

## Report of the Chief Executive

Council – 23 March 2017

### CONSULTATION RESPONSE – REFORMING LOCAL GOVERNMENT: RESILIENT AND RENEWED

**Purpose:** To agree in principle responses to the recently issued Welsh Government white paper in order that a detailed response can be prepared for submission by the deadline of 11 April 2017.

**Policy Framework:** None.

**Reason for Decision:** To allow a consultation response to be submitted.

**Consultation:** CMT, Legal, Finance, Access to Services.

#### Recommendation(s):

- 1) That Council considers the White Paper issued by Welsh Government **Reforming Local Government: Resilient and Renewed** and authorises the Chief Executive to construct a response in consultation with the Leader of the Council in line with the suggested responses shown highlighted in black within this report.

**Report Author:** Mike Hawes

**Finance Officer:** Ben Smith

**Legal Officer:** Tracey Meredith

**Access to Services:** Sherrill Hopkins

## 1. Background.

- 1.1 On 31 January 2017 Welsh Government formally launched a Consultation White Paper '**Reforming Local Government: Resilient and Renewed**' setting out the Welsh Government's statement of intent about the future of Local Government in Wales.

- 1.2 The white paper sets out Welsh Government initial proposals in respect of:-
- Potential services to be delivered on a regional basis across Wales;
  - The geographic areas proposed for regional working purposes;
  - Governance and scrutiny models that could support regional working;
  - Funding issues relating to regional working proposals;
  - The future role for Councils and Councillors;
  - The future role of Community Councillors;
  - Proposals around elections and voting.
- 1.3 The white paper sets out a series of consultation questions, to which responses are required by 11 April 2017.
- 1.4 This report sets out the proposals contained in the report together with proposed outline responses in each area that could form the basis of the Council's more detailed response.

## **2 Key assumptions.**

- 2.1 The key assumption of the White Paper is that change is a necessity if there is to be continued financial and operational resilience as far as Local Government services in Wales are concerned. It identifies an enthusiasm across Local Government for regional working but suggests that such working should only be undertaken where there is clearly better outcomes and/or greater resilience.
- 2.2 The report suggests a series of 'tests' to establish whether regional delivery of services might be appropriate

## **3. Operational boundaries for regional working.**

- 3.1 The consultation paper sets out four potential models for regional working:-

### Option 1: Mandating prescribed footprints for regional working

Welsh Government would require regional working by specifying what functions had to be exercised on which footprint. This is the original approach arising from the discussions in the summer based on the 'economic development' footprint and Local Health Board boundaries and would be the most rigid approach. It would have the advantage of clarity and simplification.

Greater flexibility could be provided by allowing building blocks of footprints to be combined to support the delivery of specific services across a wider area. For example, a regional collaboration which spanned two Local Health Board boundaries.

### Option 2: Mandating a framework

This option would offer the greatest flexibility and would see Welsh Government requiring regional working for specific services, but without specifying the footprint on which it had to take place, which would be left to local determination. Welsh Government would provide a framework within which that local determination would be made. For example, this could involve specifying a minimum number of Local Authorities that need to be

part of a regional arrangement or requiring the Local Authorities have regard to certain things, such as Local Health Board boundaries.

#### Option 3: A framework and a footprint

An alternative approach is where for some functions a footprint would be prescribed, for example transport planning and strategic land use planning might be prescribed to take place on an economic development footprint. However, for other functions, such as public protection, regional working arrangements would need to comply with the framework for regional working, for example, a minimum number of Local Authorities working together, and /or consideration of Local Health Board boundaries.

#### Option 4: Deliberatively Regional

Another variant on requiring regional working might be one where Welsh Government would engage in a deliberative process with local government to determine the appropriate footprint for each service / function and the footprints would be made mandatory at the conclusion of that process.

