

Draft Local Government (Wales) Bill

Regulatory Impact Assessment

Part 2

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Introduction

The White Paper *Reforming Local Government: Power to Local People* outlined the Welsh Ministers' vision for Local Government in Wales. As well as a programme of Local Authority mergers, this vision included a wide range of other reforms to strengthen Local Government's capacity to represent local people, deliver effective services, and face future challenges. In order to support Local Authorities through the changes, we also consulted on a proposal to establish a Public Services Staff Commission in October 2014. Together, these reforms are the foundation for successful and sustainable Local Government in Wales.

Many of these policy proposals are presented as legislative provisions in the Draft Local Government (Wales) Bill. This draft Regulatory Impact Assessment (RIA) sets out the options we have considered for each provision, and assesses the potential costs and benefits.

Each option has been assessed using the best available information to the Welsh Government. The costs and benefits are calculated at an all-Wales level. The draft RIA does not predict or quantify the possible decisions Transition Committees or the new County Councils will make in the future, as the impact of these will need to be fully assessed at a local level.

Throughout the draft RIA, costs and benefits are estimated on an annual basis, then collated over a ten year period. Staff costs are based on pay scales below the maximum, using 52-week years and five working days per week. Staff costs include annual leave and public holidays.

The Welsh Ministers intend Local Authority mergers and Local Government reform to complement each other. **Unless otherwise stated, as it is the new County Councils that would feel the full effects of the proposed reforms, the draft RIA assesses the policy intentions within the context of the proposed mergers. Costs and benefits have been calculated on the basis of either 8 or 9 Local Authorities in Wales (the preferred option from Part 1), rather than the current 22.**

In some cases, it has been considered appropriate to present a range of estimated costs. The reasons for this will be made clear in the context.

Figures have been rounded throughout the Impact Assessment to a level of accuracy which is considered appropriate for the relevant calculations. Some tables' rows and columns may not sum up to the total column due to this rounding process.

Further detailed calculations and supporting assumptions can be found in Appendix B.

1. Constitutional Reforms

The Draft Bill proposes a range of constitutional reforms to create County Councils which are more open, transparent, and engaged with their communities.

These proposals include measures to:

- provide the General Power of Competence to County Councils, and introduce a scheme of Community Councils with competence;
- improve engagement with Local Government by promoting public participation, establishing community area committees, enabling community bodies to make improvement requests, improving access to County Council meetings and producing an accessible guide to their Constitution;
- set out in law the role and responsibility of Leaders, the Cabinet, Elected Members and Chief Executives including, where appropriate, setting and monitoring objectives and sanctions for failure to discharge duties;
- enable the appointment of assistants to the Executive;
- Strengthen scrutiny so committees are informed in advance of key decisions and to make further provision about joint scrutiny committees.

1.1. General Power of Competence (s23-35)

Background

The role of Local Authorities is not set out in any single piece of legislation, but is defined by the functions and duties conferred upon them over time. Local Authority functions are set out in, and limited by, law. No Local Authority can act without legal authority. Activity carried out in the absence of statutory powers would be deemed *ultra vires* – unlawful.

The idea of removing this limitation by introducing some form of ‘General Power of Competence’ for Local Authorities can be dated back at least to 1967. The report of the Maud Committee on Management in Local Government noted:

Ultra vires as it operates at present has a deleterious effect on Local Government because of the narrowness of the legislation governing Local Authorities’ activities. The specific nature of legislation discourages enterprise, handicaps development, prevents the community of services which the Local Authority may render, and encourages too rigorous oversight by central Government. It contributes excessive concern over legalities and fosters the ideas that the Clerk should be a lawyer.¹

Section 111 of the Local Government Act 1972 (“the 1972 Act”) provided County, County Borough and Community Councils with a power to do anything which is calculated to facilitate, or is incidental to, the discharge of their functions. In addition section 137(1) of the 1972 Act provided those authorities with the power to incur expenditure for certain purposes not otherwise authorised, that is, on activities which they consider would directly benefit their area but for which they have no other specific statutory power. In practice, County and County Borough Councils have tended to rely on specific powers, but Community Councils have made frequent use of the power within section 137.

If there is a statutory prohibition on a Council carrying out a particular function, section 137 cannot be used to circumvent this. In addition, in the case of Community Councils, the expenditure that can be incurred under section 137 is limited to a specific amount per elector.

Over time there have been calls for more general powers, and in response, the Local Government Act 2000 (“the LGA 2000”) introduced the ‘well-being power’ for County and County Borough Councils, which was extended to Community Councils by the Local Government (Wales) Measure 2011.

The well-being power enables Local Authorities to act in any way which they consider would improve the economic, social or environmental well-being of their

¹ *Management of Local Government*, HMSO, 1967, para.283

area or people in their area, as long as it is not otherwise prohibited from doing so by other legislation. For Community Councils, the well-being power is subject to the same financial limit as section 137 of the 1972 Act.

There is a perception the well-being power is too limited, and that it may prevent Local Authorities acting innovatively in reliance upon it for fear that they would be found to have acted outside the scope of the power. An evaluation report for the Department of Communities and Local Government in 2008 noted “lawyers played a critical role in encouraging or discouraging use” of the power and concluded:

Use of the power of well-being remained limited over the life of the evaluation as Local Authorities had a tendency to use more specific powers to achieve their goals.²

This reluctance increased following a 2009 decision of the Court of Appeal (“the LAML case”³). In particular, the judgement raised doubts about whether Local Authorities had the power to act in their own financial interest to generate efficiencies and secure value for money outcomes.

As the regulatory impact assessment for the Localism Bill, which introduced a General Power of Competence for Local Authorities in England, stated in 2011:

Although there is a lack of recent information on precise take up, the message from Local Authority representative groups is that there has been a loss of confidence in the existing well-being provisions following the London Authorities Mutual Ltd case. It was this loss in confidence that has promoted calls for a general power of competence by the Local Government Association among others.

Options

Three options have been considered:

- Option 1 – Do nothing. Local Authorities would retain the existing well-being power in the LGA 2000
- Option 2 – Amend the provisions of the LGA 2000 relating to the well-being power
- Option 3 – Replace the well-being power with a General Power of Competence.

² Evaluation of the take-up and use of the well-being power, DCLG, 2008,p.1

³ Brent London Borough Council v Risk Management Partners Ltd (2009) EWCA Civ 470.

Option 1 – Do nothing

DESCRIPTION

Local Authorities would retain the existing well-being power in the LGA 2000, with Community Councils remaining subject to the financial limit within section 137 of the 1972 Act.

COSTS

Cost to the Welsh Government

This option would impose no additional costs on the Welsh Government.

Cost to Local Government

This option would impose no additional costs on Local Government.

BENEFITS

Benefits to Local Government

The well-being power has sometimes proved to be challenging to exercise, with uncertainty arising as to its scope and potential interaction with existing legislation. The financial limit imposed on Community Councils by section 137 of the 1972 Act in terms of their use of the power, also appears to have led to a degree of reluctance amongst Community Councils to use the power.

As a result there has been a tendency amongst Local Authorities in Wales to seek the assurance of a specific power rather than rely on the well-being power. Similarly, there is little evidence that it has empowered Local Authorities to innovate or take more transformative action to address the challenges of decreasing resources and rising demand for services.

The Department for Communities and Local Government research in 2008 suggested only around 15% of Local Authorities had used the power and, for reasons such as risk aversion, tended to rely more on specific powers to do things.

Option 2 - Amend the provisions in the Local Government Act 2000 relating to the power of well-being

DESCRIPTION

Option 2 would amend the provisions in the LGA Act 2000 relating to the well-being power, seeking to address perceived and real restrictions on the power.

These amendments would strive to broaden, and provide clarity as to, the scope of the well-being power. For example, the power could be extended to enable Local Authorities to act to improve their own efficiency by forming a mutual insurance company, as in the LAML case referred to above. The financial constraint, in respect of Community Councils, within section 137 of the 1972 Act would also be removed where appropriate.

It is anticipated that such amending provisions would take effect in 2017.

COSTS

Cost to the Welsh Government

There are no additional costs to the Welsh Government associated with this option.

Cost to Local Government

There are no additional costs to Local Government associated with this option.

Amending the well-being power may result in Local Authorities engaging in new activities, however, as this option provides Local Authorities with a discretionary power it is impossible to predict what the costs of such new activities would be. Any costs associated with using an amended well-being power would need to be considered by individual Local Authorities on a case by case basis.

BENEFITS

Benefits to Local Government

This option may deliver some benefits due to greater clarity as to the scope of the well-being power, resulting in increased confidence in, and use of, the power by Local Authorities.

However, while it would be possible to address *known* limitations to the power in legislation by means of amending that legislation, this would only provide a partial solution. It would not be possible to achieve the clarity provided by a General Power of Competence, therefore, it is considered unlikely that this option would result in increased confidence in the well-being power.

Option 3 – Replace the well-being power with a General Power of Competence

DESCRIPTION

This option would provide Local Authorities with a General Power of Competence. That General Power would be sufficiently broad as to enable Local Authorities to

do anything an individual can reasonably do, other than those activities that are specifically prohibited by other legislation. An Authority could not, for example, get married or build a nuclear bomb: in both cases, it would be prevented from doing so by existing legislation.

In addition to doing all the things they can currently do under the well-being power, Authorities would also be able to use a General Power to:

- act in their own financial self interest;
- provide indemnities and guarantees;
- charge for discretionary service(s);
- trade more flexibly through a company;
- engage in financial or speculative activities;
- fund activities via existing taxation, levying and borrowing regimes; and
- incur expenditure on contributions to the funds of charitable bodies.

The case for change that led to a General Power of Competence being introduced in England was the complicated landscape caused by the number of pieces of legislation that attempted to give Local Authorities broader powers to act more freely. In each piece of legislation, the extent and limitations of these powers had to be demonstrated in case law, with the courts generally judging such freedoms to apply narrowly. The Local Government Association and Local Authorities argued they could not operate effectively in the modern world if they had to rely on government passing new legislation each time the external circumstances changes. The UK Government accepted this argument.

A General Power of Competence will not, however, permit Local Authorities to do anything which is specifically prohibited in legislation; to raise taxes; or to alter the political management of the Authority. It will also not expand Authorities' powers to make bylaws.

There are, at present, no known examples in England where the use of the General Power has been successfully challenged in the courts, or where its use has led to financial difficulties. The risk to core services (education, social services etc.) of introducing such a power is limited due to prohibitions in pre-existing legislation which limit or restrict particular kinds of activity. Using such a power in other (discretionary) policy areas, such as economic development or speculative activities such as guaranteeing the mortgages of first time buyers etc., will present a degree of risk, in particular financial risk to the Authority. However, in such circumstances there will be a need for Local Authorities to take account of this risk in any decisions they make about using a General Power, as well as being mindful of their statutory duties in respect of accountability for spending public money. It is, therefore, considered, in practical terms, to be a manageable risk.

Local Authorities will also still need to abide by all relevant regulatory regimes, such as those governed by the Financial Services Authority, if they were seeking to use the power to engage in financial services activities in addition to the specific legislation that applies to Local Government in relation to audit and related financial regimes, and, where trading is involved, company law.

Community Councils would need to demonstrate that they could meet a number of requirements relating to professionalism, good governance and financial controls before being eligible to use a General Power. It is considered that providing them with this opportunity should empower them to take a more prominent community leadership role and be more ambitious in responding to local need and opportunity.

It is anticipated that this provision would take effect in 2017.

Case studies of the use of General Power of Competence in England⁴

Newark and Sherwood District Council

Newark and Sherwood is a growing community, with 14,000 new homes planned. It has many smaller businesses, which the council wants to help realise their growth potential. Consultation with local businesses and other stakeholders identified the availability of finance as a key challenge. In reliance upon the General Power of Competence in the Localism Act 2011, the council, therefore, established a £2 million fund called 'Think BIG' (Business Investment in Growth). The fund aims to provide loan finance to local businesses with growth potential, where they have not been able to secure the funding elsewhere such as from the banks. Acting on the advice of an independent panel of experts, following 20 applications, four loans have been made to date worth £285,000 in total. The average turnover of businesses supported is £672,500. These loans have safeguarded 40 jobs and there is the potential to create 43 further new jobs.

Hertfordshire County Council

Hertfordshire County Council relied on the General Power of Competence in the Localism Act 2011 for its participation in the Local Authority Mortgage Scheme (LAMS), working in partnership with most of the district councils in the county, Lloyds TSB and the Leeds Building Society.

The scheme is intended to support the local housing market and economy through help to first time buyers and key workers in particular. The scheme indemnifies lenders and enables buyers to access the terms of a 75 per cent mortgage with only a 5 per cent deposit, the balance of the funding coming from the indemnity scheme. The indemnity lasts for five years (the period of greatest risk) during which time the Council earns interest on the amount of the indemnity.

⁴ *Empowering councils to make a difference*, Local Government Association, 2013

The funding plus interest accrued is then returned to the Council. Including £12 million from the County Council, Councils in Hertfordshire have made available £16.5 million in funding to the scheme.

Stoke on Trent City Council

Stoke on Trent City Council is using the General Power of Competence in the Localism Act 2011 to develop a range of initiatives to take forward the green energy agenda through a Council owned holding company and to promote regeneration. It sees access to sustainable energy at predictable prices as a powerful factor in attracting and sustaining employment including the development of a new central business district. The General Power of Competence has given greater confidence to both the Council and potential partners from the private sector and elsewhere when entering into long term agreements.

COSTS

Cost to the Welsh Government

There would be no additional costs to the Welsh Government.

Cost to Local Government

The proposed legislation does not entail any direct costs for Local Authorities because it is an enabling power, giving Local Authorities the discretion to use it if they wish to do so.

It is possible Local Authorities could incur particular costs as a result of engaging in a new activity in reliance on the new power, but it is impossible to predict what these costs would be. Any costs associated with using a General Power would need to be considered by individual Local Authorities on a case by case basis.

BENEFITS

Benefits to Local Government

It is considered that option 3 would provide a range of benefits.

Providing qualifying Local Authorities (County Councils and Community Councils with competence) with a General Power would enable them to act in their communities' best interests, generate efficiencies and secure value for money outcomes.

Qualifying Local Authorities would be able to use the power to raise money by charging for discretionary services and to trade in line with existing powers. It would also enable Authorities to engage in activities potentially judged to be

outside the existing power of well-being power or existing specific powers, such as providing certain indemnities and guarantees.

As such, option 3 would give Local Authorities the ability to be more innovative, and move away from the existing position where they question whether they have the power to undertake a particular activity. The new position would allow Authorities to assume they can undertake something unless there is a statutory restriction preventing it. The power could significantly increase the confidence of Local Authorities, enabling them to consider more transformative approaches to service delivery and efficiency savings, thus helping them to deliver 'more for less'.

A General Power also has the potential to reduce the need for Local Authorities to engage legal resources i.e. when considering the application of specific powers to take action, and could also reduce the actual and potential costs arising from legal challenge.

Successful examples of implementation (and the cited case studies in England evidence this) could further increase the confidence of Local Authorities to make greater use of the power.

Summary

Option 1 would not change the current system and the well-being power will continue to be problematic to exercise. It does not simplify current legislation and would not meet the objective of providing Local Authorities with a General Power.

Option 2 could go some way towards simplifying current legislation, however; it is considered that this option is unlikely to deliver any significant change.

Preferred Option

Option 3 is the preferred option as it would give County Councils and Community Councils with competence the scope to respond innovatively to the severe financial and demographic pressures they face.

1.2. Public Participation in Local Government (s37-40)

Background

It is good practice for Local Government to ensure its citizens are kept informed of policy developments and have the opportunity to be consulted on matters which affect them.

The report of the Commission on Public Service Governance and Delivery outlined the state of public participation with services providers in Wales. It concluded that “dialogue between service providers and communities is generally inconsistent and often poor” (4.31). It highlighted the need for decisions to be taken as close as possible to the people affected, and noted that people often felt disengaged from decision-making. The Commission suggested directly engaging communities and service users would be beneficial in several ways:

- services would be more targeted to needs;
- demand would be more effectively managed; and
- resource allocation would be improved.

In June 2012, the Wales Audit Office published a report recommending that Local Authorities should improve their public engagement activity by:

- developing targets for public engagement, and improving performance management arrangements to measure the impact of public engagement;
- considering ways in which they could instil a culture to empower citizens to produce solutions to the challenges facing them;
- improving systems for collecting and storing data from public engagement;
- improving the speed of feedback to the public.⁵

The allocation of resource has a significant impact on the delivery of services, so it is reasonable for communities to expect to have some input in the process through which a Council decides how it will spend its money.

Respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* supported proposals that Local Authorities should engage more effectively with residents, including children and young people, and in partnership with voluntary and third sector organisations.

Options

Three options have been considered:

- Option 1 – Do nothing

⁵ *Public Engagement in Local Government*, Wales Audit Office, June 2012

- Option 2 – Encourage County Councils to improve their public participation practices
- Option 3 – Place statutory duties on County Councils to encourage greater public participation

Option 1: Do Nothing

DESCRIPTION

Option 1 would introduce no change. County Councils would continue to follow any strategy they currently have in relation to public participation, and continue with their existing processes to engage with communities and other stakeholders before allocating resources.

COSTS

Cost to Local Government and Welsh Government

Option 1 would introduce no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits.

Option 2 – Encourage County Councils to improve their public participation practices.

DESCRIPTION

Option 2 proposes that the Welsh Ministers encourage County Councils to strengthen their public participation processes. Welsh Government officials would organise a number of encouragement and support events for County Councils, to set out a model for an effective Public Participation Strategy. These events would involve specialist training providers delivering engagement training and workshops. County Councils would be encouraged to improve their approach to public participation. In particular, the events would focus on strengthening public engagement, and involving the public more closely in scrutiny.

