

## AUDIT COMMITTEE

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| <b>Date of Meeting</b> | Wednesday, 27 <sup>th</sup> January 2021     |
| <b>Report Subject</b>  | Local Government & Elections (Wales) Bill    |
| <b>Report Author</b>   | Chief Executive & Chief Officer (Governance) |

### **EXECUTIVE SUMMARY**

The Local Government and Elections (Wales) Bill was passed by the Senedd on 18<sup>th</sup> November 2020. Council last considered this Bill, and made a response to it, at the meeting on 28<sup>th</sup> January 2020. The attached briefing paper, prepared for the Welsh Local Government Association Council (WLGA) meeting on 27<sup>th</sup> November 2020 sets out the history of the Bill, its main provisions and provides commentary on elements of it.

Whilst largely supportive of the Bill, the WLGA, on behalf of Local Government community, had expressed reservations at some aspects. These are identified within the briefing paper. Flintshire's own response to the Bill echoed that of the WLGA.

It should be noted that whilst the Bill has been passed by the Senedd, it has not yet received Royal Assent, which is why it is not referred to as an Act. However, there can be no further changes to it. The Local Government community may not be supportive of all that it contains, but as with all legislation, we must comply with those parts that are "commenced" (brought into force).

It is a big piece of legislation, which reflects its lengthy gestation period. It has 170 sections and 14 schedules. Some aspects of it reflect what Flintshire, as a best practice authority, is already doing and that your officers will do the necessary work to implement it. The key elements that will require specific Member approval, and so will be taken through the appropriate channels in due course, are as follows:

- Change of the franchise for "Welsh" elections;
- The option to change the method of election from first past post to single transferrable vote;
- Public engagement and participation in councils (accessibility);
- Self-assessment and peer assessment of our performance as a Council;
- Changes to the Audit Committee.

There are concerns at the lack of clarity on commencement, which is staggered , with some provisions, such as some of the changes to the Audit Committee and the introduction of Corporate Joint Committees coming into force immediately, with others two months after Royal Assent (so possibly April 2021), others in May 2022 and others on dates to be decided by Welsh Ministers.

## RECOMMENDATIONS

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| 1 | That Committee receives the briefing report, notes the constitutional and other implications of the Bill, and supports internal plans for their implementation. |
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## REPORT DETAILS

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| <b>1.00</b> | <b>BRIEFING ON THE LOCAL GOVERNMENT &amp; ELECTIONS (WALES) BILL</b>   |
| 1.01        | <p>The Bill is the culmination of many years of discussion on a range of issues which included reorganisation, performance and the electoral franchise. The report submitted to Council on 28<sup>th</sup> January 2020 provided details of the history:</p> <ul style="list-style-type: none"> <li>• Draft Local Government (Wales) Bill – November 2015</li> <li>• Consultation on Electoral Reform – October 2017</li> <li>• Reforming Local Government: Resilient and Renewed - Welsh Government White Paper - January 2017</li> <li>• Consultation on Powers and Flexibilities – January 2018</li> <li>• Strengthening Local Government: Delivering for People Welsh Government Green Paper - June 2018.</li> </ul>   |
| 1.02        | <p>When Council considered the Bill at an early stage (28<sup>th</sup> January 2020), it contained a number of significant elements. Following the consultative process, not all of those have been included within the Bill which was passed by the Senedd on 18<sup>th</sup> November 2020.</p> <p>The key points of the Bill, which will have the greatest impact on the work of the Council are:</p> <ul style="list-style-type: none"> <li>• Changes to the electoral franchise (see paragraph 1.03 and 1.04 below );</li> <li>• Public accessibility (see paragraph 1.05 below);</li> <li>• Corporate Joint Committees (as previously considered by Cabinet on 15<sup>th</sup> December)</li> <li>• Council performance and accountability and the Audit Committee (see paragraph 1.06 below)</li> </ul> <p>To assist the Committee in considering the Bill, we have provided the Flintshire context, and some comments, in italics, where necessary. An implementation schedule is also attached for information.</p> |