- 3.2 **Each of the above models brings its own complexities. It is the view of the Council that where regional working is proposed that it is undertaken across the Economic ‘City Deal’ region, regardless of the activity. However, the Council recognises the problem that would be caused in terms of integration of Health and Social Care and is of the opinion that a full risk assessment would have to be carried out prior to any changes to regional arrangements in this area.**
- 3.3 It is recognised both in the paper and by the Council that this may well conflict with existing regional arrangements and indeed with existing Health boundaries, but it is clearly felt that any other model will add huge complexity in terms of future working and financial arrangements.
- 4. Proposed governance arrangements for regional working.**
- 4.1 The paper examines a number of options for exercising governance over regional arrangements. The clear preference within the paper is the setting up of Joint Governance Committees (JGC’s) to oversee regional working arrangements and, more importantly, to undertake the exercise of regional functions which will be delegated to the JGC by constituent LA’s.
- 4.2 The proposals will be backed by a common rulebook issued by WG under which JGC’s will be expected to operate.
- 4.3 Proposed membership of the JGC would be the elected member with responsibility for the functions being undertaken by the Committee; It is envisaged that there could be more than one JGC per region (functionally based) or that each JGC could set up a series of sub-committees to exercise powers.
- 4.4 It is assumed therefore that cabinet members and/or the Leader of Council would form part of JGC membership.
- 4.5 The report acknowledges that arrangements will have to be made to ensure that there is adequate local scrutiny of JGC reports and decisions.

- 4.6 The report specifically that Welsh Government will set out a framework for JGC's to include:-
- **membership arrangements** – The proposal is that the membership of the 'Joint Governance Committee' should be made up of the Elected Member or Members with responsibility for the function(s) being exercised, with the proviso that each Local Authority must have equal membership
  - **delegation of functions** – The proposal is that we will prescribe the functions which must be exercised regionally by the Local Authority. The delegation process will therefore be about providing clarity and transparency for Elected Members and the public about to whom the delegations are made in each Local Authority and the accountability which has been put in place to hold them to account, there will be no option to refuse to delegate
  - **voting arrangements** – The proposal is that each Local Authority will have equal representation and voting power on any 'Joint Governance Committee'
  - **funding flows** from Local Authorities to the 'Joint Governance Committee' – the proposal is that we will provide a mandatory framework for this and develop it in partnership with local government.
  - **Scrutiny arrangements** – WG will provide a range of options for the approach to scrutiny and ensure that those undertaking scrutiny have a duty to consider the regional as well as the local interest
- 4.7 In terms of funding arrangements the paper clearly indicates that L.A's are expected to agree funding arrangements preferably by means of pooled budget arrangements.
- 4.8 More specifically the proposals do not set out the key questions to be asked in terms of regional funding which are:
- Will the JGC have powers to decide levels of funding to provide devolved services with the ability to simply effectively levy constituent LA's for annual budget provision? This would clearly potentially have a profound effect on each LA's budget setting process and Local Accountability for setting Council Tax levels
  - Will the JGC be reliant on individual LA budget setting proposals in terms of its funding levels for the provision of services?
- 4.9 Should we reach a position where the JGC can effectively levy LA's for funding (a similar model being combined Fire Authorities) then, in the scenario where levies exceed core funding increases there will be a stark choice between reducing funding for non-devolved/non-pooled services or the raising of Local Taxation.
- 4.10 A further issue revolves around the fact that funding arrangements as envisaged only include revenue funding streams. It is clear that for some of the proposed regional activities (e.g. transport) service delivery includes significant capital investment and control. It is difficult to see (given that borrowing controls and debt management/cost falls to individual LA's) how any decisions around capital could become a devolved function.

- 4.11 The report does float the idea of a mandatory framework for financing JGC activity where no local agreement can be made.
- 4.12 Given that JGC's will not constitute legal bodies in their own right it is assumed that:-
- A lead LA will be required to undertake administration on behalf of LGC's including finance, HR, procurement, etc. It may be that there will need to be a lead employing body in terms of devolved functions where it makes administrative sense to group employees.
- 4.13 **In terms of proposed governance arrangements it is the opinion of this Council that:-**
- **A JGC would appear to be the most appropriate model for governance of regional arrangements**
  - **Any proposals must include provision for adequate scrutiny of JGC decision making**
  - **Financial arrangements should not include the ability for direct precept/Levy of individual Councils effectively pre-deciding democratic resource allocation.**
  - **We would not support a mandatory framework for financing JGC expenditure**
  - **Welsh Government should consider the implications on Regional working on the Capital as well as revenue budgets of LA's.**
  - **Consideration needs to be given as to what would constitute an effective client function in terms of governance and how the costs of the significant additional administration would be shared.**
  - **It would be preferable for regional Governance arrangements to evolve over time as experience and need dictates.**