Alongside this, the Welsh Ministers would encourage County Councils to improve the way they consult and engage with the public and other stakeholders before setting a budget for each financial year. Welsh Ministers could issue non-statutory guidance to Councils in relation to this and seek to encourage Councils to share good practice with each other.

This provision would require additional expenditure once Shadow Authorities are elected in 2019.

COSTS

Option 2 would introduce additional costs of **£29,300**.

Table 1: Policy Intention Costs

Policy Intention Costs	2019/20	2020/21	Total
<u>Welsh Government</u>			
Staff Cost -Event Organisation	£6,000	£3,100	£9,100
Specialist Training Provider	£5,000	-	£5,000
Engagement Event Organisation	£1,500	£500	£2,000
Allocation of Resources Guidance	£2,400	-	£2,400
Total Welsh Government Cost	£14,900	£3,600	£18,500
<u>Local Government</u>			
Staff Cost - event attendance	£8,100	£2,700	£10,800
Total Cost	£23,000	£6,300	£29,300

Cost to the Welsh Government

Holding events to encourage good practice in public participation would place an additional cost of £18,500 on the Welsh Government.

In the first year, three events would be held, involving bespoke public participation training. These would cost £14,900. In the second year, two shorter update events would be held. These would cost £3,600.

There would be a cost to the Welsh Government of producing non-statutory guidance on consultation and engagement throughout budget-setting, this is estimated to cost £2,400. The Welsh Government would also make use of a number of existing finance forums with Local Authorities to share good practice on budget consultation, this would not carry an additional cost.

Cost to Local Government

It is estimated that Option 2 would include an additional cost to Local Government of **£10,800**. This reflects officials attending the Welsh Government's events.

BENEFITS

Benefits to Local Government

County Councils would be more likely to strengthen their public engagement practices, and place greater value on the importance of a good Public

Participation Strategy. Communities are likely to benefit from greater engagement and transparency, and being placed closer to decisions which affect them. Together with greater public involvement in scrutiny, this could improve County Councils' decision-making and allocation of resource. However, it is important to note that as the events would be voluntary, these benefits are not certain to be realised.

The Welsh Government has in the past funded Participation Cymru to develop the National Principles for Public Engagement, which it endorsed in 2011, and used the Good Practice Wales portal to highlight good practice examples of consultation and engagement by Local Authorities, including during budget-setting. There have been improvements in recent years in relation to this. However, the effort afforded to engagement activities still varies significantly across Authorities.

Option 3 – Place statutory duties on County Councils to encourage greater public participation

DESCRIPTION

Public Participation Duty

Option 3 would place County Councils under a duty to encourage local people to participate in Local Government.

County Councils would be required to produce a Public Participation Strategy. It is proposed the Strategy will address:

- Ways of promoting awareness about the council's functions amongst local people, including the functions of Authorities connected with the County Council i.e. Community Councils, Fire and Rescue Authorities and National Parks Authorities;
- ways of promoting awareness among local people of how to become a member of the Council or any connected Authority, and what the role entails;
- ways of facilitating access for local people to information about decisions made, or to be made by the Council or by Authorities connected to it;
- ways of promoting and facilitating processes by which local people may make representations to the County Council or Authorities connected to it about decisions;
- arrangements made for the purposes of the Council's duty under section 62 of the Local Government (Wales) Measure 2011 (bring views of the public to the attention of overview and scrutiny committees); and

- ways of promoting awareness among members of the County Council and members of Authorities connected with the Council, of the benefits of using social media to communicate with local people.

The Welsh Ministers could produce guidance to support County Councils in developing and implementing the Public Participation Strategy. County Councils would be required to have due regard to this guidance.

It is anticipated that this option will incur additional costs from April 2019.

Duty to consult in relation to the budget requirement

In addition, option 3 would place a duty on County Councils to carry out consultation and engagement activities with local people and other stakeholders before setting their budget requirement for each financial year. While the majority of Councils in Wales already do this in some way, there is considerable variability in the reported effort afforded to such processes by Councils. To encourage improvements in this area, the Welsh Ministers could produce statutory guidance in relation to budget-setting. County Councils would be required to have regard to this guidance when setting a budget for each financial year.

COSTS

Over ten years, Option 3 would impose additional costs of between £792,100 and £890,500.

Table 2: Policy Intention Costs

Policy Intention Costs	2019/20		2020/21 to 2028/29		Total*	
	Min	Max	Min	Max	Min	Max
<u>Welsh Government Allocation of Resources Guidance</u>						
Staff Cost - Producing Guidance	£1,300	£1,300	-	-	£1,300	£1,300
Translation	£800	£800	-	-	£800	£800
<u>Welsh Government Public Participation Strategy Guidance</u>						
Staff Cost - Producing Guidance	£1,900	£1,900	-	-	£1,900	£1,900
Translation	£800	£800	-	-	£800	£800
Total Welsh Government Cost	£4,800	£4,800	-	-	£4,800	£4,800
<u>Local Government</u>						
Staff Cost - Public Participation Strategy	£51,100	£57,500	£112,500	£126,600	£163,600	£184,100
Staff Cost - Promoting Democracy	£54,900	£61,700	£493,800	£555,500	£548,700	£617,300
Translation Cost	£7,500	£8,400	£67,500	£76,000	£75,000	£84,400
Total Local Government Cost	£113,500	£127,700	£673,900	£758,100	£787,300	£885,700
Total Cost	£118,240	£132,420	£673,850	£758,080	£792,100	£890,500

*Based on a 10 year planning horizon

Cost to the Welsh Government

Option 3 would impose an additional cost on the Welsh Government of £4,800. These would be one-off costs in Year 1.

Producing guidance on the Public Participation Strategy would impose an additional one-off cost on the Welsh Government. This is estimated at £2,700.

Producing guidance on engaging the public in budget-setting would impose an additional one-off cost on the Welsh Government. This is estimated at £2,100.

Costs to Local Government

Over ten years, Option 3 would impose an additional cost to Local Government totalling either **£787,300** or **£885,700**, depending on whether there are eight or nine County Councils in Wales.

The cost of producing a **Public Participation Strategy** is estimated at £6,400 per County Council in the first year, and £1,600 per year subsequently to update the strategy and plan for the year ahead.

Costs for delivering **public engagement events** are not considered as additional costs. Councils already engage with the public on a range of matters and in different ways. Moreover, it would be for each County Council to determine the most appropriate way of implementing its Public Participation Strategy, and so this should not be pre-empted here.

Promoting democracy by **displaying information on the Council's website** would impose an additional cost. This is estimated to cost just under £7,800 per County Council.

As Councils already consult with the public and other stakeholders to some extent when setting a budget, formalising this in a duty is not considered an additional cost. The supporting guidance in this area would encourage improvements in processes over time, however, it is considered part of a Council's role currently to continually monitor the effectiveness of its consultation processes and make improvements where necessary.

In 2019/20, these costs would total either £113,500 or £127,700 for Local Government, depending on whether there are eight or nine County Councils in Wales. For subsequent years, the annual cost for Local Government would be either **£113,500** or **£127,700**.

BENEFITS

Benefits to Local Government

Developing a Public Participation Strategy would enable County Councils to engage more meaningfully with the public. This would ensure greater transparency and democracy, meaning that services could be more targeted to needs, demand could be more effectively managed, and resource allocation could be improved. Scrutiny could also be strengthened by greater public

participation, which could improve the quality of decision-making and service delivery. Better public engagement in relation to budget setting would help County Councils to raise awareness of the difficult choices Councils need to make each year. Councils would better understand the impact of their budget proposals, which in turn could lessen the instance of complaints from residents and lessen the risk of a judicial review if a community feels it has not been consulted on a major change to spending priorities.

Benefits to other people

The public would benefit from a more open Local Government which involves them more closely in decision-making and service delivery. Taking the public participation and budget consultation duties together with the requirement on Councils to broadcast certain meetings (section 76), promoting the ability of the public to film and record etc. Council meetings (by regulations by the Welsh Ministers in section 77), and giving members of the public a reasonable opportunity to make representations at meetings of Community Councils (section 78), would create a stronger sense of involvement and trust in Local Government. This is likely to increase interest and involvement, and enable those that find it difficult to attend in person to experience how decisions are made. The public would be better educated in relation to the financial position of their Council and would be more likely to understand why Councils need to prioritise resources.

Summary

Option 1 would make no changes to the status quo. The quality and effectiveness of public engagement could continue to vary.

Option 2 would encourage County Councils to strengthen their public engagement. However, this would rely on voluntary action from Councils, so improvements would not be guaranteed.

Option 3 would place a range of statutory duties on County Councils to ensure that they strengthen public participation in Local Government.

Preferred Option

Option 3 is the preferred option. It would ensure County Councils are more open and transparent, local democracy is stronger and local people are more involved.

1.3. Community area committees (s43-63)

Background

Community governance is the way in which people in local areas or neighbourhoods organise themselves to identify their priorities, manage their assets, and influence public services. A range of different approaches, both statutory and non-statutory, currently exist, including:

- County and County Borough Council Area Committees;
- statutory bodies, such as Community Councils and Community Health Councils;
- partnerships between councils, public services, voluntary groups and others, such as neighbourhood partnerships and area boards;
- third sector bodies such as Community Voluntary Councils, community development trusts, advocacy groups, social enterprises;
- in addition, the Well-being of Future Generations (Wales) Act 2015 requires the establishment in each Local Authority area of a strategic Public Services Board to focus on long-term community goals and principles.

This landscape is rich, but it can be difficult for the views of individual communities to be expressed and heard in a coherent way. Individual groups can struggle to get access to decision makers or enter into a dialogue about local priorities. Without a conduit for communities and County Councils to engage on a continuing basis, engagement often happens too close to decisions being made, or even after they have been taken. This is particularly true for decisions on the practical or operational nature of services. We also identified in the White Paper *Reforming Local Government: Power to Local People* the diminished role of Councillors under executive arrangements and the potential for an enhanced role for them in community governance to provide a counterweight to the power of the executive.

Responses to the consultation on the White Paper generally supported larger County Councils. However, some respondents voiced concerns about larger County Councils losing touch with their communities. The future funding and demographic context is likely to place greater pressure on County Councils, increasing the importance of community participation in decision-making and the need for local discussions to determine local priorities. It is therefore essential that the new, larger, County Councils are closely connected with the communities they serve. Indeed, 81 per cent of online respondents supported the proposals that County Councils should implement an 'approach to engaging citizens to identify, prioritise, and address particular local issues'.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Require Local Authorities to establish community area committees as a conduit between communities and Local Authorities, led by the Elected Members for the area.

Option 1 – Do nothing

DESCRIPTION

This option proposes no changes to the status quo. Existing arrangements, including any voluntary neighbourhood management type approaches and any statutory area committees established under section 18 of LGA 2000, would continue.

COSTS

Costs to Local Government and Welsh Government

Option 1 would impose no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits. Voluntary neighbourhood approaches, including area committees could continue but they could also be abolished.

Option 2 – Require County Councils to establish community area committees as a conduit between communities and County Councils

DESCRIPTION

Option 2 would require County Councils to establish community area committees. The intention would be to enable County Councils to undertake preparatory work from 2019, as Shadow Authorities, with the community area committees fully established after 1 April 2020. However, the following would be required:

- community area committees would include all the Councillors of the County Council representing electoral divisions within the committee's area;
- County Councils would be obliged to invite Community Councils and community bodies to nominate persons to become members of the committees;

- the areas which community area committees would serve would correspond with the community areas determined under the Well-being of Future Generations (Wales) Act 2015;
- community area committees would be required to consult with communities to produce an annual statement of what they consider should be the County Council's priorities in relation to the area of the committee.

The Welsh Ministers could issue statutory guidance to support County Councils in determining how the community area committees should best operate in their local areas. This would include considering:

- how community area committees should engage with and involve communities, including membership;
- how community area committees would work with the Public Services Boards established by the Well-being of Future Generations Act (Wales) 2015.

While County Councils would be free to determine the most suitable approach to community area committees in their area, it is important to note that community area committees would perform a different function to the Public Services Boards established under the Well-being of Future Generations (Wales) Act 2015. Compared to the single strategic Public Services Board for each County Council area, there would be several community area committees taking a closer and more operational focus on the needs and priorities of individual communities.

The White Paper *Reforming Local Government: Power to Local People* described this strengthening of Elected Member-led community governance as a system of 'Area Boards'. While most responses to the consultation recognised the value of Area Boards to larger County Councils, responses also expressed some concerns about complexity, and emphasised the importance of County Councils being able to develop flexible approaches suiting individual communities. This option's proposals for community area committees build on these responses. Whilst it is envisaged these committees would be the conduit between the County Council and communities, the Council would have flexibility in deciding how these committees are appointed, how they operate, and what they are responsible for.

COSTS

Over ten years, Option 2 would introduce additional costs of between **£17,175,600** or **£17,193,700**, depending on whether there are 8 or 9 County Councils in Wales, an average of approximately £1.7m per annum.

Table 3: Policy Intention Costs

Policy Intention Costs	2019/20		2020/21 to 2028/29		Total*	
	Min	Max	Min	Max	Min	Max
<u>Local Government</u>						
Developing an Approach to Area-Based Committees	£145,300	£163,400	-	-	£145,300	£163,400
Additional Committees	£1,701,400	£1,701,400	£15,312,300	£15,312,300	£17,013,700	£17,013,700
Total Local Government Cost	£1,846,600	£1,864,800	£15,312,300	£15,312,300	£17,159,000	£17,177,100
<u>Welsh Government</u>						
Staff Costs - Producing Guidance	£16,600	£16,600	-	-	£16,600	£16,600
Total Welsh Government Cost	£16,600	£16,600	-	-	£16,600	£16,600
Total Cost	£1,863,200	£1,881,400	£15,312,300	£15,312,300	£17,175,600	£17,193,700

*Based on a 10 year planning horizon

Costs to the Welsh Government

Producing guidance to support County Councils in developing an approach to community area committees would place an additional staff cost on Welsh Government. This one-off cost, including translation, is estimated at **£16,600**.

Costs to Local Government

Identifying how community area committees should operate would place an additional cost on each County Council. The one-off staffing cost of this – including consulting with communities and partners – is estimated at just over £18,000 per Local Authority. Depending on the number of County Councils in Wales, this would total either **£145,300** or **£163,400**.

There would be a community area committee for each community area identified by the Public Services Board for each Local Authority, as provided for by the Well-being of Future Generations (Wales) Act 2015. It is for each Public Services Board to determine their community areas (or the Welsh Ministers if Public Service Boards do not do so). As yet, the exact number of community areas has not been determined. For the purposes of this draft RIA, calculations have been made based on the number of Upper Super Output Areas, of which there are approximately 100 in Wales,⁶ although in reality the number could be higher or lower. As a minimum, aside from costs arising from any delegation of functions by County Councils to community area committees, it is intended each committee would have Community Council and community nominee members and would require secretariat support. The annual cost of Community Council and community nominee members per committee would be £12,000 (assuming an average of ten Community Council and community nominee members in total, each paid an allowance of £200 for each of six annual meetings). County Councillors would not be separately reimbursed for membership on community area committees, as this forms a key part of their role. The cost of secretariat support for each committee would total £5,000 per year. Each community area

⁶ Upper Super Output Areas (USOAs) are statistical areas used by the Welsh Government to calculate the Welsh Index of Multiple Deprivation. There are 94 USOAs in Wales.

committee would, therefore, cost £17,000. For all 100 committees across Wales, this would total **£1,701,400** per year, or **£17,013,700** over ten years.

It is important to note that this cost would not be fully additional for County Councils, as the 22 existing County and County Borough Councils all currently dedicate resources to community engagement, which would be repurposed. Moreover, as each County Council would be free to determine the most suitable approach to community area committees, these costs are very much typical estimates. County Councils would determine the frequency of meetings, and the level of secretariat support. The impacts of these future decisions would be appraised in due course at a local level.

BENEFITS

Benefits to Local Government and Welsh Government

The community area committees will provide a means for communities to engage in identifying priorities and influencing decisions made by Local Authorities. The role of County Councillors as active leaders of communities would be clarified and strengthened. Enabling the views of each individual community to be expressed and heard in a coherent way is likely to ensure that the new, larger County Councils remain closely connected with the communities they serve and the quality of decision making is improved.

Summary

Option 1 proposes no change from the status quo.

Option 2 proposes to require County Councils to establish community area committees as a conduit between communities and County Councils. Over ten years, it would introduce costs of either **£17,175,600** or **£17,193,700**, depending on the number of County Councils in Wales.

Preferred Option

Option 2 is the preferred option. It would ensure Councillors are given a community leadership role which enables the views of communities influence to funding decisions

1.4. Improvement Requests (s64-74)

Background

County Councils will need to take action to support and improve the well-being and resilience of their communities. They will no longer have the resources to provide all the services they currently provide, and they will have to balance reduced budgets with increasing demand for services. County Councils cannot create strong, resilient and supportive communities on their own, but they can take the lead in creating the conditions in which these communities can develop and flourish.

In order to reconcile those competing factors, individuals and communities should be given the opportunity to take on more responsibility for meeting their needs rather than relying exclusively on County Councils. Communities need to go beyond having their voice heard to actively taking responsibility for the changes and improvements they wish to see in their community.

However, currently it can be difficult for the views of the community to be expressed and heard in a coherent way. Individual groups, including those representing vulnerable and disadvantaged service users, can struggle to get access to decision makers, or enter into a dialogue with public services. Involving communities can foster a sense of shared responsibility, enable the provision of more efficient and cost effective services and deliver improved outcomes through better use of resources.

