

Meeting of the Working Group on local government
28 September 2018, 14:00 – 16:00
City Hall, Cardiff

Draft Minutes

Attendees

Derek Vaughan MEP	Chair
Councillor Debbie Wilcox	Leader of WLGA, Labour Group Leader and Leader of Newport City Council
Councillor Andrew Morgan	WLGA Presiding Officer and Leader of Rhondda Cynon Taf County Borough Council
Councillor Ellen Ap Gwynn	WLGA Plaid Cymru Group and Leader of Ceredigion County Council
Councillor Ray Quant	WLGA Independent Group and Deputy Leader of Ceredigion County Council
Councillor Bob Greenland	WLGA Conservative Group and Deputy Leader Monmouthshire County Council
Councillor Huw David	WLGA Deputy Presiding Officer and Leader of Bridgend County Borough Council
Alun Davies AM	Cabinet Secretary for Local Government and Public Services
Michael Plaut	Chair, CBI Wales and business representative
Gaynor Richards	Director, Neath Port Talbot Council for Voluntary Service and Third Sector representative
Bethan Thomas	Head of Local Government, UNISON Wales and trade union representative

Apologies:

Councillor Peter Fox	WLGA Conservative Group Leader and Leader of Monmouthshire County Council
Councillor Emlyn Dole	WLGA Plaid Cymru Group Leader and Leader of Carmarthenshire County Council
Councillor Hugh Evans	WLGA Independent Group Leader and Leader of Denbighshire County Council
Councillor Rob Stewart	WLGA Deputy Leader and Leader of City and County of Swansea

Also attending:

Steve Thomas	Chief Executive, WLGA
Chris Llewellyn	Deputy Chief Executive, WLGA
Rachel Maycock	Special Advisor, Welsh Government
Reg Kilpatrick	Director of Local Government, Welsh Government
Claire Bennett	Deputy Director of Local Government Transformation and Partnerships, Welsh Government
Lisa James	Deputy Director of Local Government Democracy, Welsh Government
Debra Carter	Deputy Director of Local Government Strategic Finance, Welsh Government
Kath Cannan	Welsh Government
Paula James	Secretariat (WG)
Daniel Hurford	Secretariat (WLGA)
Ceri Reeves	WLGA, Administrator for Derek Vaughan MEP

Welcome and introductions

- 1.1 The Chair, Derek Vaughan, welcomed everyone to the meeting and made some opening remarks to set the scene. He noted the context of the previous few days of discussions on funding, and stated that the work of this group will be very important in relation to the ongoing provision of services to the public.
- 1.2 The Chair noted that there had been an informal meeting with just the local government group members, but now welcomed Gaynor Richards, Michael Plaut and Bethan Thomas to the group. He also noted the apologies and thanked the substitutes, welcoming them to the meeting.
- 1.3 He asked the secretariat to ensure that minutes are signed off by the external members as well as by WLGA and local government members.

Paper 1: Draft Terms of Reference

- 2.1 The group discussed the draft Terms of Reference (ToR) which had been written following discussions between WLGA and Welsh Government. The document was largely agreed but the Chair specifically asked whether the three additional group members from the business, trade union and voluntary sectors wished to add any comments.
- 2.2 There was a discussion about the rationale of stating the need for an 'appetite' for shared services, in addition to a business case. Following this debate the draft Terms of Reference was agreed.

Paper 2: Draft Workplan

- 3.1 The discussion focused on the dates of future meetings, particularly to confirm the 30 November date in diaries, and to also confirm that 11 October will not go ahead. The Chair commented on the difficulties of finding an additional late October/early November date as a number of options had already been explored. The Chair did not close down the possibility of finding an early November date, but did confirm it was proving difficult so in the absence of an additional date, the next meeting would be on 30 November.

Paper 3: Mutual Respect and Shared Responsibilities – Scene-setting note

- 4.1 Councillor Debbie Wilcox (DW) introduced this item, explaining that the paper summarises that if we are to develop this shared agenda, we can only do so by showing mutual respect and forging a strong partnership between national and local government, particularly post Brexit.
- 4.2 DW welcomed the Cabinet Secretary's commitment to democracy and localism, but questioned how far this was reflected across Welsh Government and the National Assembly. DW did however consider the revised Partnership Scheme a positive start, although as the scheme's annual report confirmed, it was not always fully adhered to (as outlined in the paper).