## **5. Services subject to Regional Working**

- 5.1 The paper identifies the background to the development of proposals for regional working and, in particular, the need to consider such working in the context of the Well Being of Future Generations Act.
- 5.2 The paper sets out a proposed series of 'tests' that could help inform considerations around the appropriateness of services for regional working. These proposed tests are outlined in at Section 2.2.1 of the paper.
- 5.3 In setting out proposed functions for regional working, the paper initially identifies two groups of services:
- Those requiring regional working
  - Those where regional working could be explored.
- 5.4 Services where it is indicated Regional working will be required include:
- Economic Development
  - Transport
  - Land Use Planning and Building Control

- Social Services
- Education improvement
- Public protection

- 5.5 In terms of **Economic Development** Council is already committed to progressing Regional City Deal proposals across the identified Swansea Bay City Region economic area.
- 5.6 The paper as set out does not define Economic Development, and indeed it remains the case that LA's do not have particular economic development statutory powers, but actually rely on the well-being power as defined in the Local Government Act 2000. In England, but not in Wales, these powers have been superseded by a power of general competence.
- 5.7 The paper does not specify whether the mandating of the economic development function on a regional basis precludes individual LA's from carrying out their own activity.
- 5.8 **The Council is of the opinion that delegation of these powers on a regional basis should only be undertaken where the scale and impact of the proposals is best delivered at a regional level – it should not, for example, include lower level activities such as the management and development of managed workshops to support local business within a specific locality.**
- It is also of the opinion that there is no justification for extending regional working beyond the current agreed City deal region**
- 5.9 In respect of **Transport** it is acknowledged that strategic plans are already drawn up on a regional basis and that there is alignment between the transport, economic development and planning functions of Councils.
- However, regionalisation of transport functions will also require a change of approach from Welsh Government given the recent guidance note on Transport grant directed at individual LA's.
- 5.10 **Whilst the Council recognises the potential benefits of regional transport planning inevitably it imparts a level of complexity between National transport infrastructure (e.g. electrification of main line trains), regional infrastructure and local infrastructure.**
- 5.11 **The Council also recognises the difficulty in devolving any elements of Capital expenditure on a regional basis due to the impact on individual LA's and the question of ultimate asset ownership.**
- 5.12 **In respect of Land Use Planning and Building Control whilst the Council again recognises the potential benefits from regional working it is clear that, once again, regionalisation may well introduce an added level of complexity, with planning matters potentially being decided at more than 5 levels from National Government down to Community level.**
- 5.13 **The Council is not convinced that Building Control needs to be provided on a regional basis.**