County Councils will need communities' active involvement in order to ensure shared power and responsibility communities, and it is right that community bodies should be able to initiate this dialogue.

Options

Two options have been considered:

- Option 1 – Do nothing
- Option 2 – Require County Councils to enter into dialogue with communities about how to improve local outcomes

Option 1 – Do nothing

DESCRIPTION

This option would entail no change from the current participatory arrangements of County and County Borough Councils with communities. The benefits of increasing community involvement would not be realised.

COSTS

Cost to Local Government and Welsh Government

This option would introduce no additional costs to Local Government or the Welsh Government.

BENEFITS

Benefits to Local Government and Welsh Government

This option would deliver no additional benefits to Local Government or the Welsh Government.

Option 2 – Require County Councils to enter into dialogue with communities about how to improve local outcomes

DESCRIPTION

The aim is to provide community bodies with a power to request their County Council enter into a dialogue with them about how outcomes resulting from the Council's exercise of its functions could be improved. There would be a legal presumption a County Council would accede to such a request unless there were reasonable grounds for refusing. The definition of community bodies would be drawn widely to include groups representing communities of interest and of place, such as voluntary bodies, residents associations, advocacy groups, charitable trusts and Community Councils.

The outcome of the discussions, including any decisions taken, would be published on the Council's website.

COSTS

Cost to the Welsh Government

This option would introduce no additional cost to the Welsh Government. The provisions give both guidance and regulation making powers to the Welsh Ministers. However, in the first instance, it is expected County Councils would themselves develop good practice in this area. The Welsh Ministers would only exercise these powers if there was evidence Councils were deliberately trying not to engage with community bodies.

Cost to Local Government

The proposed option would introduce costs to County Councils. There would be resource implications in terms of considering requests from community bodies and undertaking the relevant engagement and dialogue. The cost of publishing

the outcome of discussions on the Council website is considered negligible. The costs of dialogue would primarily be opportunity costs utilising existing staff resources. The type of service being discussed could also be a factor in determining the type of engagement that is required. It would be for each County Council to decide how to engage with the community body, it is therefore not possible to estimate the cost of this proposal as each engagement would need to be considered on a case by case basis.

In practice, heads of service and service managers regularly engage with service users and community groups and, given continuing financial and demographic pressures, they are also regularly reviewing how services are designed and delivered. In practice, we would expect County Council officers to incorporate improvement requests into their existing cycle of consultation, engagement and service improvement.

In terms of publishing an annual report, we consider this is straightforward management information which would be provided to the Council in any case, for example, in order to show how it had engaged with people and communities during the year, matters on which Councils already report. Any additional cost would be negligible.

Cost for Community bodies

Similar to the cost to County Councils, there could also be some additional costs for community bodies in preparing their improvement requests and engaging in the resulting discussions with their Council. It is a decision for community bodies whether to make a request and they would need to consider the potential costs when preparing their request.

BENEFITS

Benefits for Local Government

County Councils should seek communities' involvement. This option would provide formal opportunities for local communities to engage with their Council and explain the needs of specific communities or groups of service users. We would expect this to result in better joining up of community resources and Council services. This additional engagement should help Councils provide improved services which are more suitable for, and valued by, their local communities.

Benefits for the Public

Greater dialogue between a County Council and the community would lead to higher quality, more realistic and sustainable public services as a result of bringing together the expertise and resources of users and their networks. It

should help communities shape the services they value most highly and reassure them these services would be available for the long term because the provision of these services has been well thought through.

The provision of high quality sustainable services would have a direct positive impact on the people using these services.

Summary

Option 1 proposes no changes from the current arrangements of County and County Borough Councils.

Option 2 proposes to require County Councils to enter into a dialogue with community bodies about how to improve local outcomes

Preferred Option

Option 2 is the preferred option because it would enable community bodies to contribute to improving services and outcomes.

1.5. Broadcasting and filming of Council Meetings (s76-77)

Background

There is no requirement for any County or County Borough Council to broadcast meetings at present. However, 18 out of 22 Councils are either regularly broadcasting or have done so in the recent past. The types of meetings broadcast vary. In 2012, the Minister for Local Government and Communities awarded a grant to Councils, including an element of £40,000 per Authority, to promote broadcasting and other similar activities. This followed considerable publicity about the lack of transparency of Council decision-making, revolving in particular around the issue of whether members of the public attending Council meetings should be able to film or record the proceedings on their own initiative.

Whilst the UK Government moved in the direction of requiring Councils to allow such practices, the Welsh Government's preference was to leave this issue to the individual discretion of County and County Borough Councils, but also to encourage them to broadcast their meetings live. Broadcasting of meetings takes the form of live web streaming, accessible through the Council's website and allowing archiving of the recording for future viewing.

Any commercial or confidential items that require discussion would take place within a closed session as advised by the Council's monitoring officer.

The rules governing the filming, photographing, recording etc. of Council meetings is currently set out in each Council's standing orders. Practice varies from one Council to another and the proposal is that the Welsh Ministers should, if necessary, be able to set out minimum expectations with regard to filming etc. in regulations. At most this would require some small adjustments to Councils' standing orders, therefore, no further account is taken of the costs of this requirement in the proposals below.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – To encourage broadcasting by negotiating a single contract for all County Councils and permit the public to film etc. Council meetings
- Option 3 – To require County Councils to broadcast Council meetings electronically and permit the public to film etc. Council meetings

Option 1 – Do nothing

DESCRIPTION

This option would permit County Councils to continue to make their own decisions regarding the broadcasting of Council meetings and the rights of the public to film etc.

COSTS

Cost to the Welsh Government

There would not be any additional cost with this option.

Cost to Local Government

Option 1 would not involve any additional costs. The current cost of providing a basic broadcasting package to those Councils who wish to do so is £12,000 per year.

However, by continuing to give Councils a choice over broadcasting, it is possible that some may cease or reduce broadcasting to make savings.

BENEFITS

There are no additional benefits associated with this option. The public would see a reduction in transparency and accessibility of Council meetings if some or all Councils stopped broadcasting in order to make savings.

Option 2 – To encourage broadcasting by negotiating a single contract for all County Councils and permit the public to film etc. Council meetings

DESCRIPTION

This option would aim to encourage a greater take up of broadcasting and filming of meetings by County Councils through negotiating a common broadcasting contract between a single provider and all County Councils.

It is anticipated that additional costs would occur following 1 April 2020 when the new County Councils assume their full functions.

Table 4: Single Contract Broadcasting Package

Policy Intention Costs	2020/21		2021/22 to 2029/30		Total*	
	Min	Max	Min	Max	Min	Max
Local Government						
Single Contract Broadcasting Package	£76,800	£108,000	£691,200	£972,000	£768,000	£1,080,000
Total Cost	£76,800	£108,000	£691,200	£972,000	£768,000	£1,080,000

*Based on a 10 year planning horizon

COSTS

Cost to the Welsh Government

There are no additional costs to the Welsh Government associated with this option.

Cost to Local Government

Securing a single broadcasting contract for the whole of Wales could lead to successfully negotiating a lower contract price per County Council. The cost to Councils which currently broadcast meetings could therefore reduce.

Through discussions with an existing broadcasting provider, it is estimated that for those County Councils who currently choose to broadcast, a saving of up to 20 per cent could be achieved. The actual level of savings would depend on the specific procurement exercise and the required number of broadcast meetings per Council.

Table 4 indicates an estimated minimum and maximum cost for the whole of Local Government. The maximum is based on 9 County Councils paying the current estimated average of £12,000 per Council per year, the minimum figure is based on 8 County Councils receiving a 20 per cent reduction on their broadcasting costs, and this would result in their costs dropping to £9,600 per Council per year.

By 2015, 18 out of 22 Councils broadcast or had broadcast their Council meetings to some extent. The Welsh Government expects the smaller number of County Councils will balance out against a possible increase in the number of meetings broadcast, and in addition there may be efficiencies from a centrally negotiated contract. It is, therefore, assumed that there would be **no significant additional cost** to Local Government as a whole.

The estimated cost for Local Government in year 1, and in subsequent years, is between **£76,600** and **£108,000**.

BENEFITS

Benefits to Local Government

The single contract approach would be managed centrally and this approach could potentially increase the number of participating Councils. Councils which currently broadcasts could benefit from savings of over £1,000 per year.

Benefits to the Public

If this approach increased the number of Councils broadcasting their meetings, people in areas currently without access to broadcasting would benefit from increased accessibility of local democracy.

Option 3 – To require County Councils to broadcast Council meetings electronically and permit the public to film etc. Council meetings

DESCRIPTION

This option would require each County Council to broadcast and film their Council meetings. The meetings to be broadcast would be those meetings of the Council, its committees or sub-committees which are open to the public. The Welsh Ministers could specify in regulations proceedings to which the broadcasting requirement did not apply. County Councils would be required to have regard to the Welsh Ministers' guidance

There is also, as with option 2, the opportunity to procure a single national contract with suppliers to broadcast Council meetings.

It is anticipated that additional guidance could be required in the year following 1 April 2020 when the new County Councils assume their full functions.

Table 5: Guidance Costs

Policy Intention Costs	2020/21
<u>Welsh Government</u>	
Staff Cost - Producing Guidance	£4,300
Guidance Translation	£800
Total Cost	£5,100

COSTS

Cost to the Welsh Government

There is a small cost to the Welsh Government of £5,100 in the first year. This would be for Welsh Government officials to produce and translate new guidance required to accompany this option.

The estimated total cost for Welsh Government in 2020/21 is £5,100.

Cost to Local Government

By 2015, 18 out of 22 Councils broadcast or had broadcast their Council meetings. It is, therefore, assumed that there would be no significant additional cost to Local Government as a whole because the potential increase in broadcasting hours (i.e. number of meetings broadcast) will be balanced by a reduction in the number of Councils which broadcast (from 18 to 8 or 9) and any potential additional scale efficiencies that might arise from a single national contract.

Table 4 indicates a minimum and maximum cost to Local Government. The maximum is based on the 9 new County Councils' broadcasting costs remain the same as the current estimated figure of £12,000 per Council per year. The minimum figure is based on 8 County Councils paying £9,600 per year. This is based on initial discussions with a broadcasting company that indicated potential savings of up to 20% could be made. As with option 2, it is estimated that there will be **no significant additional cost to Local Government** as a whole, for the reasons set out in the previous paragraph.

BENEFITS

Benefits to the public

This option would enable the people of Wales to engage with local democracy through providing a mechanism to watch Local Government decision-making as it happens. It would benefit people in areas that have not had access to broadcast meetings previously.

It would also raise the profile of Local Government and help ensure that it has a similar level of broadcasting and transparency as the UK Parliament, the Scottish Parliament and National Assembly for Wales.

Summary

Option 1 proposes no change to the current arrangement and continues with the arrangement of County Councils making individual decisions on whether or not to

broadcast meetings and permit filming etc. This option would not ensure consistency between County Councils in Wales.

Option 2 would encourage County Councils to broadcast meetings by procuring a single national contract, with the potential reduction in broadcasting costs as an incentive. However, the choice would still lie with each individual Council and there is no guarantee with this option that all County Councils would participate.

Preferred Option

Option 3 is the preferred option because the public would be able to engage more actively with local democracy.

1.6. Constitution Guide (s79)

Background

Section 37 of the Local Government Act 2000 requires County and County Borough Councils to adopt a constitution which sets out their standing orders and rules relating to procedures, conduct, and role specifications relating to the governance, administration, finances, commercial and collaborative activities of Councils. Their purpose is to enable Councillors, officers, the public and stakeholders to understand how the Council makes decisions and who is responsible for those decisions.

The result is Council constitutions which range from around 250 pages to over 450. While Council constitutions may need to be lengthy to fulfil the requirements of the legislation, it is questionable whether documents of this length help aid the understanding of Local Government decision-making, or help communicate the values of the organisation to the people they serve.

The Welsh Government believes the new County Councils should have a guide to their constitution which is not simply a rule book, but which sets out first and foremost the Council's values, the principles under which it will operate and, in particular, its relationship with the public it serves.

Responses to the consultation on the White Paper *Reforming Local Government: Power to Local People* generally supported the proposals. 92 per cent of online respondents agreed that "*Local Authorities should set out in plain language their values and the principles they will use to operate in their constitution*". There was also support amongst the free-form respondents, with many highlighting the need for constitutions to be people instead of process focused.

13 of the 14 County or County Borough Councils which commented on the proposal for Council constitutions were supportive. Of the 13, three believed that local variation should be allowed. The WLGA also supported the longer term aim of a review and simplification of the law relating to Local Authority constitutions with the aim of improving transparency and understanding.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – Encourage County Councils to consider ways of making their constitution more accessible and understandable to the public
- Option 3 – Require County Councils to produce a clear guide to accompany their constitutions

Option 1 – Do nothing

DESCRIPTION

County Councils would continue to publish their constitutions based on the existing format. No modifications would be made.

COSTS

Cost to the Welsh Government

There are no additional costs to the Welsh Government associated with this option.

Cost to Local Government

There are no additional costs associated with this option.

BENEFITS

Benefits to Local Government and the Welsh Government

Option 1 does not offer any additional benefits.

Option 2 - Encourage County Councils to consider ways of making their constitution more accessible and understandable to the public

County Councils would be encouraged by the Welsh Government to make changes to their existing constitutions, making them easier to read and more understandable.

Option 2 would involve Welsh Government officials organising a number of events for County Councils discussing how to improve their constitutional arrangements, for example, providing good practice examples. The Welsh Government could also provide additional guidance to County Councils.

Attendance would be voluntary and, therefore, it is difficult to be certain that such events would achieve the desired outcomes.

It is anticipated that additional costs would only be incurred in 2020/21.

COSTS

Option 2 would introduce additional costs of £20,700.

Table 6: Policy Intention Costs

Organisation	2020/21
<u>Welsh Government</u>	
Staff Costs - event organisation	£6,000
Event Costs - incl. translation	£1,500
Staff Costs - producing guidance	£4,300
Guidance translation costs	£800
Total costs to Welsh Government	£12,600
Local Government	
Staff Costs - event attendance	£8,100
Total policy intention cost	£20,700

Cost to the Welsh Government

Holding encouragement and support events would place an additional cost on the Welsh Government. Three events would be held in the first year only, providing detailed information and good practice examples. These events would cost £7,500.

Producing guidance documentation for County Councils would place an additional cost of £5,100 on the Welsh Government.

All additional costs for the Welsh Government will be upfront costs in Year 1, and would total **£12,600**.

Cost to Local Government

Option 2 would introduce additional costs of just over **£8,100** to Local Government, this reflects the invitation to officials to attend training events. County Councils need to draft new constitutions and update and amend their constitutions regularly as a matter of course.

BENEFITS

Benefits to Local Government

Councils' delegates attending the events could receive training and guidance on how to adapt their existing constitutions, with the aim of making them more accessible and understandable.

Benefit to others

The general public would benefit from an improved constitution document which is more accessible and easier to understand.

Option 3 – Require County Councils to produce a guide to accompany their constitutions

Option 3 would require the new County Councils to produce a constitution guide which will enable the public and Elected Members to understand the main rules of procedure and conduct of business.

The provision would require the County Council to publish their guide prominently on their website. This will ensure the maximum possible number of electors are made aware of how to access the guide.

The Welsh Government would host a series of events to support County Councils in fulfilling these new functions. It could also produce guidance to support Councils in these functions (issued under section 38 of the Local Government Act 2000), which they will be required to have regard to.

Additional costs are only expected to be incurred in 2020/21.

COSTS

Option 3 would introduce additional costs of £55,600 or £59,900, depending on there being 8 or 9 County Councils in Wales.

Table 7: Policy Intention Costs

Policy Intention Costs	2020/21	
	Min	Max
<u>Welsh Government</u>		
Staff Costs - Event Organisation	£6,000	£6,000
Event Costs - incl. Translation	£1,500	£1,500
Staff Costs - Producing Guidance	£4,300	£4,300
Guidance Translation Costs	£800	£800
Total Cost to Welsh Government	£12,600	£12,600
<u>Local Government</u>		
Staff Costs - Event Attendance	£8,100	£8,100
Staff Costs - Producing Guidance	£34,200	£38,400
Guidance Translation Costs	£800	£800
Total Cost to Local Government	£43,100	£47,300
Total Cost	£55,600	£59,900

Cost to the Welsh Government

As for Option 2, holding good practice events would place an additional cost on the Welsh Government. Three events would be held in the first year only, providing detailed information and good practice examples. These events would cost £7,500. Producing guidance for County Councils would cost £5,100.

All additional costs for the Welsh Government would total **£12,600**.

Cost to Local Government

Developing a new guide to the constitution would require a senior Local Government officer to draft the guide and a lawyer to oversee the guide. The guide would not need to be published in hard copy, and no costs have been considered for publishing in electronic format only. An exception to this is when a member of the public wishes to have a copy, in which case the Council may, if it wishes, charge for the cost of providing it. There would also be a small cost for officials attending Welsh Government events.

The estimated total cost for Local Government in Year 1 is between **£43,100** and **£47,300**, depending on whether there are eight or nine County Councils in Wales.

BENEFITS

Benefits to Local Government

Clear, constitution guides written in plain language would help Local Government engage more effectively with local people.

Benefit to the public

A simple guide would help the public understand how County Councils work. It could also help them to engage more effectively with their Councils.

Summary

Option 1 would introduce no change and the current complex constitutions would remain.

Option 2 would encourage County Councils to change their current approach but this would be on a voluntary basis.

Option 3 would require County Councils to produce an accessible guide to their constitutions.

Preferred Option

Option 3 is the preferred option because people would have a better understanding of how County Councils work and how the public can engage with them.