- 4.1 DW felt that engagement could be further strengthened through regular meetings between the First Minister and the twenty two local authority Leaders and also through meetings with the Cabinet. DW suggested one or two meetings per year with the First Minister would seem reasonable. Councillor Andrew Morgan (AM) supported this suggestion.
- 4.2 DW stated the view that mutual respect needs to improve at the level of wider relations with Assembly Members also, and that this would need to be taken up through Assembly political groups and the commission.
- 4.3 DW felt there is scope to codify governance arrangements, improve communications, achieve greater consistency and standards, and avoid duplication. DW stated confusion over why there are different approaches to remuneration.
- 4.4 DW noted that the Partnership Scheme includes several features of the European Charter of Local Self-Government, and expressed the view that taking this a step further by adopting the Charter would be symbolic, and would significantly strengthen partnership working.
- 4.5 The Cabinet Secretary observed that he sees the European Charter as a final step in the path to reform, not the first step. He suggested that we need to go through a process of reform first, and then consideration could be given to the charter as a way of underpinning that new system.
- 4.6 The Cabinet Secretary emphasised the importance of the Partnership Council (PC) in maintaining the relationship with local government, and expressed his wish to focus on making that forum work better, rather than creating something new.
- 4.7 Bethan Thomas (BT) commented that the Mutual Respect paper only referred to the relationship and partnership working between local government and the Welsh Government, and that it would add value to show the importance of trade unions in Wales. If the intention was for the paper to underpin the work of the Working Group then the paper should underpin the relationship for all members. BT noted, for example, that the national position of Unison was not to oppose mergers, so as the trade union representative BT could not agree with that part of the paper that stated that local government disagreed with the merger proposals and asked that the wording reflect that differing position.
- 4.8 Councillor Ellen Ap Gwynn (EAG) and Councillor Bob Greenland (BG) raised concerns about the differing views of some trade unions at a local level, as compared with their union's national stance, and observed that such inconsistencies can pose difficulties and frustrations for local government in dealing with this.
- Steve Thomas (ST) noted that the Workforce Partnership Council, rather than the working group, was the more appropriate forum for addressing workforce issues and managing relations between the Welsh Government, local government employers and the trade unions.
- 4.9 EAG discussed the issue of travelling from North Wales for meetings, and the Cabinet Secretary agreed that PC meetings should move around the country.

- 4.10 Rachel Maycock (RM) reminded members that this paper will be back on the agenda in November so these issues could be ironed out.
- 4.11 The Cabinet Secretary said he will take away the actions related to the First Minister meetings and the Partnership Council.
- 4.12 MP stated that there should be better relationship between local government and the business community. He observed that there is sometimes a feeling of being on different sides, but there needs to be respect on both sides. He also supported BT's point about this paper reflecting all Working Group members. Gaynor Richards (GR) said that the voluntary and community sector looks to local government as one of its key partners, that there is a shared agenda, and the voluntary sector are looking for closer working.
- 4.13 The Chair asked Daniel Hurford (DH) to revisit the paper, and asked all members to go back to Daniel with their views and proposals.

Paper 4 - Local Government and Elections (Wales) Bill

- 5.1 Lisa James (LJ) provided an update on the LG and Elections Bill (the Bill). She explained we are coming to the end of the drafting window, and that a raft of accompanying documentation is being prepared.
- 5.2 LJ explained that following earlier discussions it was suggested that the following items were removed, subject to the WLGA producing guidance:
- The right of the public to record and tweet on meetings
 - Performance management arrangements for Members of Cabinets
- 5.3 The guidance is still being finalised so at present these provisions appear in the draft Bill. A further provision, the role of the Independent Remuneration Panel (IRP) in respect of senior officer salaries is subject to separate negotiations.
- 5.4 LJ added that the paper unintentionally omitted voluntary mergers, and the draft Bill makes provision for this for two or more local authorities to come forward at any time with a proposal for voluntary merger, as announced by the Cabinet Secretary in July 2018.
- 5.5 The Chair raised that there is a link between the Bill and the paper on Additional Powers and Flexibilities. An example of this is that the latter calls for the General Power of Competence (GPOC) for local authorities, but that is already within the content of the proposed Bill.
- 5.6 There was discussion around the need to be mindful of the Bill timetable as stage 2 is likely after the Summer break 2019. There is no leeway on the timetable as this is determined by the National Assembly for Wales.
- 5.7 Councillor Ray Quant (RQ) queried a point of detail around the draft provision 'Public right to make representations at community council meetings'. LJ confirmed that work would be undertaken with One Voice Wales to agree an appropriate way forward.