- 5.14 In terms of Social Services, the paper recognises that, as mandated by the Social Services and Wellbeing (Wales) Act, partnership arrangements have been made across each Local health Board area.
- 5.15 **The Council recognises the fact that Regional working in line with the Swansea Bay City deal region does not conform with Health boundaries but that is closely tied up with significant decisions to be made regarding regional working for Bridgend County Borough Council.**
- 5.16 In terms of **Education Improvement** the paper envisages that existing regional arrangements are built upon (albeit those exist on a different footprint at present) and further re-examined.
- 5.17 The paper envisages the inclusion of Additional Learning Needs as a regional function following the introduction of the Additional Learning needs and Educational Tribunal (Wales) Bill (The ALNET bill) on 12<sup>th</sup> December 2016 which, amongst other things, transferred responsibility to individual LA's for maintaining individual development plans for learners who require specialist post 16 placements.
- 5.18 **The Council acknowledges the potential for the ongoing regional agenda for Education Improvement and ALN services, but is of the opinion that until such time that education and Health/Social care exist within the same footprint there could be significant risk to vulnerable children.**
- 5.19 With regard to Public Protection, it is proposed that Environmental Health Services, Trading Standards and Licensing are carried out on a regional basis.
- 5.20 This causes a specific issue to arise with regard to licensing as this is specifically a non-executive function within each LA.
- 5.21 **This Council does not believe that matters relating to licensing, specifically relating to Taxi licensing, street trading, entertainment and sex establishments should be undertaken other than on an individual LA basis.**
- 5.22 Services where the paper concludes that Regional working could be explored include Housing, Waste, Community safety and Youth Justice and Shared Support Services
- 5.23 With regard to Housing, the paper covers a range of functions relating to both HRA and General Fund Services, from operational matters to Housing strategy.
- 5.24 Plainly, for those LA's who do not have a HRA function, the concept of regional working in terms of a landlord function does not apply.
- 5.25 The proposals also include such matters as the regulation of mobile home sites.
- 5.26 **The Council understands the potential for regional collaboration on Housing Policy matters but believes strongly that for those LA's who retain Housing stock then matters relating to the management and development of LA Housing stock should remain a local issue.**

- 5.27 With regard to Waste services, as with transport, there remain serious issues regarding the potential for capital expenditure linked to the potential development of regional facilities. It remains the case that on a regional basis LA's have developed individual and different waste collection and recycling systems and that any move towards consistency on a regional basis will result in short to medium term operational pressures and cost-of-change pressures for some of not all LA's.
- 5.28 With regard to shared back office services a number of options are presented including transfer of support functions to the NHS Wales shared services partnership.
- 5.29 It is clear that the statutory reporting requirements of LA's, the legal and democratic framework in which they operate, the existence of different pay and grading models and differing terms and conditions are such that **this Council would not support the transfer of support requirements to the NHS shared services arrangement.**
- 5.30 In terms of tax collection powers and benefits administration greater efficiency might be achieved by the regionalisation (or indeed national provision) of these services but any such transformation would be costly to some or all of the LA's involved and would bring with it significant operational risk.
- 5.31 **The Council would support further exploration of regional support services but at recognition of the potential significant transition risk both financially and operationally that could arise from the adoption of consistent systems and processes and would seek upfront financial and other assistance in mitigating those costs.**

**6. Other issues raised in the paper include:-**

- The future role of Public Service Boards should be considered in terms of the potential to merge into more regional arrangements which is somewhat difficult to comprehend given that the whilst established by statute (The future generations Act) PSB's have no legal personality of their own or comprehensive governance arrangements underpinning their operation.

**The Council is of the opinion that wherever possible the footprint of the PSB's should follow that suggested for regional collaboration.**

- The proposal that further legislation is developed to provide for voluntary mergers which should be supported by strong support from stakeholders and a strong business case.

**The Council recognises this possibility but considers that it is unlikely that there will be support for such mergers at the current time**

- The paper sets out a framework for Local Leadership which suggests a relaxing of unnecessary burdens, a requirement for Leaders of Councils to set objectives with cabinet members at least twice during an election cycle and a duty of the Leaders of all political groups to promote good standards of conduct by their members

- In terms of governance, it is proposed that Corporate Governance and Audit Committee would replace the existing Audit Committee arrangements, taking on a greater role in challenging performance across each LA area. The paper also suggests that LA's in Wales should have the opportunity to choose a non-executive model of working by returning to the Committee system if they so chose

**This Council would not support a return to the Committee system and believes there should be one model of operation across all LA's in Wales**

- As far as Councillors are concerned, it is the Welsh Government's intention to increase the diversity of people who stand for election, with changes to Council meetings proposed to make broadcasting of meetings mandatory and to enable remote attendance.

There are further proposals to place duties on all Councillors to enable their constituents to be in contact with them and to ensure councillors constantly engage with their electorate.

- There are proposals to ensure that Members and Officers act in the best interests of both their LA and any regional arrangement and it is proposed that statutory Officers could be appointed on a regional basis.