1.7. Duties on County and Community Councillors (s82-88, 167-170)

Background

Councillors (Elected Members) are the link between local people and Local Government, and play an essential role in representing their electorate as part of the Council. They fulfil this by holding surgeries and meeting members of the public, participating in the committees to which they are appointed, and holding the Executive to account through overview and scrutiny.

The Welsh Ministers wish to ensure the role of Councillors is as clear as possible, and that they are provided with the best opportunity to fulfil their responsibilities to their electorates.

Two thirds of the online respondents (67 per cent) to the consultation on the White Paper *Reforming Local Government: Power to Local People* supported the proposal for the roles, responsibilities and duties of Councillors to be defined in legislation. 86 per cent of online respondents agreed that Councillors should attend surgeries, and 89 per cent agreed with attendance at committees.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – Support and encourage Councillors to set out their roles clearly
- Option 3 – Clarify the role of Councillors by setting out their key duties in legislation

Option 1 – Do nothing

DESCRIPTION

Councillors would continue to undertake their duties as they feel most appropriate.

COSTS

Cost to Local Government and the Welsh Government

This option would introduce no additional costs to the Welsh Government.

BENEFITS

Benefits to Local Government and the Welsh Government

This option would introduce no additional benefits.

Option 2 – Support and encourage Councillors to set out their roles clearly

DESCRIPTION

Option 2 proposes Welsh Government officials hold a number of events to support and encourage Councillors to improve the way they communicate with and represent their electorate, and to encourage them to strengthen their skills by attending additional training courses.

As with any voluntary scheme, take-up cannot be guaranteed. Therefore, it is not certain this approach would achieve the desired level of change. Any events would be held in the year following the election of Shadow Authorities in 2019.

COSTS

Option 2 would impose additional costs of £15,600 in 2019/20.

Table 8: Event Organisation Costs

Policy Intention Costs	2019/20
<u>Welsh Government</u>	
Staff Costs (Event Organisation)	£6,000
Event Organisation (incl translation)	£1,500
Total Welsh Government Cost	£7,500
<u>Local Government</u>	
Staff Cost - Event Attendance	£8,100
Total Cost	£15,600

Cost to the Welsh Government

Holding support and encouragement events would impose an additional cost on the Welsh Government. Three events would be held in the first year only. These events are estimated to cost £7,500.

Cost to Local Government

It is estimated Option 2 would impose an additional cost of just over £8,000 on Local Government; this reflects the cost of Councillors attending events.

BENEFITS

Benefits to Local Government

Councillors attending these events would be encouraged and supported to adopt best practice. This could mean the electorate is more closely involved in Councillors' activities. However, holding voluntary encouragement events mean that these benefits would not be guaranteed.

Option 3 - Clarify the role of Councillors by setting out their key duties in legislation

DESCRIPTION

This option proposes to clarify the role of Councillors by setting out their key duties in legislation. The Welsh Ministers could support Councillors by producing guidance. These obligations would commence following the election of Shadow Authorities in May 2019.

The key duties are considered to be:

- Councillors would be required to be accessible to their electorate. This would involve an obligation to hold regular 'surgeries', sessions within their wards at which the electorate may speak with their Councillor in private. The Welsh Ministers could produce guidance covering the regularity, location, and conduct of such surgeries.
- Councillors would also be required to respond to correspondence sent to them at their official address for correspondence.
- County Councils would be required to decide which training and development courses should be compulsory for Councillors and also for members of Community Councils in their area. The Welsh Ministers could produce guidance on the proposed duties of Councillors, including on training and development, to which County Councils and Councillors and Community Councils and Councillors would be required to have regard.

- Councillors would be required to attend meetings of the full Council and any committees of which they are members, unless they have a good reason for failing to attend such a meeting.
- Councillors would be required to attend any meetings they would reasonably be expected to attend in exercise of the functions of a Councillor, unless they have a good reason for failing to attend such a meeting.

COSTS

Option 3 is estimated to introduce additional costs of **£25,800** in 2019/20.

Table 9: Policy Intention Costs

Policy Intention Costs	2019/20
<u>Welsh Government</u>	
Staff Costs - Event Organisation	£6,000
Event Organisation (incl Translation)	£1,500
Staff Cost - Producing Guidance	£10,100
Total Welsh Government Cost	£17,700
<u>Local Government</u>	
Staff Costs - Event Attendance	£8,100
Total Cost	£25,800

Cost to the Welsh Government

Producing guidance to explain the duties and support Councillors would introduce an additional cost to the Welsh Government, this guidance could also support County Councils in complying with their duties in respect of Community Councillor training. This guidance is expected to be detailed, and so would take more time to produce than other examples of supporting guidance. The one-off cost is estimated to be almost **£18,000**. Any future updates to the guidance would form a part of usual business.

Cost to Local Government

Option 3 would not necessarily impose additional costs on Local Government. While a range of responsibilities would be introduced, it is important to note that many Councillors already carry out such responsibilities, albeit in different ways. Moreover, introducing these duties contributes to defining the fundamental role of the Councillor. It is expected that Councillors would continue to dedicate the

same amount of time to their role as at present, but would use their time in a different way. Councillors are already offered a significant amount of training but uptake is variable. Under these proposals, Councillors would be required to attend training courses which are either already open to them or which could be provided within existing training budgets.

There is also a commitment for County Councils to consider the training needs of Community Councils in their area, whether any elements of training should be compulsory and, if so, to arrange the provision of training. It is likely that compulsory elements, if any, would only cover a handful of topics which are of common interest to the County Council and the Community Council. This might include such matters as planning (Community Councils are statutory consultees on planning applications within their area) and the Code of Conduct (County Council standards committees oversee the standards of conduct of both County and Community Councillors in their area). However, it is not believed this need incur additional expenditure with judicious planning.

Clerks and chairs of Community Councils have regular meetings with County Councils to discuss matters of mutual interest. The number of meetings is likely to increase if there are fewer, larger Community Councils (following a review of Community Council arrangements) and a more developed programme of asset and service transfer. Any training could be scheduled to occur on the same day as these regular meetings. Training is unlikely to last longer than two hours per session, with the training led by an officer of the County Council, such as a Planning Officer or the Head of Democratic Services. Training held in this manner would not, therefore, incur additional travelling expenses for the Community Council members, but it would incur a small opportunity cost to the County Council officers. However, it is considered the training would lead to savings further down the line in the business, for example, of the County Council's Planning Committee and Standards Committee. The overall cost is, therefore, considered to be negligible.

It is estimated Option 3 would impose additional costs of just over £8,000 on Local Government; this reflects the cost of Councillors attending events.

The possible costs of Monitoring Officers and Standards Committees in relation to non-fulfilment of training commitments are dealt with below.

BENEFITS

Benefits to Local Government

Imposing a clear set of duties on Councillors would clarify the role. The way in which Councillors fulfil their roles is likely to become more consistent across Wales. This could lead to higher public trust and engagement with democracy.

Benefits to others

The duties on Councillors to engage with their electorate would ensure a consistent quality of engagement with the public across Wales, and would likely bring the public closer to decision-making.

Summary

Option 1 proposes no change to the status quo, and would not clarify or strengthen the role of Councillors.

Option 2 would support and encourage Councillors to clarify their roles. As this would be on a voluntary basis, there would be no certainty of improvement. This option would impose additional costs of £15,600.

Option 3 would place a small number of key duties on Councillors to clarify their role, and support them in fulfilling it. This option would impose additional costs of £25,800.

Preferred Option

Option 3 is the preferred option because the responsibilities of County Councillors would be set out clearly, increasing transparency and accountability and promoting public engagement with local democracy.

1.8. County Councillors' Annual Reports and Performance (s86-93, s96, s109)

Background

The Local Government (Wales) Measure 2011 included provisions to strengthen local democracy by supporting Elected Members. This included a requirement at section 5 for Councils to make necessary arrangements for any Councillor to be able to publish an annual report describing their activities during the previous year. Councillors are encouraged to produce annual reports. The provisions came into force on 30 April 2012, following the local elections of that year, meaning the first reports were published following the end of the first municipal year from May 2013 onwards.

The 2014/15 figures suggest that less than 500 annual reports have been published out of a possible total of 1,253. The percentage published per Council varies. For example, one Council has published 100 per cent while others have published 4 per cent. For the majority of Councils the rates lie between 20 per cent and 50 per cent.

The responses to the *Reforming Local Government: Power to Local People* White Paper noted that 'some Elected Members have argued annual reports are not necessary as they are judged by the public in the ballot box'. However, members of the public would not be able to judge the achievements of individual Councillors without being able to access information about their activities during the previous year.

The White Paper proposed all Councillors should be required to produce an annual report. 68 per cent of online respondents to the consultation on the White Paper agreed with the proposal.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – Encourage Councillors to publish annual reports
- Option 3 – Require Councillors to produce annual reports and for Standards Committees to have a role and report on their consideration of the performance of Councillors in this regard and their other duties

Option 1 – Do nothing

DESCRIPTION

Option 1 would introduce no change. County Councils would continue to be required to support Councillors to publish a report, and Councillors would continue to decide for themselves whether to do so.

COSTS

Costs to the Welsh Government

This option would introduce no additional costs to the Welsh Government.

Costs to Local Government

This option would introduce no additional costs to Local Government.

BENEFITS

This option would introduce no additional benefits to Local Government, the Welsh Government, or the public. The publication of annual reports by Elected Members would remain variable.

Option 2 - Encourage Councillors to produce annual reports

DESCRIPTION

Option 2 would retain the current arrangements. County Councils would be required to support Councillors to publish an annual report, and Councillors would continue to decide for themselves whether to do so.

However, Welsh Government officials would organise a number of events for County Councils and Councillors to promote annual reporting. These events would encourage and support Councillors to produce annual reports, focusing in particular on the Councils which do not currently encourage the completion of annual reports.

Alongside these events, the Welsh Government could improve its guidance to Councillors on producing annual reports. Statutory guidance to which County Councils must have regard can be issued under section 5(4) of the 2011 Measure. The guidance and events would promote better partnership working between Councils, to identify and disseminate good practice on annual reporting.

However, as the publication of annual reports would continue be voluntary, take-up would not be guaranteed.

Additional costs associated with this option would start to occur from April 2020 onwards.

COSTS

Over ten years, Option 2 is estimated to introduce an additional cost of just under **£75,000**, with £18,300 of additional cost being incurred in the first year, 2020/21.

Table 10: Policy Intention Costs

Policy Intention Costs	2021/22 to		Total*
	2020/21	2029/30	
<u>Welsh Government</u>			
Staff Costs - Event Organisation	£6,000	£27,600	£33,700
Event Organisation	£1,500	£4,500	£6,000
Staff Cost - Updating Guidance	£1,900	-	£1,900
Guidance Translation	£800	-	£800
Total Welsh Government Cost	£10,200	£32,100	£42,300
<u>Local Government</u>			
Staff Costs - Attending Events	£8,100	£24,300	£32,400
Total Cost	£18,300	£56,400	£74,700

*Based on a 10 year planning horizon

Costs to the Welsh Government

Running events and updating guidance would introduce additional costs to the Welsh Government, estimated to total £42,300 over ten years.

In the first year, three events would be held, and guidance would be updated. This would introduce additional staffing costs of £10,200.

A smaller annual event would also be held in subsequent years, as some Councillors could benefit from continued encouragement. It is estimated that the annual cost for Welsh Government would be £3,600.

Cost to Local Government

A small cost of attending the events has been estimated, this reflects attending 3 events in 2020/21 and a single event in the following years. Following the events and improved guidance, some Councillors may produce annual reports for the first time. Others may amend the format or content of their existing reports. However, the associated costs would be minimal, and would form part of the normal duties of the Head of Democratic Services and their team who are already under a duty to publish Councillors' annual reports. Reporting on annual activities is a key part of a Councillor's role.

BENEFITS

The potential benefits of Option 2 are dependent on the voluntary actions of Councillors. If the events and guidance provided increased the number of Councillors publishing annual reports then this would increase the public's ability to understand the work, achievements and progress of their Elected Members over an annual cycle. This would help provide a more transparent and open Local Government.

Option 3 – Require Councillors to produce annual reports and for Standards Committees to report on their consideration of the performance of Councillors in this regard and their other duties.

DESCRIPTION

Option 3 would place a statutory duty on all Councillors of County Councils to publish an annual report. Councillors would be required to have regard of the Welsh Ministers' guidance on annual reporting, and failure to produce an annual report could result in referral to the Authority's monitoring officer and ultimately to the Council's standards committee. County Councils would continue to be required to publish annual reports.

To support Councillors, the Welsh Government would organise a number of events for County Councils and Councillors to promote annual reporting. New guidance could also be written.

It is anticipated that this option would only incur additional costs in 2020/21.

COSTS

Option 3 would introduce additional costs of **£23,100**.

Table 11: Policy Intention Costs

Policy Intention Costs	2020/21
<u>Welsh Government</u>	
Staff Costs - Event Organisation	£6,000
Event Organisation	£1,500
Staff Cost - Updating Guidance	£6,700
Guidance Translation	£800
Total Welsh Government Cost	£15,000
<u>Local Government</u>	
Staff Costs - event attendance	£8,100
Total Cost	£23,100

Costs to the Welsh Government

Running events and updating guidance would introduce additional costs to the Welsh Government, estimated to total £15,000 in 2020/21. This total includes a cost of £6,700 in 2020/21 for the making regulations and guidance by the Welsh Government. These regulations would provide members of the Council with the right of appeal in respect of the standards committee determination following that committee's consideration of a suspected breach of the performance duties.

In the first year, three events would be held, and guidance could be written. This would introduce additional staffing costs of £12,700. No further events would be held in subsequent years, as County Councils would be obliged to encourage Councillors to complete annual reports.

Cost to Local Government

A small cost of attending the events has been estimated, this reflects attending 3 events in 2020/21 and a single event in the following years. Given the requirements for all Councillors to produce annual reports, many would likely do so for the first time. Others may amend the format or content of their existing reports. However, the associated costs would be minimal, and are expected to be absorbed into business as usual. Reporting on annual activities is a key part of a Councillor's role.

Standards Committees and Monitoring Officers have new responsibilities proposed under s87-93 to investigate any complaints of non-compliance of members in relation to the new duties imposed on them. Whether this increases the costs on Local Government is indeterminate as it cannot be predicted whether these complaints will materialise and how many. Furthermore, it is not necessarily

the case that additional meetings of Standards Committees would be required over and above their scheduled meetings. The Monitoring Officer's role would form part of their duties and need not result in increased costs. Standards Committees would also, under section 96 of the Bill, need to include training in compliance with these duties additional to their training needs in relation to the Code of Conduct. Again, there would only be additional cost if this resulted in additional training sessions, which does not necessarily follow.

The standards committee will be required under s109 to produce an annual report on its activities which must then be considered by the County Council within three months. It is not considered that this would result in additional costs for County Councils as a many standards committees already produce such reports as a matter of good practice.

BENEFITS

Placing a duty on Councillors to publish an annual report would result in a significant increase in the number of annual reports published. This would provide greater transparency on the work of Councillors, and could assist Councillors in conveying the breadth of their work to their communities, and could promote better democratic engagement.

Summary

Option 1 proposes no change to current arrangements. Publishing annual reports would remain voluntary.

Option 2 proposes the Welsh Government holds events and updates guidance to encourage more Councillors to publish annual reports. Publication would remain on a voluntary basis, and so there is no certainty that the number of annual reports published would increase. Additional costs of £74,700 would be introduced to the Welsh Government.

Option 3 would place a statutory duty on all Councillors to publish annual reports. Support events would be held, and guidance produced. Additional costs of £23,100 would be introduced to the Welsh Government.

Preferred Option

Option 3 is the preferred option because people would have a better understanding of what County Councillors do and what they achieve for local people.

1.9. Duty of leaders of political groups in relation to standards of conduct (s98)

Background

Local Government provides front-line services to the public which are vital for their everyday lives. It is essential, therefore, that Councils are in tune with, and are representative of, their local communities. To achieve this, Local Government needs an engaging political culture that is open to ideas from every part of society.

The report, *On Balance: Diversifying Democracy in Local Government in Wales*, was published by the Expert Group on Diversity in Local Government in 2014.⁷ The report noted that “the experience of being a councillor can also be off-putting”. There is anecdotal evidence of Councillors having resigned posts, or even left the Council itself, because of what they perceive to be a culture of bullying or harassment, going beyond the acceptable practices of imposing party group discipline. An analysis of the 20 most recent cases determined by the Adjudication Panel for Wales (updated 18 September 2015), where the member was found to have breached the Code of Conduct, shows that 16 involved breaches under one or more of the following: section 4(a) equality, 4(b) treating others with respect and consideration, 4(c) bullying and harassment and 6(1)(a) disrepute.

Bullying

Councillors of an Authority are subject to the provisions of the Code of Conduct. The Welsh Government believes the leaders of political groups should take reasonable steps to promote and maintain high standards of conduct by the members of their group.

An image of bullying can damage Local Government’s reputation. There are things that all Councillors can and should do, including listening respectfully to the contributions of others and avoiding the use of personal insults.

Challenging bullying effectively will improve the safety and happiness of all those who work within political groups, promote care and make clear inappropriate behaviour is unacceptable.

The Draft Bill proposes that leaders of registered political groups within County Councils are placed under a requirement to take reasonable steps to promote and maintain high levels of conduct amongst their members and to have regard to statutory guidance concerning this. They would also be required to co-operate with the Council’s standards committee in that committee’s performance of its

⁷ <http://gov.wales/topics/localgovernment/publications/expert-group-report/?lang=en>

role, including in a situation where a member of their group is subject to a complaint about their conduct.