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| 1.03 | <p><b>Electoral reform (sections 2- 23)</b></p> <ul style="list-style-type: none"> <li>• Extension of the franchise to 16 year olds and foreign citizens.</li> </ul> <p><i>Our Electoral Registration team is already working on this. We recognise the inherent difficulties in running dual elections in May based on two different franchises. For example, 16 and 17 year olds will be able to vote in the National Assembly elections, but not for the Police &amp; Crime Commissioner elections. The county and community/town council elections which are scheduled for May 2022 will have 16 and 17 year olds participating.</i></p> <ul style="list-style-type: none"> <li>• Changing Council electoral cycles from the current four to five years (applies to county and community/town councils);</li> </ul> <p><i>We had supported this previously and continue to do so. A five year lifecycle is more appropriate for strategic planning.</i></p> <ul style="list-style-type: none"> <li>• Allowing non-politically restricted Council employees to stand for election to their own Council (they would resign if elected)</li> </ul> <p><i>Whilst we have recognised Welsh Government’s attempts to widen representation in local government, we were unable to support this at consultation stage. We are disappointed that it remains, as it has the potential to cause problems with ongoing working relationships between Members and officers but, as it is now in the legislation, we will have to implement it.</i></p> |
| 1.04 | <p><b>Two Voting Methods (sections 5 -12).</b></p> <p>The Bill provides a choice between two voting systems. These are first past the post – simple majority – which is what we use now and an alternative, the Single Transferable Voting system (STV). The simple majority system will apply unless and until Council changes the voting system, for the first time. The discretionary power for Councils to introduce STV for their own elections if there is a two-thirds majority of the Council membership in favour was not supported when we considered the draft Bill in January 2020.</p> <p>Under our present simple majority system, there are a number of Council wards which are represented by one, or in some cases two candidates. (Members will recall that we have reiterated our opposition to multi-member wards on many occasions, most recently during consultation on the Electoral Ward Review in 2020) With STV, instead of one or two people representing everyone in an area, larger areas elect a small team of representatives, such as 4 or 5. These representatives reflect the diversity of opinions in the area.</p> <p>On election day, voters number a list of candidates. Their favourite as number one, their second favourite number two, and so on. Voters can put numbers next to as many or as few candidates as they like. Parties will often stand more than one candidate in each area.</p>  |

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|      | <p>We had reiterated our previous stance that we do not support the conferment of the power to Councils to introduce STV for local elections. We maintain that there should be a uniform voting system in Wales which is commonly understood and practiced consistently. In previous consultation on electoral reform, we had said that there should be a national referendum on the introduction of STV if Welsh Government is to pursue its introduction.</p> <p>The Bill indicates that this provision would come into force on 6<sup>th</sup> May 2022 – after the next Local Government elections.</p> <p>Section 12 of the Bill says that where STV is applied, the number of Councillors for each ward is to be no less than three but no more than six.</p>   |
| 1.05 | <p><b>Reforming public participation in Local Government (sections 38 – 51)</b></p> <ul style="list-style-type: none"> <li>• Duty to encourage local people to participate in Local Government (section 40);</li> </ul> <p><i>This aim of this part of the Bill is to make it easier for people to become a member of a principal Council.</i></p> <ul style="list-style-type: none"> <li>• Requirement to produce a public engagement strategy; (section 41)</li> </ul> <p><i>We have a good track record in providing opportunities for the public to engage with us.</i></p> <ul style="list-style-type: none"> <li>• Duty to make a petition scheme (section 42)</li> </ul> <p><i>We have previously supported this. WLGA is to work with council Heads of Democratic Services to produce a national approach to this and a draft scheme will go to the Constitution &amp; Democratic Services Committee before being brought to Council for approval.</i></p> <ul style="list-style-type: none"> <li>• Duty on principal Councils to publish official addresses (section 43),</li> </ul> <p><i>We already do this and have done so for many years.</i></p> <ul style="list-style-type: none"> <li>• Duty to publish the Constitution and a Constitution guide (section 45);</li> </ul> <p><i>We have published our Constitution on our website for several years. Your officers will produce a plain language guide to our Constitution which will also go onto the website</i></p> <ul style="list-style-type: none"> <li>• Duty to broadcast certain meetings (section 46);</li> </ul> <p><i>We are currently publishing recordings of all our Remote Access meetings and intend to livestream them early in 2021.</i></p> <ul style="list-style-type: none"> <li>• Greater flexibility around Remote Attendance of members; (Section 47)</li> </ul> |