**This Council does not support at this time the concept of regional statutory officers which would have to be carefully considered in the light of current statutory obligations, potential conflict of interest and workload constraints.**

- The paper envisages a debate around the future of Community Councils and at this point in time and policy direction remains unclear.
- The paper sets out proposals to review voting arrangements across Wales, proposals to create a single electronic register for Wales, the need for candidates to be clearer as to their membership of political parties, proposals preventing Assembly Members standing as Councillors, the ability for Councils to determine their own voting arrangements including the ability to introduce a single transferable vote system and the extension of the franchise to 16-18 year olds.

**Most of these issues are a matter for political level debate and response but the Council would urge the Welsh Government to take forward changes to the elections and voting arrangements with caution as it is crucial that the electorate maintain full confidence in the democratic process. However, the Council does believe that there should be common voting arrangements across all Councils in Wales.**

- There is a proposal in the white paper to phase out Returning Officer Fees for Welsh Elections. **The Chief Executive has a pecuniary interest in this matter and, as the main author of this report, offers no views on the matter (and he will be declaring an interest at the Council meeting).** However, should Members wish to discuss this matter, then the Council's Monitoring Officer and Directors will be available to advise as the

Chief Executive will have to withdraw from the meeting in these circumstances.

The removal of RO Fees is a contentious issue and the Authority seeks clarification as to whether the Welsh Government also intends to remove the “Liability” from the RO for the election and associated process. It seems perverse to remove one without the other.

## **7. Section 4 “A Framework for Good Leadership”**

- 7.1 The Authority notes the proposed additional duty “on leaders of Political Groups to promote good standards of conduct by their members...” but questions what the sanctions proposed are, should a Political Group Leader fall short of this duty. (Paragraph 4.2.3 of the White Paper).

## **8. Section 5 “Leading Localities”**

- 8.1 The Authority notes the proposal to make broadcasting of Council meetings a statutory requirement and to allow Councillors to attend meetings remotely. It would be useful if the Welsh Government could clarify what is meant by “Council meetings”; is it the full Council meeting or others such as Cabinet too? Equally, does the Welsh Government’s guidance on what is required for Remote Attendance stand or has it been simplified to make the principal potentially possible. (Paragraph 5.2.5 of the White Paper).
- 8.2 The Authority welcomes the suggestion to allow Councillors to liaise with their constituents in a variety of ways not solely via Councillor Surgeries. This is a clear commitment to emerging and established social media technologies. (Paragraph 5.2.7 of the White Paper).

## **9. Conclusions**

- 9.1 Members will be aware that this is the fourth White paper issued since the Williams report was published in January 2014 on an issue that has been ongoing in one form or another since 2011.
- 9.2 The White paper passes mixed messages in terms of the desire to promote a collaborative agenda between Welsh Government and Local Authorities whilst at the same time highlighting the mandating of functions to be carried out regionally and the potential to mandate on a range of other activities including financial arrangements where deemed necessary.
- 9.3 Regional working, taken in the round, is more likely to lead to added complexity in terms of financial, governance and support arrangements when resources (financial and human) are at a premium.
- 9.4 Equally, it will be difficult for Members and Officers to navigate and almost impossible for the public to hold to account those that they elect.
- 9.5 Whatever else, the transition to regional working if taken forward has the potential to distract Council’s from the very real task at hand in terms of delivering service transformation and efficiencies and, in terms of potential

transition costs and service risk, will be a real challenge in itself in the short to medium term.

9.6 Many Local Authorities have been criticised for not producing medium term financial plans which clearly set out in detail over a three or four year period very specific and precise service and operational savings plans. To the extent that such plans are being formalised by individual local authorities any move towards regionalisation has the potential to delay or obviate the benefits of implementation.

**10 Financial Implications**

10.1 There are no direct financial implications arising from this report.

**11. Legal implications**

11.1 There are no legal implications arising from this report.

**12. Access to Services implications**

12.1 There are no equality issues arising from this report.

**Background Papers:**

Welsh Government Consultation Paper – *Reforming Local Government: Resilient and Renewed*

<https://consultations.gov.wales/consultations/reforming-local-government-resilient-and-renewed>

**Appendices:**

None