Standards committees would be subject to a new duty to consider and report on whether leaders of political groups were complying with their responsibility and to arrange training for them if required.

Options

Three options have been considered:

- Option 1 - Do nothing
- Option 2 - Promote an anti-bullying culture
- Option 3 - Legislate to require each political group leader to promote high standards of conduct.

Option 1 – Do nothing

DESCRIPTION

There would be no change under this option and County Councils would continue with their current ways of working.

COSTS

Costs to the Welsh Government

There are no additional costs to the Welsh Government associated with this option.

Costs to Local Government

There are no additional costs to Local Government associated with this option.

BENEFITS

Benefits to Local Government

There are no additional benefits under this option.

Option 2 - Promote an anti-bullying culture

DESCRIPTION

Option 2 would involve Welsh Government officials organising a number of events to encourage leaders of political groups to improve their anti-bullying procedures and understand the benefits of diversity. This option would be a

positive attempt at increasing the number of County Councils that promote an anti-bullying culture in order to support greater diversity.

As with any voluntary scheme, take-up cannot be guaranteed. Therefore, it is not certain that this approach would achieve the desired level of change.

It is anticipated that these planned events and guidance would be implemented in 2017/18.

Table 12: Policy Intention Costs

Policy Intention Costs	2017/18
<u>Welsh Government</u>	
Staff Costs - Event Organisation	£6,000
Event Organisation (incl Translation)	£1,500
Staff Costs - Producing Guidance	£4,300
Guidance Translation	£800
Total Welsh Government Cost	£12,600
<u>Local Government</u>	
Staff Cost - Event Attendance	£8,100
Total Cost	£20,700

COSTS

Cost to the Welsh Government

This option would offer 3 events, providing detailed information on how to embed and encourage an anti-bullying and pro-diversity culture within working practices. These events would only be provided in 2017/18.

The Welsh Government could also issue non-statutory guidance to assist County Councils. Drafting guidance is expected to cost almost £4,000.

Table 12 indicates the estimated costs to Welsh Government of organising and hosting training events, as well as issuing guidance. There would be an opportunity cost associated with utilising existing communications and policy staff to work on supporting these events. Welsh Government officials would also be required to manage and arrange proceedings.

The estimated total cost for Welsh Government in 2017/18 is just under **£13,000**.

Cost to Local Government

There would be an estimated additional cost of just over **£8,000** associated with this option, this reflects the cost of leaders of political groups in Local Government attending the Welsh Government events.

BENEFITS

Benefit to Local Government

Leaders of political groups who attend these events would receive a range of information on creating and developing an anti-bullying and pro-diversity culture within their group and more widely within the Council.

Improving and encouraging an anti-bullying and pro-diversity culture would directly benefit staff within the County Council. Clear procedures would be put in place for dealing with bullying and diversity issues, making it a fairer and more positive place to work. This in turn should hopefully boost morale amongst the workforce.

Option 3 – Legislate to require each political group leader to have a duty to promote good conduct.

DESCRIPTION

Leaders of political groups (as defined in section 75 of the Local Government (Wales) Measure 2011) within County Councils would be placed under a general duty to promote high standards of conduct within their group. This would include ensuring that no member of their group has failed to respect one or more members or staff of their Authority, in such a way as could be considered to be bullying, harassment or any form of prejudice relating to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The duties placed on a group leader in this proposal are additional to the existing requirements on Councillors to respect good practice through their Code of Conduct and in no way should diminish the ability of a monitoring officer or standards committee to consider alleged misconduct, irrespective of a group leader's involvement.

It is anticipated that guidance associated with this provision would be required in 2017/18.

Table 13: Policy Intention Costs

Policy Intention Costs	2017/18
<u>Welsh Government</u>	
Staff Costs - Producing Guidance	£4,300
Guidance Translation	£800
Total Cost	£5,100

COSTS

Cost to the Welsh Government

Welsh Government would need to issue guidance covering all aspects of this option. The estimated total cost for Welsh Government in 2017/18 is just over **£5,000**.

Cost to Local Government

There could be an opportunity cost associated with group leaders spending time on something else, but in this case there are not expected to be significant additional costs.

BENEFITS

Benefits to Local Government

Members of political groups would have the reassurance that their group leaders have a responsibility to promote best practice in relation to standards of conduct. Preventing or resolving issues within political groups could reduce the need for some issues to be escalated to the standards committee.

Summary

Option 1 proposes no change, policies reflecting anti-bullying would remain as they are currently.

Option 2 would promote the need for change. However, as this would be on a voluntary basis, there are no guarantees that the policies would positively change the conduct of leaders of political groups and their members.

Option 3 would require these changes to be made, ensuring that group leaders are placed under a responsibility to promote good behaviour amongst their members.

Preferred Option

Option 3 is the preferred option because higher standards of conduct would encourage more diverse people to stand as Councillors.

1.10. Roles and Responsibilities of Leaders and Elected Mayors **(s99, 104)**

Background

The Leader and Cabinet or Elected Mayor have a decisive role in determining the way Local Authority services are provided, funded and prioritised. The Leader has overall responsibility for the County Council's performance and service provision.

Currently, there are no formal requirements that set out what a Council Leader, the Cabinet or the Chief Executive should accomplish and be accountable for on an annual basis. There is no requirement for the Leader of the Council to set out their priorities for the Council in a manifesto, to set objectives for the Cabinet or the Chief Executive, to complete reports on whether those objectives have been achieved, or to engage directly with the public.

The Welsh Ministers are keen to ensure Local Government is as open and transparent as possible. This section, therefore, brings together a number of related provisions in the Draft Bill relating to the roles and responsibilities of Leaders and Elected Mayors.

73% of online respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed with the proposal to define the roles and responsibilities of Leaders or Elected Mayors in legislation.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – Encourage Council Leaders and Elected Mayors to make changes to their role voluntarily, with the aim of creating a more transparent and accountable role
- Option 3 – Place specific duties on Council Leaders and Elected Mayors in relation to accountability and transparency

Option 1 – Do nothing

DESCRIPTION

This option would entail no change from current arrangements regarding the role and responsibilities of Council Leaders and Cabinet.

Under this option Leaders would be under no obligation to set objectives for their Cabinets.

COSTS

Costs to Local Government and the Welsh Government

This option would introduce no additional costs to Local Government or the Welsh Government.

BENEFITS

Benefits to Local Government and the Welsh Government

This option would deliver no additional benefits to Local Government or the Welsh Government.

Option 2 – Encourage Council Leaders and Elected Mayors to make changes to their role voluntarily, with the aim of creating a more transparent and accountable role

DESCRIPTION

Option 2 would involve Welsh Government officials organising a number of events for County Councils, promoting the various changes which could be made to the accountability arrangements of Leaders. The aim of these events would be to support cultural change positively in the County Councils that do not currently set objectives for the Cabinet or the Chief Executive, that do not require the Leader or Elected Mayor to produce an annual report or engage directly with the public.

Alongside the promotional events, the Welsh Government would also produce guidance for County Councils on improving transparency and accountability.

The guidance could promote better partnership working between County Councils through sharing good practice, including identifying the types of accountability procedures that could be adopted by Council Leaders. However, adopting such procedures would continue to be voluntary. As with any voluntary scheme, take-up cannot be guaranteed.

COSTS

Option 2 would introduce costs of **£20,700**.

Table 14: Policy Intention Costs

Policy Intention Costs	2020/21
<u>Welsh Government</u>	
Staff Costs -Event Organisation	£6,000
Event Organisation (incl Translation)	£1,500
Staff Costs - Producing Guidance	£4,300
Guidance Translation	£800
Total Welsh Government Cost	£12,600
<u>Local Government</u>	
Staff Costs - Event Attendance	£8,100
Total Cost	£20,700

Costs to the Welsh Government

The table above shows the estimated costs for Welsh Government to organise and hold three good practice events and produce guidance. Events would only be held in the first year. The total cost to the Welsh Government is estimated to be around £12,600 in 2020/21.

Costs to Local Government

It is envisaged these events would be attended by the Local Authority officials who support and provide advice to Leaders and Elected Mayors. Therefore estimated additional costs to Local Government of just over £8,100 have been identified, reflecting the cost of officials attending good practice events. How County Councils adapt their processes would vary depending on current arrangements, and decisions taken by each Council at a local level. Any such changes would be appraised at a local level in due course.

BENEFITS

Benefits to Local Government

County Council delegates attending the good practice events would receive training and guidance on how to improve transparency and accountability within the organisation. However, the full benefits of Option 2 are dependent on the discretionary actions of County Councils.

Option 3 – Place specific duties on Council Leaders and Elected Mayors in relation to accountability and transparency

DESCRIPTION

Option 3 proposes to place a number of duties on the Leaders of County Councils (and Elected Mayors) aimed at improving transparency and accountability. This provision would commence following the election of Shadow Authorities in 2019.

The proposed duties are:

- Each candidate for the post of Council Leader would be required to produce a manifesto for their term of office, setting out their priorities for the Council's work. Where a Leader is replaced during their term, no new Leader should be appointed without the candidates for Leader preparing manifestos.
- Each of the candidates for Leader should be given the opportunity to provide an oral statement supporting their manifesto prior to their appointment as Leader.
- The Leader of the Council, after appointing the Cabinet, should set objectives for the Cabinet.
- The Leader should be required to keep the objectives set for the Cabinet under review and produce an annual report on the extent to which those objectives have been achieved.
- The Leader of a Council should be required to attend at least one public meeting a year at which members of the public are given the opportunity to put questions to them about the discharge of the Council executive's responsibilities.
- The Leader should be given responsibility for setting objectives for the Chief Executive and for reviewing those objectives on an annual basis.
- The Leader should be required to report to the Council on the outcome of any review with the Chief Executive of the objectives set for the Chief Executive.

COSTS

Cost to Welsh Government

The Welsh Ministers are given a power to issue guidance with regard to the requirement on the Council Leader to set objectives for the Chief Executive. The additional one-off costs are calculated to be £5,100 (£4,300 to produce guidance, £800 translation costs).

Cost to Local Government

Option 3 would not necessarily impose any additional costs on Local Government. While a range of responsibilities would be introduced, it is important to note that many Leaders already carry out such responsibilities, albeit in different ways. Moreover, introducing these duties contributes to defining the Leader's role, for which they are remunerated. It is expected that a Leader would continue to dedicate the same amount of time to their role as at present, but would use their time in a different way. Therefore, no additional costs are anticipated as a result of these proposals.

BENEFITS

Benefits to Local Government

Clarifying the role would set out the expectations and requirements of a Leader (and Elected Mayor) and would likely ensure that all Leaders, Cabinets and Chief Executives have clarity about their priorities and objectives, enabling them to perform their duties fully and efficiently, reducing variation in performance. This clarity of expectations would enable better scrutiny of the performance of Leaders, Cabinets and Chief Executives.

Benefits to the public

Requiring Leaders to set objectives for Cabinets and Chief Executives, review and report on the extent to which those objectives have been achieved, and engage with the public would significantly strengthen transparency and accountability. The published Cabinet objectives and annual reports would benefit the quality and robustness of County Councils' scrutiny, and could contribute to an overall improvement in their performance.

Summary

Option 1 proposes no changes from the current arrangements.

Option 2 proposes to encourage Council Leaders to make changes to their role voluntarily, aiming to create a more transparent and accountable position. As with

any voluntary scheme, take-up cannot be guaranteed. This option would introduce additional costs of £20,700.

Option 3 proposes to place various duties on Council Leaders (and Elected Mayors), in order to strengthen the transparency and accountability of their roles and the roles of their Cabinets. The Welsh Government would incur additional costs of £5,100.

Preferred Option

Option 3 is the preferred option because it would lead to stronger accountability through a better understanding of the priorities of Leaders and the objectives of Cabinets and Chief Executives, and their progress in achieving them.

1.11. Considerations of Equality and Diversity when Appointing Members of the Cabinet and Assistants to the Executive (s101-102)

Background

Leaders must be powerful advocates for equality and diversity and be able to translate this into positive action, for example, when selecting members of the Cabinet.

72 per cent of respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed that Leaders should be placed under a duty to have regard to diversity when appointing their Cabinet.

The Welsh Government has an ongoing commitment to improve diversity in Local Government. In July 2013 it established an Expert Group on Diversity in Local Government. In March 2014, the Expert Group reported that

‘there is concern about the profile of local councillors for a number of reasons. The proportion of the workforce which is female and the slowly increasing number of women achieving positions of seniority in public and private institutions is not reflected in Local Government in Wales. If people perceive that Local Government is dominated by older white males (as it is in many areas), this can serve to further alienate voters who are already difficult to enthuse as reflected in voter turnout and, indeed, all political activity.’⁸

The Welsh Ministers propose to place a duty on County Council Leaders or Elected Mayors to have regard to guidance encouraging good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive.

Options

Three options have been considered:

- Option 1 – Do nothing
- Option 2 – Encourage County Councils to adopt good practice in relation to equality and diversity when appointing the Cabinet and assistants to the Executive
- Option 3 – Place a duty on County Councils, their Leaders or Elected Mayors to have regard to guidance encouraging good practice in relation

⁸ *On Balance: Diversifying Democracy in Local Government in Wales*, Expert Group on Diversity in Local Government, March 2014

to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive

Option 1 – Do nothing

DESCRIPTION

There would be no change under this option.

COSTS

Cost to the Welsh Government

This option would introduce no additional costs to the Welsh Government.

Cost to Local Government

This option would introduce no additional costs to Local Government.

BENEFITS

There are no additional benefits associated with this option.

Option 2 – Encourage Local Authorities to adopt good practice in relation to equality and diversity when appointing the Cabinet and assistants to the Executive

This option proposes that the Welsh Government holds events to encourage County Councils to adopt good practice in relation to equality and diversity when appointing the Cabinet and assistants to the Executive. The events would provide detailed information on how to embed and encourage diversity and equality. The Welsh Government could also produce guidance to support and encourage County Councils in adopting such good practice. However, the adoption of good practice would remain a voluntary matter for County Councils, so there is no certainty that diversity would consistently improve.

COSTS

Option 2 would introduce additional costs of **£20,700** in 2020/21.

Table 15: Policy Intention Costs

Policy Intention Costs	2020/21
<u>Welsh Government</u>	
Staff Costs -Event Organisation	£6,000
Event Organisation (incl Translation)	£1,500
Staff Costs - Producing Guidance	£4,300
Guidance Translation	£800
Total Welsh Government Cost	£12,600
<u>Local Government</u>	
Staff Costs - Event Attendance	£8,100
Total Cost	£20,700

Cost to the Welsh Government

The table above indicates the estimated costs for the Welsh Government to organise and hold three good practice events. Welsh Government officials would be required to plan and manage the events. Including this staff opportunity cost, as well as venue and translation costs, the events would cost just over £7,500.

The Welsh Government could also produce guidance to be used as a reference point by County Councils. The additional staff cost required to produce this guidance is estimated at £5,100.

The estimated total cost for Welsh Government in Year 1 is £12,600.

Cost to Local Government

Option 2 would introduce an estimated additional cost of just over £8,000 to Local Government, this reflects the cost of Local Government members and officials attending training events.

BENEFITS

Benefits to Local Government

County Council delegates attending these events would receive training and guidance on how to adopt good practice in relation to equality and diversity in appointing Cabinets, which could have positive results on the diversity of Local Authority Cabinets.

Benefit to others

The general public would be more likely to benefit from a diverse and broad ranging Cabinet that reflects the communities they represent.

Option 3 – Place a duty on County Council Leaders or Elected Mayors to have regard to guidance encouraging good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive

DESCRIPTION

There would be a new provision enabling Leaders or Elected Mayors of the Council to appoint members of the Council as assistants to the Executive. These posts would be development posts, and could give greater scope to create more diverse Cabinets in the future through succession planning. The Welsh Ministers could produce guidance to support Leaders or Elected Mayors in encouraging good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive. Leaders and Elected Mayors would be required to have regard to this guidance.

COSTS

Option 3 would introduce additional costs of £11,500.

Table 16: Policy Intention Costs

Policy Intention Costs	2020/21
<u>Welsh Government</u>	
Staff Cost - Producing Guidance	£10,700
Guidance Translation	£800
Total Cost	£11,500

Cost to Welsh Government

There would be an opportunity cost to utilise existing Welsh Government policy staff to produce guidance documentation. This cost is estimated at **£11,500** in 2020/21.

Cost to Local Government

There are no additional costs to Local Government associated with this option. Any potential remuneration for the role of assistant to the executive would be a matter for the Independent Remuneration Panel, and would be fully appraised in due course.

BENEFITS

Benefits to Local Government

Leaders or Elected Mayors would be obliged to have regard to guidance encouraging good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive. Together with the possibility to appoint individuals as assistants to the Executive, this is likely to help increase the diversity of Cabinets. If that proved to be the case, County Council Cabinets would be more likely to reflect the communities they represent.

Benefit to others

The general public may benefit from a more diverse and broad-ranging Cabinet accurately representing society as a whole.

Summary

Option 1 proposes no change and therefore does nothing to address the lack of diversity within Cabinets.

Option 2 proposes the Welsh Government runs events to support County Councils in adopting good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive. As this would be on a voluntary basis, there is no guarantee that improvements would be made to the diversity of cabinet members.

Option 3 would introduce a statutory requirement for Leaders and Elected Mayors to have regard to guidance encouraging good practice in relation to equality and diversity when deciding whom to appoint to Cabinet and whom to appoint as assistants to the Executive. This is likely to serve to strengthen diversity within County Council Cabinets. It also introduces a possibility of appointing assistants to the Executive, to give greater scope to undertake succession planning and create more diverse Cabinets in the long run.