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|      | <p><i>We are now all familiar with the conducting Remote Attendance Meetings, and made appropriate changes to our procedures to accommodate them.</i></p> <ul style="list-style-type: none"> <li>• Giving notice of meetings (section 49)</li> </ul> <p><i>This makes permanent the current emergency provisions, allowing for electronic publication of agendas.</i></p> <ul style="list-style-type: none"> <li>• Regulations about the conduct of meetings (section 50)</li> </ul> <p><i>This section enables Welsh Ministers to make associated regulations, which the officers will review when they are made available, reporting back to Members as appropriate.</i></p>   |
| 1.06 | <p><b>Creation of a Governance &amp; Audit Committee, (sections 116 to118)</b></p> <p><i>This will replace the current Audit Committee, but is not indicative of local dissatisfaction with the role and conduct of the current Flintshire Committee. The new Committee must assess and report on: the Council's arrangements for self –assessment; peer review and ability to handle complaints effectively. It must also review the draft self –assessment performance report and draft responses to any panel reports. Whilst the name and remit of the committee will change from 1<sup>st</sup> April 2021, the other changes are due to come into effect from May 2022</i></p> <p><i>From next year, the Governance &amp; Audit Committee must appoint a lay person as its Chair. The vice chair must not be a Cabinet member. One third of the membership of the Committee must be lay members. Flintshire has previously recognised the benefits and different perspectives that can be contributed by lay members. We currently have two on the Audit committee. To comply will mean recruiting a third lay member. This can take place in the late autumn of 2021, ready for the change in May of 2022.</i></p> <p><i>Your officers will draft terms of reference for the new Committee.</i></p> |

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| <b>2.00</b> | <b>RESOURCE IMPLICATIONS</b>  |
| 2.01        | Whilst there will be resource implications of several elements of the Bill, these have not yet been quantified. |

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| <b>3.00</b> | <b>CONSULTATIONS REQUIRED / CARRIED OUT</b> |
| 3.01        | Not applicable.                             |

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| <b>4.00</b> | <b>RISK MANAGEMENT</b>        |
| 4.01        | Not applicable at this stage. |

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| <b>5.00</b> | <b>APPENDICES</b> |
| 5.01        | None              |

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| <b>6.00</b> | <b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>  |
| 6.01        | <p>Report to WLGA Council, 27.11.20 on the Local Government &amp; Elections (Wales) Bill. Link attached</p> <p><a href="file:///C:/Users/cscsrjr/Downloads/WLGA%20LG&amp;E(W)%20report%20Nov%202020.pdf">file:///C:/Users/cscsrjr/Downloads/WLGA%20LG&amp;E(W)%20report%20Nov%202020.pdf</a></p> <p>Report of the Chief Executive and Chief Officer (Governance) on the Local Government &amp; Elections (Wales) Bill. Council, 28.01.20 and resultant minute.</p> <p><b>Council Contact Officer:</b> Robert Robins, Head of Democratic Services<br/> <b>Telephone:</b> (01352) 702320<br/> <b>E-mail:</b> <a href="mailto:robert.robins@flintshire.gov.uk">robert.robins@flintshire.gov.uk</a></p> |

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| <b>7.00</b> | <b>GLOSSARY OF TERMS</b>   |
| 7.01        | <p><b>First past the post</b> – traditional form of election where the person with the highest number of votes wins and is thus elected.</p> <p><b>Single transferable vote systems (STV)</b> – proportional representation so that instead of one person representing everyone in a small area, bigger areas elect a small team of representatives. These representatives may then reflect the diversity of opinions in the area. On election day, voters number a list of candidates. They put their favourite as number one, their second favourite number two, and so on. Voters can put numbers next to as many or as few candidates as they like. Parties will often stand more than one candidate in each area.</p> <p><b>Principal Councils:</b> the twenty two unitary County and County Borough Councils in Wales.</p> |