- 5.8 EAG noted the provision for a principal authority to choose between First Past the Post or Single Transferable Vote electoral systems, and questioned whether it would be better for all to have the same system. The Cabinet Secretary confirmed the importance of local authorities having the power to move to a different system of election if they had the required two thirds majority to do so.
- 5.9 Councillor Huw David (HD) welcomed the extension of voting rights to 16 and 17-year olds. There was a discussion around prisoner voting, through a postal vote, for those serving short sentences and whose sentences would end during that local government term. It was noted that this was a challenging area and that provisions would not be included in the Bill on introduction. LJ confirmed the franchise would be for Welsh prisoners only. The Cabinet Secretary raised the issue of women in prisons outside of Wales, and that was discussed.
- 5.10 AM asked about the petitions schemes, and LJ confirmed that the reference related to online petition schemes and that the intention was to abolish community polls. AM raised concerns about the risk of online petition schemes being open to abuse, and LJ confirmed that detailed guidance would be needed and a sensible approach agreed.
- 5.11 Steve Thomas (ST) raised the proposal to designate a local authority's Chief Executive as the authority's Returning Officer, and the issue of removing the returning officer fees. ST queried the impact on Chief Executives whose existing terms and conditions of employment included the role of Returning Officer, and also whether fees would be redistributed to others who work on elections.
- 5.12 LJ stated that this applies to both local government and National Assembly elections and that as the current system is onerous for everyone, the Welsh Government is committed to looking at different ways of providing funding to run National Assembly elections. The removal of the personal fee was not intended to generate savings and the total amount available to run these elections could be distributed in different, more simple ways. The intention is to consult with local government on this in due course.
- 5.13 AM stated that RCT council had taken the fee away from their Returning Officer for local authority elections. In their case, the Council determined the most appropriate officer to be the Returning Officer was not the Chief Executive, but the Head of Democratic Services. AM suggested that each local authority should have the choice of who is best suited to undertake the Returning Officer role as local situations vary.
- 5.14 AM stated that he did not agree with senior officers having a Returning Officer fee because they are already earning six figure salaries. He felt that if there was a fee to be paid it should go to the lower paid staff who are undertaking a lot of the election work.
- 5.15 DW asked about repeal of provisions for elections by halves or thirds, and LJ clarified. DW confirmed she is supportive of that provision.

- 5.16 The Chair moved on to the issue of the General Power of Competence, but no comments were raised on this issue.
- 5.17 DW raised the issue of personal safety, and the importance of not making Elected Members' personal addresses public. There was agreement that only official contact addresses and phone numbers should be published.
- 5.18 The Chair moved on to the item on the Duties and Conduct of Members, and again there were no additional comments from the group.
- 5.19 ST asked about the the power to enable, and LJ responded.
- 5.20 BT raised the issue of the provision 'Duty to appoint a Chief Executive and provide sufficient staff and other resources' and how that was open to interpretation. LJ responded that the wording replicated the 1989 Act. This provision simply renames the 'Head of Paid Service' as 'Chief Executive'. BT mentioned the integration of health and social care, and how she felt there needs to be recognition that statutory services on the ground need sufficient levels of staff and resources. DW agreed, and EAG commented that all councils would like sufficient staff to run their services.
- 5.21 HD added that in relation to accountants, there was a requirement to confirm sufficient levels of resourcing in order to provide statutory services. He felt this should also cover health services delivered by local authorities with more close working and jointly employed teams.
- 5.22 BT raised the issue of future-proofing and how it was not sufficient to look purely at local government services as they are delivered now, but what services will be needed in 10 years time, and how they will be delivered. She stated that the Local Government and Elections Bill needs to shape, not just respond to, that.
- 5.23 Reg Kilpatrick (RK) agreed, and explained that this form of words in the clause applies to a very specific situation, i.e. the role of Head of Paid Services. There is a wider debate which is ongoing across local government. RK suggested that it might be helpful for officials to provide the non-local government members of the group with a briefing on the Bill as many of these provisions and their history were very familiar to most of the group. BT welcomed this offer.
- 5.24 The Chair asked LJ to circulate the actual wording relating to the appointment of Chief Executives for the group's information.
- 5.25 DW stated that Principal authorities' governance and performance should be less prescriptive and based more on design principles.
- 5.26 The Cabinet Secretary stated he would like local government to take a greater role in its own performance management and that there are discussions about re-establishing national arrangements to provide improvement support to local government, which may be funded by Welsh Government.
- 5.27 RQ sees it as a reinstatement of what was there before funding was taken away, with very successful peer reviews previously.