Preferred option

Option 3 is the preferred option because it would promote better diversity among members of the Executive and assistants to the Executive.

1.12. Making information available to overview and scrutiny committees (s107)

Background

The Local Government Act 2000 introduced executive arrangements to County and County Borough Councils in Wales, creating a cabinet-style leadership model balanced by scrutiny mechanisms through which Councillors outside of the Executive hold the leadership to account. Following this, the Local Government (Wales) Measure 2011 included a number of reforms to scrutiny, designed to widen scrutiny powers and improve scrutiny proceedings.

A strong, open and engaged relationship is needed between the Executive and scrutiny committees to ensure effective decision-making. This is central to the success of local democracy.

However, scrutiny in some Councils could be more effective. The Wales Audit Office study *Good Scrutiny? Good Question* suggested that a lack of clarity of roles and responsibilities can limit the effectiveness with which scrutiny holds the Executive to account.⁹ Better planning, more effective chairing, and improvements to the range, quality and use of information would improve scrutiny in Councils in Wales.

In particular, important decisions made by the Executive are not always effectively communicated to scrutiny committees. This can lead to lost opportunities to scrutinise important decisions.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Place a duty on County Councils to inform scrutiny committees of key decisions

Option 1 – Do nothing

DESCRIPTION

This option would entail no change from Councils' current scrutiny practices. Scrutiny committees would continue to provide scrutiny which at times is not well informed about pending decisions. Opportunities to scrutinise important

⁹ *Good Scrutiny? Good Question! Auditor General for Wales improvement study: Scrutiny in Local Government*, Wales Audit Office, May 2014

decisions, in particular in advance of their being taken, could continue to be missed.

COSTS

Costs to Local Government and Welsh Government

This option would introduce no additional costs to Local Government or the Welsh Government.

BENEFITS

Benefits to Local Government and Welsh Government

This option would deliver no additional benefits to Local Government or the Welsh Government.

Option 2 – Place a duty on County Councils to inform scrutiny committees in advance of key decisions.

DESCRIPTION

The Draft Bill amends section 22 of the 2000 Act to enable the Welsh Ministers to make regulations requiring Local Authorities to provide information to members of overview and scrutiny committees. Those regulations could introduce the concept of a “key decision”, possibly using the definition used in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

A requirement would be placed on County Councils to ensure that any decision falling within the category of a “key decision” is notified to members of the overview and scrutiny committee as soon as that decision is made, or when it is known what decision is being considered. The only exception to this would be decisions made as a matter of urgency.

It is anticipated that this provision would commence in 2017.

COSTS

Cost to Local Government and the Welsh Government

Option 2 would not introduce any additional costs to Local Government or the Welsh Government. These processes would not require significant resourcing to implement, and, in many cases, are already in place.

BENEFITS

Benefits to Local Government

Ensuring that all “key decisions” are communicated to scrutiny committees would ensure that the most important decisions taken by County Councils can be scrutinised, and more decisions can be scrutinised in advance of their being taken. This is likely to improve the quality of decisions taken by County Councils, and ensure that the decision-making process for the most important decisions is more open and transparent.

Summary

Option 1 proposes no change from current scrutiny arrangements.

Option 2 proposes to place a duty on County Councils to ensure that “key decisions” are communicated to scrutiny committees, enabling effective scrutiny of Councils’ most important decisions. No additional costs would be introduced.

Preferred Option

Option 2 is the preferred option because it would lead to better scrutiny of Council decision-making.

1.13. Joint Scrutiny Committees (s108)

Background

Scrutiny is essential to ensure effective Local Government. Where services are delivered jointly between two or more Local Authorities, the Local Government (Wales) Measure 2011 enables Local Authorities to form Joint Overview and Scrutiny Committees.

However, as outlined in the White Paper *Reforming Local Government: Power to Local People*, these powers are rarely used. A single service provided to a common standard across more than one Council area should be subject to common scrutiny. The lack of effective joint scrutiny means that cross-cutting or overarching service issues may not always be identified or tackled. Scrutiny is essential to identify and realise opportunities for improvement, so this can have an impact on the quality of service delivered. In addition, joint scrutiny provides greater transparency for service users across the whole service area.

Moreover, in some cases, Joint Overview and Scrutiny Committees are set up in addition to, rather than instead of, scrutiny by individual Councils. Where services have been jointly commissioned by two or more Councils, it can be onerous for regional delivery bodies to be subject to separate scrutiny by each Council.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Require the establishment of Joint Scrutiny Committees

Option 1 – Do nothing

DESCRIPTION

This option would entail no change in the scrutiny arrangements for services jointly commissioned by several County Councils. Each County Council would continue to determine whether joint services should be subject to joint scrutiny, individual scrutiny procedures, or both.

COSTS

Costs to Local Government and Welsh Government

Option 1 would introduce no additional costs to County Councils or the Welsh Government but it does have the potential to impose opportunity costs through duplicated scrutiny procedures.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would deliver no additional benefits to County Councils or the Welsh Government.

Option 2 – Require the establishment of Joint Scrutiny Committees

DESCRIPTION

Option 2 proposes to strengthen the provisions in the Local Government (Wales) Measure 2011. The Welsh Ministers would be empowered to make regulations prescribing the circumstances when Joint Overview and Scrutiny Committees must be established. Regulations could provide that County Councils entering any agreement to deliver a service across a joint area would be obliged to establish a joint scrutiny committee.

It is anticipated that this provision would commence in 2017.

COSTS

Costs to Local Government and Welsh Government

Option 2 would introduce no additional costs to County Councils or the Welsh Government. It is anticipated that the costs of joint scrutiny would be offset by the current costs of scrutinising a joint service by two or more Councils separately, that is, reducing duplication.

The costs of joint scrutiny in individual cases should not be pre-empted here, and would be fully evaluated by County Councils as part of the overall costs and benefits of particular joint services. Any regulations prescribing when joint overview and scrutiny committees should be established would be accompanied by an RIA.

BENEFITS

Benefits to Local Government

Regulations would require that joint scrutiny committees always operate where services are jointly commissioned or delivered. Effective joint scrutiny should ensure more effective services, and provide greater transparency to the public over the services concerned. Mandatory joint scrutiny would reduce the possibility of scrutiny being provided by each Local Authority and reduce the potential burden on delivery bodies.

Summary

Option 1 proposes no change from current arrangements on the scrutiny of joint services.

Option 2 proposes to make joint scrutiny mandatory for jointly commissioned and delivered services.

Preferred Option

Option 2 is the preferred option because it would promote more efficient and effective scrutiny of jointly commissioned services, leading to better services and public outcomes.

2. Improvement of governance

It is essential that County Councils are able to identify and make the most of opportunities for improvement, particularly when facing serious financial and demographic challenges. The Welsh Ministers intention is to strengthen County Council governance processes. It is proposed to reform internal accountability for good governance, as well as strengthening the role of external regulatory bodies.

The Draft Bill includes measures to:

- Require County Councils to put in place arrangements to secure good governance and to prepare and publish a corporate plan
- Require County Councils to assess the quality of their governance arrangements by carrying out self assessments and peer assessments
- Encourage co-operation between the relevant regulators, including publishing combined assessments of County Councils and co-ordination of their relevant functions
- Provide the Welsh Ministers with powers to review County Councils' governance arrangements and a range of support and intervention powers
- Strengthen the role and independence of Corporate Governance and Audit Committees

Section 111 of the Draft Bill requires County Councils, as public bodies, to put in place arrangements to secure good governance, accountability, and to operate with economy, efficiency and effectiveness in their use of resources. It is not considered that this section imposes any new costs on County Councils, but rather codifies what all Councils should already be doing. There is, therefore, no separate consideration of section 111 in this document but the consequential costs of assessing the governance arrangements (self assessment, peer assessment etc.) are dealt with in turn.

2.1. Corporate Plans (s112-115)

Background

Corporate planning involves considering how to make decisions, deliver services, allocate resources and meet objectives. The Wales Audit Office in September 2013 noted that ‘all Authorities are getting better at connecting what they want to achieve with their plans and resources’, but found that ‘some fail to connect their objectives sufficiently with their corporate plans and arrangements’.¹⁰

All Local Authorities currently undertake some form of corporate planning. However, they use a range of processes and produce various separate documents. In some cases these component parts do not complement each other, and decision-making can then be taken on a piecemeal rather than strategic basis.

Transparent corporate planning also facilitates effective scrutiny. Corporate planning is an essential source of information for the public, stakeholders, and regulators (such as the Wales Audit Office) to examine how the Local Authority is performing, and to identify opportunities for improvement.

The need for effective and coherent corporate planning is growing. The Well-being of Future Generations (Wales) Act 2015 established well-being goals for Wales. County Councils will be required to align their objectives with these national well-being goals, and demonstrate how they are contributing to achieving them. County Councils will continue to face demographic and funding pressures, increasing the importance of effective corporate planning.

In response to the consultation on the White Paper *Reforming Local Government: Power to Local People*, 92 per cent of online participants thought Local Authorities should be required to complete a corporate plan. 18 of 20 Local Authorities supported the proposals, although many suggested that corporate planning processes should not be subject to too much prescription from Welsh Ministers.

The Draft Bill proposes to strengthen and promote consistency of corporate planning. Many of the benefits of corporate planning would be realised not through producing the corporate plan itself, but through the approach developed while undertaking planning activities. Corporate planning would become most effective if embedded throughout County Councils’ working culture.

Options

Three options have been identified:

¹⁰ Wales Audit Office, Local Authority Planning and Reporting in Wales, September 2013

- Option 1 – Do nothing
- Option 2 – Produce guidance to promote better corporate planning
- Option 3 – Require County Councils to consult on and produce a corporate plan

Option 1 – Do nothing

Option 1 would introduce no change from the status quo. However, as outlined above, the need for effective corporate planning would continue to grow, and County Councils would still be expected to meet their obligations to set objectives under the Well-being of Future Generations (Wales) Act 2015.

COSTS

Costs to Local Government and Welsh Government

Option 1 would introduce no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits.

Option 2 – Produce guidance to promote better corporate planning

Option 2 proposes the Welsh Ministers produce guidance to promote a more effective and coherent approach to corporate planning. This would commence in 2019/20, with the Shadow Authorities preparing a corporate plan for the new County Councils which assume their full functions on 1 April 2020.

The guidance would encourage County Councils to bring together existing planning documents into a single coherent corporate plan. The corporate plan would be expected to explain:

- what the Council plans to achieve, and how they plan to achieve it;
- how the Council plans to meet the requirements of the Well-being of Future Generations (Wales) Act 2015;
- how the Council plans to deliver services, including in partnership with others;
- corporate priorities for service delivery and improvement;
- financial management plans, including medium-term financial planning, corporate procurement strategies and asset management plans;

- planned performance levels for the short, medium and long term, benchmarked alongside existing performance data;
- a public participation strategy;
- achievements and performance of the previous year, through an annual report.

The guidance would recommend County Councils use the corporate plan as a basis to consult with local people and communities.

COSTS

Costs to the Welsh Government

Producing guidance on corporate planning would impose an additional one-off staffing and translation cost to the Welsh Government. This is estimated at **£12,000**.

Costs to Local Government

Option 2 would not introduce significant additional costs to County Councils.

Effective corporate planning is essential to running a County Council and informing local people and communities of their progress. Most of the elements likely to be included in the corporate planning arrangements and guidance are already being undertaken by the majority of Councils and, therefore, should not pose a significant financial burden. Collating this information in one place should place no costs on the Council.

BENEFITS

Benefits to Local Government and Welsh Government

County Councils following the guidance would likely develop a more effective approach towards corporate planning, with positive effects across their decision-making and service delivery. As well as producing a single, coherent corporate plan, Councils would be more likely to embed an effective approach to corporate planning throughout their work. Scrutiny committees, regulatory bodies, and the public would be better informed about how County Councils intend to meet their objectives with the resources available to them, and would therefore be better able to hold them to account.

Option 3 – Require County Councils to consult on and produce a corporate plan

This proposal requires that County Councils must consult on and produce a corporate plan, and the relevant documents associated with it. Most of the

elements likely to be included in the corporate planning arrangements and guidance are already being undertaken by the majority of Councils, and most already undertake consultation. Collating this information in one place and consulting should place no additional costs on Councils.

As for Option 2, this option proposes the Welsh Ministers produce guidance to promote a more effective and coherent approach to corporate planning. Although identical in scope to the guidance outlined in Option 2, guidance under option 3 would be statutory. While County Councils would not be obliged to comply with the guidance, they would have a duty to pay due regard to it. As for Option 2, this would commence in 2019/2020, with the Shadow Authorities preparing a corporate plan for the new County Councils which assume their full functions on 1 April 2020. However, the guidance would need to issue the previous year in order that Transition Committees could undertake preparatory work.

COSTS

Additional costs would be incurred in 2018/19. It has been estimated that the additional cost of guidance would be **£13,300**.

Costs to the Welsh Government

Producing guidance on corporate planning would impose a one-off additional staffing and translation cost to the Welsh Government. Considering the greater legal expertise required for statutory guidance, this is estimated to cost **£13,300**.

Costs to Local Government

As for Option 2, this option would impose no additional costs on County Councils. The majority of Councils already consult on their corporate plans, therefore, there would be only a negligible additional cost on consultees.

BENEFITS

Benefits to Local Government and Welsh Government

As for Option 2, this option would likely lead to County Councils developing a more effective approach towards corporate planning, benefiting their overall decision-making, services, and accountability. Requiring consultation on the draft corporate plan and then its publication will lead to greater openness and transparency. However, as all County Councils would be required to pay due regard to the guidance, statutory guidance is more likely to realise these benefits consistently across Wales.

Summary

Option 1 proposes no change to the status quo.

Option 2 proposes that the Welsh Ministers develop non-statutory guidance on effective corporate planning, and would introduce additional costs of **£12,000**.

Option 3 proposes that the Welsh Ministers impose a duty on County Councils to consult on and publish a corporate plan, and for the Welsh Government to issue statutory guidance on effective corporate planning, and would introduce additional costs of **£13,300**.

Preferred Option

Option 3 is the preferred option because more consistent and robust corporate planning would support more effective governance arrangements.

2.2. Self Assessment & Peer Assessment (s116-122)

Background

The public has high expectations of how County Councils should perform. 88 per cent of online respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed that responsibility for effective performance and delivery rests with Councils. Identifying and acting on opportunities to reform, transform and improve services is a key part of ensuring high-quality outcomes for people and communities.

The Commission on Public Service Governance and Delivery highlighted wide variations in service performance. It suggested 'governance and scrutiny were not operating effectively enough to support and drive improvement or change delivery'.¹¹ The White Paper *Reforming Local Government: Power to Local People* noted sound corporate governance is likely to become increasingly relevant given the financial and demographic pressures facing Local Government. Moreover, in 2009, the *Learning to Improve* report raised a range of concerns about improvement arrangements, finding that generally, Councils relied too greatly on external assessment rather than local accountability.¹²

Currently, the Local Government (Wales) Measure 2009 places a 'general duty in relation to improvement' upon County Councils. Continuous improvement should be achieved by setting 'improvement objectives' in each financial year. The Auditor General for Wales is responsible for determining whether Councils have achieved continuous improvement each year, whether they have the capacity to improve further, and whether a Council or the Welsh Ministers should take action.

As outlined above, strengthening local governance arrangements could benefit County Councils' accountability, improve performance and, therefore, outcomes for people and communities.

Improvement processes are likely to be most effective if they are integral to the way a Council operates, with the primary responsibility for identifying and acting on opportunities for improvement lying with County Councils, rather than with auditors or the Welsh Government.

Therefore, section 111 of the Draft Bill requires County Councils to put in place arrangements to secure good governance, accountability, and to operate with economy, efficiency and effectiveness in their use of resources. At the same time, section 147 removes County Councils from the existing improvement regime in Part 1 of the Local Government (Wales) Measure 2009. Overall, therefore, it is not considered that section 111 imposes any new costs on County Councils.

¹¹ Commission on Public Service Governance and Delivery, January 2014

¹² *Learning to Improve: An Independent Assessment of the Welsh Assembly Government's Policy on Local Government*, Cardiff Business School, July 2009

However, there would be consequential costs from assessing a Council's compliance with its duty to put in place arrangements to secure good governance.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Introduce statutory self assessments and peer assessments

Option 1 – Do nothing

DESCRIPTION

Option 1 would introduce no change from the status quo.

COSTS

Costs to Local Government and Welsh Government

Option 1 would introduce no additional costs. However, the benefits of strengthening improvement processes would not be realised. Opportunities to improve County Councils' performance could be missed, which could be particularly problematic given the future financial and demographic pressures.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits and could put Councils at risk of failing to comply with their duty to make arrangements to secure good governance.

Option 2 – Require self assessments and peer assessments

DESCRIPTION

Option 2 proposes to require County Councils to assess and take action to strengthen their governance arrangements in two regards: by carrying out an annual self assessment of their governance arrangements, and by arranging for peer assessments of their corporate governance to be undertaken at least once in every election cycle. Option 2 would see self assessments commencing from 2017. The requirement to undertake peer assessments would come into effect in 2020.

A self assessment would be a formal, annual, assessment of the Council's corporate governance arrangements, conducted by the County Council itself.

County Councils would be required to act to address any issues which emerge as a result of the assessment.

County Councils would also be required to arrange a periodic peer assessment. Corporate peer assessments would provide external challenge to a County Council’s own self assessments, while ensuring responsibility for improvement remains with the County Council. County Councils would be required to publish and respond to the findings of both self assessments and peer assessments. Corporate Governance and Audit Committees would be required to consider the Council’s response and make any recommendations, which the Council would have to take into account in its final response (see section 2.5 below). Welsh Ministers could issue guidance on undertaking self assessments and peer assessments.

