arrangements. This appears to be much more of an interventionist process and it is not clear how this will help the transition should reorganisation go ahead.

APSE would go so far as to say that should reorganisation go ahead a purposeful Staff Commission or similar body should be established, to include trade union and employer representatives, and expert bodies to assist in the very detailed work that would be required to bring the new authorities into being.

APSE would also regard it as essential that the spirit and intention of TUPE be fully adhered to and that employers go beyond the letter of regulation to ensure staff are part of the process of reorganisation, as true partners, rather than by-standers or indeed 'victims' in terms of job security. To assist this process any form of joint forum or staff commission should be treated as a special purpose vehicle with a clear end date and clear objectives rather than a long-term additional layer of government.

Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?

We would refer you to our response to Q.7.1 above

PART 8

Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?

Is there any intention to amend SI 2006 No.979 The Local Government (Best Value Authorities) (Power to Trade) Wales Order in light of changes to GPC?

ADDITIONAL QUESTIONS

Question 9.1: Are you aware of any consequential amendments to legislation that will need to be made?

APSE is concerned by the proposals to allow the passing of a General Power of Competence to Community Councils with Competence and the impact of this on the accounting measures for their activities back on the parent local authority. Greater clarity is needed.

Question 9.2: Please provide feedback you think would be useful in relation to the supporting documents published alongside the Draft Bill i.e. Draft Explanatory Memorandum (including the Regulatory Impact Assessment) and specific Impact Assessments.

The questions in the consultation are not entirely sequential to the Bill and some provisions cited have yet to be drafted and refer back to the white paper. This creates some confusion.

Question 9.3: We have asked a number of specific questions. If you have any related issues which we have not specifically addresses, please use this space to comment.

We are concerned that there is some misunderstanding of procurement issues and some of the provisions or cited intentions in the white paper appear to assume that public contracts can be awarded as of right or be classed as a matter of 'delegation' to bodies which by their structure would not be a public body and may in fact invoke procurement rules. Greater clarification in the impact assessment would be helpful.

APSE is also concerned that recent legislation, for example the Well-being of Future Generations (Wales) Act 2015, and other planned legislative measures provide further duties and responsibilities on local councils. In the case of the well-being measures these also provide, in certain circumstances, new duties on Community Councils. It

would seem that the proposed Bill placed addition burdens and responsibilities on local councils that are not matched by any funding measure, creating a cost burden at the very point when councils are least able to afford such measures. This approach appears to lack coherency.

4. APSE comment

The draft Bill leaves many uncertainties and indeed would ultimately be dependent upon the outcomes of the Welsh Government elections. However the Bill it raises many important issues of genuine localism alongside accountability and local democracy.

APSE remains concerns that wide scale reorganisation, at the point of local government budgets in Wales being further reduced, will serve as displacement activity instead of the necessary catalyst to service improvements and reform. APSE believes a more mature and manageable approach to public service reform lies within collaboration, innovation and municipal entrepreneurialism; themes set out in [APSE's Ensuring Council research](#).

APSE will endeavour to keep its member authorities informed about progress on the draft Local Government (Wales) Bill. The proposed new Power of General Competence and issues of municipal entrepreneurship, charging and trading will also be discussed at a special seminar to be held at Llandridnod Wells on the 28 April 2016.

If you wish to respond or comment on this briefing please email Mo Baines on mbaines@apse.org.uk or email Wayne Priestley on wpriestley@apse.org.uk