- 5.28 ST observed that he feels the WLGA is restoring a 'Chinese wall' within its organisation to separate political activity and improvement support. He stated that every authority should undertake a peer review, but that these should not be a statutory requirement rather a national voluntary commitment that all authorities receive a peer review should be agreed instead..
- 5.29 The Cabinet Secretary disagreed with this view, in favour of creating a more formal structure around the process.
- 5.30 The Chair stated that there appears to be agreement in principle to creating new performance arrangements, and the importance of working together on the detail.
- 5.31 HD stated that the service-level Social Services peer review in his own authority had proved invaluable, and that he felt that there should be an annual self assessment process in Education.
- 5.32 AM moved the discussion on to Public Service Boards (PSBs). He stated his view that the Cwm Taf PSB works well, except in relation to money, and described the difficulties he had found in getting all parties to take ownership and to contribute funding to support the PSB.
- 5.33 The Cabinet Secretary then talked about the unnecessarily complicated nature of government and the need to be ruthless in taking away the layers of bureaucracy and minimising the weight of governance in Wales.
- 5.34 ST stated his view that the Welsh Government had had a chance to change that through the Well-being of Future Generations Act and the Social Services and Well-being Act, but that opportunity had not been taken.
- 5.35 The Cabinet Secretary said we need to take a hard look at the complexity of governance and partnership working and that it is not acceptable to, for example, risk losing social workers to pay committee clerks.
- 5.36 ST asked whether that was a recommendation for this group, and the Chair suggested an item on the complexity of governance and partnership working on the agenda for the November meeting of this group.
- 5.37 MP stated that the business community would be in agreement with exploring this further. He was keen to see the group pick at least one area in which to make a real difference.
- 5.38 RK commented that it would be useful to identify a few key issues to bring to this group as part of the focus on reducing complexity. The Chair confirmed we would use the paper on complexity of governance for an initial discussion, and then would follow-up again at a later meeting.
- 5.39 The discussion moved on to the provision in the draft Bill 'Power for Welsh Ministers to issue statutory guidance on workforce matters' and BT raised a concern that this would replace the equal partnership achieved between employers and trade unions

through the Workforce Partnership Council (WPC). LJ & RK explained that this will put the guidance from the WPC on a statutory footing.

- 5.40 The Cabinet Secretary stated that the Welsh Government would be launching a consultation on the future of the Fire and Rescue Authorities (FRAs) over the coming months.
- 5.41 EAG and AM discussed the issue of funding cuts and the resultant impact on FRAs. AM stated that he did not wish to impact on safety, but expressed concern that previous cuts to FRAs' budgets had led to FRAs looking to local authorities to plug the funding gap.

Paper 5 – Powers and flexibilities for local government – initial priorities

- 6.1 The Chair introduced the item and noted the links with the previous agenda item on the Local Government and Elections (Wales) Bill. The Chair noted that the paper includes (paragraph 7) the points highlighted by local government as priorities for consideration for legislative change, and invited views from members on this point.
- 6.2 BT stated that not all of the points listed would be embraced by trades unions. She highlighted in particular the following bullet points as requiring further clarification:
- 'Power to determine remuneration and appointment of senior officers, without a role for an external body providing recommendations'. BT commented that she is not aware of conversations taking place with the unions about this. She added that clarity is required on what is meant by 'senior officers'.
 - 'Powers for local authorities to create arms length property entities to accelerate development of strategic sites and premises in support of the Growth Deal outcomes'. BT stated that she would like to see further discussion on this point to ensure compliance with terms and conditions for union members and matters such as ethical procurement.
 - 'Relax grant rules and accountabilities for social reform and anti-poverty programmes'. BT commented that anti-poverty programmes would be even more important moving forward so she would question this flexibility.
- 6.3 RK offered to brief BT, GR and MP before the next meeting.
- 6.4 BT added that there is an opportunity to have a Welsh National Joint Council structure with the power to negotiate directly on pay and terms and conditions, and suggested that could be put to the top of the agenda. ST stated that the WLGA would not support a Joint Council in Wales.
- 6.5 Councillor Bob Greenland (BG) said he would support local government having a role in the 'democratic oversight of the NHS through locating the powers of Community Health Councils (CHC's) within local government' as included in paragraph 7 of the paper.