75 per cent of respondents to the consultation agreed peer assessment is an appropriate mechanism for organisations to challenge their self assessment of their governance and performance. However, there was a consensus that peer assessments should not be undertaken too frequently, to avoid imposing too great a burden. The Welsh Ministers propose a peer assessment is carried out not bi-annually, but at least once each electoral cycle.

COSTS

Over ten years, Option 2 would introduce additional costs of between £457,000 and £512,000 over ten years.

Table 17: Policy Intention Costs

Staff Costs	2020/21		2021/22 to 2029/30		Total	
	Min	Max	Min	Max	Min	Max
<i>Welsh Government</i>						
Staff costs of produing guidance on self-assessment and peer reivew	£12,000	£12,000	-	-	£12,000	£12,000
Cost of corporate peer reviews	£44,500	£50,000	£400,200	£450,200	£444,700	£500,300
Total Cost	£56,400	£62,000	£400,200	£450,200	£456,600	£512,200

**Based on a 10 year planning horizon*

Cost to Welsh Government

Each peer assessment is estimated to cost just under £28,000. This estimate may be somewhat higher than the cost of current peer assessments as the proposal includes a wider range of senior external reviewers. Each County Council would be required to undertake a peer assessment at least once per electoral cycle. Therefore, over ten years, the additional cost of peer

assessments across Wales would total between £445,000 and £500,000. This is an average of between £45,000 and £50,000 per year.

Producing guidance to support self assessment and peer assessment would introduce an additional staffing and translation cost to the Welsh Government. This one-off cost is estimated at just under **£12,000**.

Costs to Local Government

The requirement to undertake and respond to the findings of an annual self assessment of corporate governance would not introduce significant additional costs on County Councils. Rather, this activity would replace existing work, responding to improvement assessments which are currently required under the Local Government (Wales) Measure 2009. The aim is for the new approach to be less onerous than that which currently exists.

BENEFITS

Benefits to Local Government and Welsh Government

Option 2 would strengthen existing governance arrangements. This would ensure County Councils consistently identify, act upon, and reflect on opportunities for improvement. Crucially, responsibility for improvement would remain within the Local Government sector so that governance improvement becomes embedded within County Councils' ways of working. This would result in better outcomes for the public.

Summary

Option 1 proposes no change from the status quo. The benefits of strengthening improvement processes are unlikely to be realised.

Option 2 would strengthen County Councils governance arrangements by requiring self assessment and peer assessments to be undertaken. This would introduce an additional cost of between £457,000 and £512,000 over ten years, but is likely to embed self-improvement in County Councils' governance arrangements.

Preferred Option

Option 2 is the preferred option because it would lead to better governance and earlier action on opportunities for improvement.

2.3. Combined Assessments and Co-ordination between Regulators (s123-127, 143)

Background

Alongside internal governance and accountability arrangements, the relevant regulators identify good practice and areas for improvement. The relevant regulators (“the regulators”) are the Welsh Audit Office, Estyn, and the Care and Social Services Inspectorate Wales. Although focused on different aspects of a County Council’s performance, they share a common aim of supporting County Councils to improve.

The regulators currently work with each other, the Welsh Government, the WLGA and Local Authorities to identify emerging issues and common themes. Cooperation is focused on informal Improvement Support Conferences, where findings are shared confidentially. However, there is no requirement that action is taken by the regulators, nor are Local Authorities obliged to respond.

As required by the Local Government (Wales) Measure 2009, the regulators work together to arrange timetabling of inspections, to ensure a reasonable inspection burden on County Councils. However, the amendment to the 2009 Measure in section 147 of the Draft Bill to remove County Councils from the improvement regime in Part 1 requires that we consider new arrangements for cooperation between the regulators.

Options

Three options have been identified:

- Option 1 – Do nothing
- Option 2 – Require the regulators to co-ordinate inspections, produce a combined assessment of County Councils every two years, and an annual ‘state of Local Government’ report
- Option 3 – Require the regulators to coordinate inspections and produce a combined assessment of County Councils’ governance arrangements

Option 1 – Do nothing

DESCRIPTION

Option 1 proposes no change from the existing informal cooperation between the regulators. Informal discussions on emerging themes and good practice would continue.

COSTS

Costs to Local Government and Welsh Government (including external review bodies)

Option 1 introduces no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 introduces no additional benefits. The benefits of strengthening existing co-operation would not be realised.

Option 2 – Require the regulators to co-ordinate inspections, produce a combined assessment of County Councils every two years, and an annual ‘state of Local Government’ report

DESCRIPTION

As outlined in the White Paper *Reforming Local Government: Power to Local People*, Option 2 proposes that the regulators be required to supplement their existing informal discussions by formally drawing their findings into a combined assessments of both individual Councils and Local Government as a whole.

The regulators would be required to produce a combined assessment for each Local Authority, every two years. This would combine the regulators’ findings on governance and services into a single report and include information from other sources, such as self assessments and peer assessments. County Councils would be required to consider the assessment and take any necessary action.

The Welsh Government could produce statutory guidance to support the regulators in these new duties.

In addition, every year the regulators would also be required to collate their findings into a ‘State of Local Government’ report. This would be submitted to the Welsh Ministers, and the National Assembly for Wales.

The White Paper sought views on these proposals. Whilst 4 out of 5 respondents were supportive, the WLGA and some Local Authorities recommended that the proposed scheduling of the combined assessments may be too frequent. Following consultation, the regulators have also suggested that the frequency of the reports be reduced. Moreover, under the Well-being of Future Generations Act (Wales) 2015, the Auditor General for Wales is now required to assess corporate capacity and capability in Local Government as part of sustainability.

COSTS

Over ten years, Option 2 would introduce additional costs of **£1,824,200**.

Table 18: Policy Intention Costs

Policy Intention Costs	2021/22 to		Total
	2020/21	2029/30	
<u>Welsh Government</u>			
Staffing Cost - Produce Guidance	£12,000	-	£12,000
External Review Bodies Assessments	£181,200	£1,631,000	£1,812,200
Total Cost	£193,200	£1,631,000	£1,824,200

Costs to the Welsh Government (including the regulators)

Producing statutory guidance would introduce a staffing and translation cost to the Welsh Government. This is estimated at **£12,000**.

Producing the overview reports would impose an additional ongoing cost on the regulators. An average of four combined assessments of individual County Councils would be completed annually, together with one annual State of Local Government report. The annual staff cost for the three external review bodies is, therefore, estimated at just over **£181,200**. This totals **£1,812,200** over ten years.

Costs to Local Government

County Councils would be required to consider and act on the findings of the assessments. This is a key part of County Councils' corporate responsibility, so no further costs would be introduced.

BENEFITS

Benefits to Local Government and Welsh Government

Bringing together various focused and specific reports into formal, regular overviews would help identify emerging and cross-cutting issues, themes, and good practice in both County Councils and in Local Government overall. This is likely to benefit performance, governance, and services. However, it is not clear the proposed frequency of reports would be required to deliver these benefits.

Option 3 – Require the regulators to increase coordination of inspections, and produce a combined assessment of County Councils’ governance arrangements

DESCRIPTION

Option 3 would require the regulators to collaborate to produce a combined assessment for each County Council annually. This would involve the regulators sharing information on the corporate governance arrangements of each County Council, followed by a discussion with each Council. The regulators would submit their final report to each Council, identifying emerging and urgent issues.

It is proposed that the combined assessments would be regular and light-touch, building on current informal co-operation.

As for Option 2, this Option proposes to require the regulators to co-ordinate the exercise of their relevant functions.

COSTS

Over ten years, Option 3 would introduce additional costs of **£550,200**.

Table 19: Policy Intention Costs

Policy Intention Costs	2021/22 to		Total
	2020/21	2029/30	
<i>Welsh Government (Inspection Wales)</i>			
Costs for external review bodies to produce stocktakes	£55,000	£495,200	£550,200
Total Cost	£55,000	£495,200	£550,200

Costs to the Welsh Government (including the relevant regulators)

Producing combined assessments for each County Council would not introduce significant additional work for the regulators. However, a small secretariat may be required to support the regulators. This ongoing annual staff cost is estimated at £55,000 per year, totalling **£550,200** over ten years.

As for Option 2, the regulators are already required to co-ordinate their functions under the 2009 Measure so no new additional costs are incurred.

Costs to Local Government

County Councils would be required to consider and act on the findings of the combined assessments. This is part of County Councils’ corporate responsibility (as they currently exercise in relation to the 2009 Measure), so no new costs

would be introduced. Better co-ordination of the regulators' functions would reduce the burden of audit and inspection on County Councils, but it is not possible to calculate the savings.

BENEFITS

Combined assessments would help identify emerging and cross-cutting issues and good practice, without introducing additional or unnecessary burden on the regulators or County Councils.

Requiring the regulators to publish their inspections timetable would increase the transparency of how County Councils are inspected and audited. Co-ordination of functions would minimise the burden of inspections and improve information sharing.

Summary

Option 1 proposes no change from the status quo.

Option 2 proposes that the regulators produce combined assessments of both individual Councils and Local Government as a whole. Over ten years, this would introduce additional costs of **£1,824,200**. However, it is not clear the proposed frequency of reports would be required to deliver the benefits.

Option 3 proposes that the regulators produce combined assessments of individual County Councils. Over ten years, this would introduce additional costs of **£550,200**.

Preferred Option

Option 3 is the preferred option because it would lead to better governance and earlier action on opportunities for improvement in County Councils, and more effective regulation.

2.4. Intervention (s128-142)

Background

Local Government in Wales generally meets the high standards of performance expected by the public. However, in certain circumstances it is important the Welsh Government is able to provide intervention support. This was supported by 90 per cent of the online respondents to the consultation on the White Paper *Reforming Democracy: Power to Local People*. The WLGA response values support but emphasises that intervention should be a last resort.

The Local Government (Wales) Measure 2009 currently provides the Welsh Ministers with powers of intervention and support in relation to 'improvement authorities', which includes County and County Borough Councils. Intervention and support can also follow recommendations from the inspectorates (Estyn and CSSIW) in relation to specific services, such as education or social services, under other legislation. The Auditor General for Wales can also raise concerns regarding the economy, efficiency or effectiveness of services.

In the last ten years, the Welsh Ministers have provided support to three Councils in relation to corporate issues, using the specific intervention powers available under the 2009 Measure. This support has ranged from light-touch action to strengthen corporate skills, to appointing a range of commissioners to direct the activities of the Council for periods of more than 24 months. The Councils receiving the support meet the costs. However, the amendments in section 147 of the Draft Bill mean the specific intervention powers in the 2009 Measure will no longer be available to the Welsh Ministers.

As a result of the proposals in the Draft Bill to strengthen the governance of County Councils, the Welsh Government believes they are likely to be increasingly resilient, and that intervention support is less likely to be needed in the future. However, this does not reduce the importance of a robust means of identifying cases for support, and ensuring that effective support options are available when necessary.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Provide the Welsh Ministers with powers to direct governance reviews and intervention procedures

Option 1 – Do nothing

DESCRIPTION

Option 1 proposes no change to the current arrangements. Due to the proposal to amend the 2009 Measure, the Welsh Ministers' power of intervention under the Measure will no longer be available.

COSTS

Costs to Local Government and Welsh Government

Option 1 introduces no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 introduces no additional benefits. As the Welsh Ministers' ability to review governance arrangements and provide support to County Councils would be reduced, governance failures could be difficult to address.

Option 2 – Provide the Welsh Ministers with powers to direct governance reviews and intervention procedures

Option 2 would enable the Welsh Ministers to commission an independent governance review into a County Council where they had reason to believe the Council is, or may be, failing to comply with its duty to make arrangements to secure good governance (section 111 of the Draft Bill). On the basis of the governance review, the Welsh Ministers may then determine whether support or intervention would be beneficial or justified. This would commence immediately following Royal Assent. A governance review could be commissioned by the Welsh Ministers in response to a wide range of evidence and triggers, including:

- concerns or recommendations of external review bodies, in addition to their powers to make recommendations directly to the Welsh Ministers;
- concerns raised by the County Council or its members;
- performance persistently behind peers or specified standards;
- concerns raised through whistleblowing, which are otherwise unresolved through existing means;
- concerns about the Council's capability and/or capacity to respond to self assessment or peer assessment;
- other significant public concerns.

County Councils would be required to set out any action to be taken following the governance review report. If recommended by the governance review, and taking into consideration the County Council’s proposed response, the Welsh Ministers would be able to offer various types of support. The options are:

- the County Council is directed to obtain support services;
- the County Council is directed to take specific action;
- the Welsh Ministers’ or their nominee performs specified functions of the County Council.

These proposals received strong support from respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People*. 83 per cent of online respondents supported independent review, and each of the triggers proposed above received support of between 79 per cent and 93 per cent. There was also strong support for the findings of review being used to prompt Ministerial support. Other respondents received the proposals positively, although emphasised that support should be a last resort. Six Councils suggested Ministerial support should be subject to consultation.

COSTS

Over ten years, Option 2 would impose a total estimated cost of £38,100.

Table 20: Policy Intention Costs

Policy Intention Costs	2021/22 to		
	2020/21	2029/30	Total
<u>Welsh Government</u>			
Average Staffing Costs for Independent Reviews	£3,800	£34,300	£38,100
Total Cost	£3,800	£34,300	£38,100

Costs to the Welsh Government

Staff costs of each independent inquiry are estimated at just over £19,000.

The total cost of Option 2 to the Welsh Government depends on the frequency of governance reviews. Three Councils have received formal support for corporate governance in the last ten years. As governance reviews would investigate the case for support, they may occur more frequently than support would be provided. Nonetheless, as outlined above, the wider programme of Local Government reforms, together with a reduction in the number of County Councils, means that it is expected governance reviews would be infrequent. It is reasonable to assume the Welsh Ministers would commission two governance

reviews in a period of ten years. This additional cost to Welsh Government would total just over **£38,100** over ten years, averaged at just under £4,000 per year.

As set out above, the type of support recommended by a governance review in each case should not be pre-empted. Any costs imposed on the Welsh Government would be fully appraised as part of a recommendation.

Costs to Local Government

Option 2 would introduce no additional costs to County Councils. Working with an independent governance review would be a part of a County Council's corporate responsibility, as would any action required as a result of recommendations.

Furthermore, the type of support recommended by the governance review in each case should not be pre-empted. Costs would be fully appraised as part of any recommendation.

BENEFITS

Benefits to Local Government and Welsh Government

Option 2 would ensure through a governance review that support is justified, and a range of support options are considered to ensure support has constructive long-term benefits. Appropriate and timely support would likely result in stronger governance and better outcomes for the public.

Summary

Option 1 proposes no change from the status quo. This would impose no additional costs, but would risk corporate failure in a County Council remaining unaddressed.

Option 2 proposes that the Welsh Ministers may commission a governance review into a County Council, based upon a wide range of evidence, to determine whether support would be beneficial, and, if so, the most appropriate form. Over ten years, this would impose an additional cost of just over **£38,100**.

Preferred Option

Option 2 is the preferred option because appropriate and timely support would lead to better governance and outcomes for the public.

2.5. Corporate Governance and Audit Committees (s148-152)

Background

Improved corporate governance is central to the Welsh Government's proposed reforms of Local Government. Audit Committees provide important checks and balances to a County Council's governance arrangements, as required by the Local Government (Wales) Measure 2011. Councils have a statutory duty to establish an Audit Committee to review and scrutinise its financial affairs, risk management, internal control and corporate governance arrangements. Councils can determine the most appropriate form of the Audit Committee for their organisation, including the frequency of meetings, and membership. On average, an Audit Committee is estimated to cost a County Council £5,000 per year.

While Audit Committees are committees of a County Council, in order to provide effective scrutiny, they must be independent from the Executive. At least one member is required to be a 'lay member', a financially competent, independent member who is not an officer or member of a County Council. Currently, not more than one third of members may be lay members, and many Audit Committees have only the statutory minimum of one lay member. Lay members also bring a range of skills, perspectives, and experiences, which can strengthen the scrutiny an Audit Committee can provide.

The Welsh Government believes Audit Committees with the statutory minimum of one lay member are less likely to gain these benefits and the role of Audit Committees needs to be considered further, given the requirements set out above in relation to governance arrangements, the assessment of governance arrangements and governance reviews.

Options

Two options have been identified:

- Option 1 – Do nothing
- Option 2 – Extend the role and independence of Audit Committees

Option 1 – Do nothing

DESCRIPTION

Option 1 would introduce no change to current arrangements. Audit Committees would continue to provide scrutiny as at present.

COSTS

Costs to Local Government and Welsh Government

Option 1 would introduce no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits.

Option 2 –Extend the role and independence of Audit Committees

DESCRIPTION

Option 2 proposes to amend the Local Government Measure (Wales) 2011 to extend the role of Audit Committees and increase the number and role of the lay members. In addition to their existing functions, they would be required to scrutinise a County Council's governance arrangements, considering and making recommendations about a County Council's response to self assessment, peer assessment, combined assessment and governance review reports. Reflecting this wider remit and more robust role, Audit Committees would be renamed Corporate Governance and Audit Committees.

Lay membership requirements would also be strengthened: one third of members would be required to be lay members. The Chair would also be required to be a lay member.

Local Authorities would continue to determine other details of Audit Committees as appropriate for their organisation, including the size of the committee, and the frequency with which it meets.

This policy would commence in 2017.

58 per cent of the online respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed that the proportion of independent members on Audit Committees should be increased. 69 per cent agreed that the Chair should be an independent member.