- 6.6 The Chair explained that this list of priorities has come from the WLGA. He added that the CHC's point would be a matter for the Cabinet Secretary for Health and Social Services.
- 6.7 DW commented that a notable omission from the list of priorities at paragraph 7 is on the request for the transfer of powers relating to public health to local government. She explained this is because it was ruled out by the Cabinet Secretary for Health and Social Services during his speech to the WLGA Council.
- 6.8 The Cabinet Secretary was supportive of local democratic institutions to oversee other public services and to take decisions about communities. He also commented that he would have written a longer list of powers and flexibilities if he had been in local government. He would like to see local government do more not less.
- 6.9 The Cabinet Secretary confirmed he does not wish for a debate on structures and salaries but does want a debate about the delivery of services in the community. He noted that it would appear local government could have a broader scrutiny role, not limited to those services that local authorities deliver.
- 6.10 In terms of tax raising, the Cabinet Secretary said he thought there is broad agreement that tourism tax be handled at local, rather than national, level but within a national framework. He added that he believed that an empowered local authority can exercise greater power than the sum of its statutory responsibilities.
- 6.11 DW and ST talked about the importance of equal pay for equal value, and the disparity between the levels of remuneration for different public service roles, for example, Council Leaders and Health Board Chairs and Deputy Chairs.
- 6.12 The Cabinet Secretary stated that he had commissioned an informal report by the Independent Remuneration Panel (IRP) on the remuneration of councillors and he said he would like to work with local government to decide how to take that forward. He confirmed he would be happy for this report to be shared with the Group. He added that his view is that there should be full-time, better remunerated councillors but he was aware that this would have implications for the cost and shape of authorities. Publication of the report would, in his view, enable a rich and colourful debate.
- 6.13 There was agreement that the IRP report would be useful. AM added that he was supportive of an Independent Reumeration Panel to 'take the politics out of councillors' salaries', but that the present system does not do that as each council has to vote on the IRP's report. He felt that it would be preferable for the IRP's final report to be decided upon by a separate body or the Minister, not by councillors.

Item 6 – Next steps and close

- 7.1 The Chair reiterated that the 11 October date was unlikely to be possible, and that 30 November meeting will continue, with an extra paper on governance and partnership working.
- 7.2 The Chair said there had been a good discussion today, and that the secretariat should work jointly to prepare for the next meeting and to agree responsibility for the

specific pieces of work. Papers for the next meeting should issue as early as possible.

- 7.3 The Chair said he would like to send the minutes out asap, to be cleared by him first, including decisions from the meeting. There will be further discussions on each issue and then agreement and decisions sought on the way forward.

Actions

<p>Administrative matters</p> <ul style="list-style-type: none">• The Secretariat to ensure sign off of minutes by all group members, following approval from the Chair.• Secretariat to issue papers in advance of the agreed one week where possible.• Officials to provide the non-local government members of the group with a briefing on the background to and role of the Group, the Local Government and Elections (Wales) Bill and powers and flexibilities paper.
<p>Draft Terms of Reference and Workplan</p> <ul style="list-style-type: none">• Secretariat to update status of Terms of Reference from Draft to Agreed.• Secretariat to update workplan based on discussions at the meeting.
<p>Mutual Respect and Shared Responsibilities paper</p> <ul style="list-style-type: none">• The Cabinet Secretary to take away the actions related to meetings with the First Minister and Cabinet.• Daniel Hurford to revisit the paper to take account of the group's discussions, and all members to put forward any proposals for DH to take account of.
<p>Local Government and Elections (Wales) Bill</p> <ul style="list-style-type: none">• Wide agreement on Local Government and Elections Bill but some points of detail to be clarified.• Secretariat to circulate the actual wording regarding the appointment of Chief Executives for the group's information.• Secretariat to commission a paper on the complexity of governance and partnership working, including a focus on reducing complexity, for a future meeting.
<p>Powers and flexibilities for local government – initial priorities</p> <ul style="list-style-type: none">• Secretariat to present paper on next steps, reflecting the initial discussion.• The secretariat to share the IRP report on the pay of councillors with the Group.