However, there was opposition to greater lay membership of Audit Committees proposals among the other responses. 13 of 19 Councils, together with the WLGA, did not support either of the two proposals supported by online respondents. Having considered these responses, however, the Welsh Ministers are confident that the presence of external expertise would strengthen Corporate

Governance and Audit Committees’ ability to provide effective scrutiny, whilst retaining a majority of Elected Members.

COSTS

Over ten years, Option 2 would cost either **£576,000** or **£648,000**, depending on 8 or 9 Local Authorities in Wales.

Table 21: Policy Intention Costs

Policy Intention Costs	2017/18		2018/19 to 2026/27		Total	
	Min	Max	Min	Max	Min	Max
<u>Local Government</u>						
Cost of Additional Independent Members	£57,600	£64,800	£518,400	£583,200	£576,000	£648,000
Total Cost	£57,600	£64,800	£518,400	£583,200	£576,000	£648,000

Costs to the Welsh Government

This option would place no additional costs on the Welsh Government.

Costs to Local Government

Increasing the number of lay members would place an additional cost on County Councils, as lay members can claim an allowance from the Council for their time. This averages £200 per meeting. Most Audit Committees have at least one lay member and are composed of around 15 members overall, so it is reasonable to assume that each committee would require an additional three lay members. Assuming each would be eligible for a £200 payment, for 12 working days per year, the annual cost of each Audit Committee would increase by £7,200. With eight County Councils, this would cost just over £57,000 per year, or **£576,000** over ten years. With nine County Councils, the cost would be just over £64,800 per year, or **£648,000** over ten years.

Option 2 also proposes to expand the functions of the Audit Committee. This provision would not impose any additional costs. While each meeting of the Audit Committee may cover a broader range of topics, the number of meetings is unlikely to increase.

BENEFITS

Benefits to the Welsh Government

This option would not deliver any additional direct benefits to the Welsh Government.

Benefits to Local Government

Expanding the functions of the Corporate Governance and Audit Committee to include scrutiny of the Council's response to governance assessments would significantly strengthen corporate governance and assurance.

Increasing the lay membership of Audit Committees would strengthen their ability to provide robust and independent scrutiny. It is particularly likely this would be realised with a lay committee chair. The quality of Audit Committees' scrutiny could also benefit from the broader range of experiences and skills brought by a wider range of lay members.

Summary

Option 1 proposes no changes from the current arrangements of Audit Committees.

Option 2 would extend the role and independence of Corporate Governance and Audit Committees. Local Government would incur additional costs of either **£576,000 or £648,000** over ten years.

Preferred Option

Option 2 is the preferred option it would lead to better governance, more effective challenge and greater assurance.

3. Community Councils

The Welsh Ministers wish to ensure all levels of Local Government have the capability and capacity to provide effective services and make robust decisions. The Draft Bill proposes reforms to the Community Council sector so it is better placed to play a full role in the public services of Wales.

The Draft Bill includes measures to:

- Review Community Council arrangements
- Afford the General Power of Competence to Community Councils with competence
- Require Elected Members on Community Councils to undertake training determined and provided by the County Council
- Provide that ordinary elections to Community Councils take place every 5 years from 2023

The provision of ordinary elections to Community Councils on a five year cycle does not result in any additional costs and is therefore not considered further in this section.

3.1. Review of Community Council Arrangements (s153-166)

Background

The Commission for Public Service Governance and Delivery recognised the importance of Community Councils' close link with local communities. In practice, however, it found that the quality and openness of interaction with the public varies significantly. The Commission expressed major concerns around the number, scale, representativeness and accountability of Community Councils. Two reports by the Wales Audit Office in 2013 and 2014 also expressed concerns about Community Councils' governance and financial controls. A third report in 2015 found some improvement, but continued to express concerns about a minority of Councils. The Commission concluded that the sector is in need of reform by merging or enlarging Community Council areas.

The Welsh Ministers recognise that some Community Councils operate effectively. However, they accept the Commission's recommendations. The White Paper *Reforming Local Government: Power to Local People* noted that Community Councils 'can no longer continue to do the same things in the same way', and proposed that they should be 'more actively involved in participating in services which meet the needs of vulnerable groups in communities.'

Welsh Ministers propose a review of Community Council arrangements, with a view to grouping smaller communities under common Community Councils. Councils serving a number of communities would provide stronger governance, better financial accountability, and increased capacity to support greater responsibility, whilst retaining individual community identity. For example, common Community Councils could employ professionally qualified clerks (there are just 13 at present among 735 Councils), enabling them to meet the conditions which would give them access to the general power of competence and engage in more substantial local projects. This capability is particularly important given the challenging future financial and demographic context.

The Welsh Ministers believe that the potential for grouping communities should be based on robust and impartial evidence, and investigated independently. While any independent review would consider where smaller communities could be grouped, it is important not to pre-empt its results.

The proposal to group communities under common Community Councils was set out in the White Paper. 46 per cent of the respondents to the online consultation supported merging or enlarging Community Council areas, while 35 per cent disagreed, and 19 per cent neither agreed nor disagreed. Most responses from Community Councils disagreed with the proposal, suggesting that larger areas would be contrary to the principles of localism. Most County Councils were

supportive, as was the WLGA, provided measures were taken to maintain the links between Community Councils and local communities.

Options

Three options have been identified:

- Option 1 – Do nothing
- Option 2 – Require County Councils to review Community Council arrangements in their area
- Option 3 – Require the Local Democracy Boundary Commission for Wales to review Community Council arrangements in each County Council area

Option 1 – Do nothing

DESCRIPTION

Option 1 proposes no change to the status quo.

COSTS

Costs to Local Government and Welsh Government

Option 1 would introduce no additional costs.

BENEFITS

Benefits to Local Government and Welsh Government

Option 1 would introduce no additional benefits. The benefits of Community Councils reform would not be realised and smaller Community Councils lacking in capacity may not be able to take up opportunities to broaden the range of amenities they provide for their communities.

Option 2 – Require County Councils to review Community Council arrangements in their area

DESCRIPTION

This was the preferred option in the White Paper *Reforming Local Government: Power to Local People*. The results of the review would be required to be implemented by the 2023 elections, so that Community Councillors elected at those elections would be members of the new Community Councils. Respecting the principle of subsidiarity, the Welsh Ministers considered County Councils should conduct the review, in line with their community leadership responsibilities.

In the consultation on the White Paper, this proposal received the support of 58 per cent of online respondents. Twelve County and County Borough Councils and

the WLGA supported the proposal, with some emphasising the advantages of County Councils' strong local knowledge. Five County Councils expressed concerns that the proposal would affect the working relationship between County and Community Councils.

17 of 22 County Councils and the WLGA argued against the review being completed by 2022 due to the other significant pressures likely to be placed on Local Government as part of the wider reforms. If such a review is not completed and implemented by 2023, then the next earliest date of ordinary elections at which the review could be implemented is 2028. The Welsh Ministers, therefore, after further consideration do not believe this a tenable option, given the difficult choices facing the public sector in the short- and medium-term. The costs and benefits of this option have, therefore, not been considered.

Option 3 – Require the Local Democracy and Boundary Commission for Wales to review Community Council arrangements in each County Council area

DESCRIPTION

Option 3 would place a duty on the Commission to conduct a review of Community Council arrangements in the new County Council areas, and in conducting a review it must seek to secure effective and convenient Local Government. The Commission would be required to consult widely on the review, including:

- communities served and not served by a Community Council;
- County Councils;
- any Community Council affected by the review, and any organisations representing Community Councils or their staff.

The Commission would review Community Councils' constitutional and electoral arrangements, not community boundaries, other than as a consequence of this review. The Commission may recommend that the number of Community Councils could be reduced by grouping smaller communities under new common Community Councils. New Common Councils would serve one or more communities, rather than cutting across existing community boundaries. The recommendations of the Commission would be implemented by the new County Councils.

It is intended that the duty on Commission would commence in 2017, to allow a comprehensive review to be implemented for the 2023 Local Government elections. In practice, work is not likely to begin until 2018, after the review of County Council areas. The Commission is confident it has sufficient capacity.

The Welsh Ministers will have powers to direct the Commission regarding its review function. They could also provide statutory guidance to the Commission and to County Councils on implementation of changes. To ensure stability during the period of the review, the Welsh Ministers would suspend the ability to make community applications to create, merge or dissolve Community Councils for the duration of the review and a period of at least two years afterwards.

COSTS

Over ten years, Option 3 would impose an additional cost of either **£733,400** or **£842,300**, depending on there being 8 or 9 County Councils in Wales.

Table 22: Policy Intention Costs

Policy Intention Costs	2017/18		2018/19 and 2019/20		Total*	
	Min	Max	Min	Max	Min	Max
<u>Welsh Government</u>						
Staff Costs - Produce Guidance for LDBCW	£7,400	£7,400	-	-	£7,400	£7,400
Review of Town and Community Council Areas	£113,400	£146,200	£612,500	£688,700	£725,900	£834,900
Total Cost	£120,800	£153,600	£612,500	£688,700	£733,400	£842,300

**Based on a 10 year planning horizon*

Costs to the Welsh Government (including the Commission)

Producing directions to the Commission and guidance for County Councils would impose an additional cost on Welsh Government. Including translation, the one-off staffing costs are estimated at £7,400.

Requiring the Commission to review Community Council areas would impose an additional cost. The Welsh Government fully meets the cost of the Commission, generally through an annual grant of £520,000. Whilst the Community Council review is expected to form the majority of the Commission’s work during this time, it will cost significantly more than regular business. Additional funding would be required for both the Commission’s review of County Council areas (see Part 1), and the review of Community Council areas. The Commission estimates its expenditure on a three-year Community Council review would total between £2,286,000 and £2,395,000. The Welsh Government’s regular funding to the Commission for those three years totals £1,560,000. The additional cost of this review would, therefore, be £725,900 or £834,900, depending on the number of new County Councils in Wales. It is not considered there would be an opportunity cost to this work as the Commission would have just completed a full round of electoral reviews for the County Councils and this work will be built into its normal work programme.

The additional cost to the Commission depends on whether there would be 8 or 9 County Councils. Further costs are incurred through liaising with an additional

County Council, additional visits by Members, and the publication of an additional report. Moreover, each Commission officer manages two reviews at one time, so an additional officer would be required should there be nine County Councils.

These costs would not fall evenly throughout the three-year period from 2018-19 to 2020-21, in part due to the significant printing expenses which would occur towards the end of the review. A detailed breakdown of the costs can be found at Appendix B.

Costs to Local Government

Requiring County Councils to implement the recommendations of the review would impose a cost which would consist of drafting and publishing the implementation orders. These could be based on a straightforward template provided by the Commission. The actual cost would depend on the outcome of the review, but it is not expected to be significant.

BENEFITS

Benefits to Local Government and Welsh Government

Option 3 would deliver an independent review of Community Council arrangements, which could result in a stronger and more capable tier of government closest to local communities. Option 3 would ensure recommendations could be implemented by the 2023 Local Government elections.

A reduction in the number of Community Councils could reduce the cost of elections. However, the outcomes of the review should not be pre-empted at this stage, and any savings will be quantified as part of the review.

Summary

Option 1 proposes no change from the status quo.

Option 2 proposes to require County Councils to review Community Council arrangements. As it is considered that this would not deliver a review in time to be implemented by the 2023 Local Government elections, this option is not considered viable.

Option 3 proposes to require the Commission to review Community Council arrangements and the County Councils to implement the Commission's recommendations by the 2023 Local Government elections. This would impose an additional cost of either £733,400 or £842,300.

Preferred Option

Option 3 is the preferred option because it would lead to Community Councils with greater capacity and capability to support their communities.

3.2. Community Councils with competence (s31-35)

Background

There are 735 Community and Town Councils ('Community Councils') in Wales. They cover approximately 94 per cent of the land area and 70 per cent of the population of Wales. The communities they serve range from small rural settlements to large towns. The populations they serve range from 179 (Ganllwyd) to 45,145 (Barry). Over two-thirds of Community Councils serve populations of less than 2,500.

Each Community Council determines the nature and range of local services it provides. Some deliver a wide range of amenities while others offer more limited services. Their capacities and capabilities are often limited, which can have a direct impact on their ability to adapt in the future.

Community Councils may be made up of Elected and Co-opted Members. At the last election, only one in five Community Councillors was elected through public poll. 67 per cent of seats were uncontested and there were no candidates in a further 12 per cent of seats.

The Draft Bill aims to strengthen this tier of Local Government, so it is better placed to be part of the Welsh public service in the future and can better contribute to sustaining resilient communities. This involves building capacity and capability and strengthening governance. However, at present the functions available to Community Councils are highly prescriptive. The intention is that Community Councils which can demonstrate their competence will be able to use the general power of competence, a significant power of first resort which will free them up to be more ambitious and innovative. 75 per cent of the online respondents to the consultation on the *Reforming Local Government: Power to Local People* White Paper agreed that Community Councils should be subject to competency tests in return for greater rights and responsibilities. 16 per cent disagreed and 10 per cent neither agreed nor disagreed.

11 of the 15 County and County Borough Councils and the WLGA were broadly supportive of the introduction of competency tests for Community Councils. One Voice Wales were supportive of the policy intention, but highlighted their concern that the proposals were not being discussed at the same time as the future roles and responsibilities of Community Councils.

The White Paper also proposed that one of the conditions to be considered competent, would be a minimum annual budget of at least £200,000. The majority of respondents disagreed. The Welsh Ministers have considered the detailed responses on this proposal, and have determined that a financial threshold test should not form part of the competency conditions.

Options

Two options are proposed:

- Option 1 – Do nothing
- Option 2 – Establish a system of Community Councils ‘with competence’ which would be able to access additional powers such as the general power of competence

Option 1 – Do nothing

DESCRIPTION

This option would entail no change from current arrangements and Community Councils would be unable to use the general power of competence.

COSTS

Costs to Local Government and Welsh Government

This option would introduce no additional costs to Community Councils or the Welsh Government.

BENEFITS

Benefits to Local Government and Welsh Government

This option would deliver no additional benefits to Local Government or the Welsh Government. Moreover, given the financial challenges facing County Councils and the potential for further delegation or transfer of facilities and services to Community Councils, doing nothing prevent them from responding effectively.

Option 2 – Establish a system of Community Councils ‘with competence’

DESCRIPTION

Option 2 proposes to establish conditions that Community Councils must meet in order to be considered a Community Council with competence. This would be for Community Councils to do if they so wished. It would not be a requirement.

Community Councils with competence would need to achieve higher standards of governance and financial management, professional capability, and greater democratic accountability. This would improve consistency and the

professionalism of the sector. Community Councils which meet the conditions would be able to exercise the general power of competence (see 1.1 above).

The proposed conditions are:

1. A minimum proportion of Councillors on the Community Council must have been declared elected
2. The Community Council must employ a clerk with relevant professional qualifications
3. The Council's accounts must not have been qualified in the two most recent audit opinions

To support Community Councils to achieve these criteria, Welsh Ministers would issue guidance to Community Councils. Community Councils would be required to have due regard to the guidance.

It is anticipated that this provision would commence in 2017 so that the general power of competence would be available to relevant Community Councils at the earliest opportunity.

COSTS

Over ten years, Option 2 is estimated to cost between **£223,800** and **£343,600**.

Table 23: Policy Intention Costs

Policy Intention Costs	2017/18		2018/19 to 2019/20		Total	
	Min	Max	Min	Max	Min	Max
<u>Local Government</u>						
Training Community Council Clerks	£47,900	£77,900	£161,700	£251,600	£209,700	£329,500
Total Local Government Cost	£47,900	£77,900	£161,700	£251,600	£209,700	£329,500
<u>Welsh Government</u>						
Staff Cost - Producing Guidance	£14,100	£14,100	-	-	£14,100	£14,100
Total Welsh Government Cost	£14,100	£14,100	-	-	£14,100	£14,100
Total Cost	£62,100	£92,000	£161,700	£251,600	£223,800	£343,600

Cost to the Welsh Government

Issuing guidance to Community Councils would impose an additional cost, estimated at £14,100.

Costs to Local Government

The status of a Community Council 'with competence' would not in itself impose any additional costs. Any costs arising as a result of using the greater powers afforded to Community Councils with competence would be appraised by Community Councils themselves.

It is anticipated that many Community Councils would strive to meet the conditions, which may impose an additional cost. While these costs have been estimated below, it is important to note that this proposed scheme would be voluntary and no costs need necessarily be incurred by Community Councils.

Condition 1: a minimum proportion of Councillors on the Community Council must have been declared elected

This condition would not impose any additional cost to Community Councils.

Condition 2: The Community Council must employ a clerk with relevant professional qualifications

These costs are based on training the existing clerks to a professional CiLCA qualification level, as recognised by the Society of Local Council Clerks. The Welsh Government has funded the Society of Local Council Clerks for some years to promote, administer and deliver training in CiLCA for clerks in Wales. The costs calculated within this section are in addition to the funding currently provided to the CiLGA from the Welsh Government.

It has been assumed that the cost of training existing clerks would be spread over a 3 year period. It has also been estimated that a minimum of 350 clerks and a maximum of 550 clerks would seek the qualification. This number could fall significantly as a result of the review of Community Council arrangements (3.1).

The total cost each qualification is estimated to be £600. This includes initial registration costs (£250), introduction course (£99), and a full qualification in the field (£250). Depending on the number of clerks requiring training, the estimated cost for Local Government in each year would be:

2017/18: £47,900 to £77,900

2018/19: £71,900 to £107,800

2019/20: £89,900 to £143,800

The total cost over the 3 year period is estimated to between £237,900 and £357,700.

Condition 3: The Council has received an unqualified auditor's opinion on its accounts for two consecutive years

This condition would not impose any additional cost to Community Councils. Recommendations made by auditors should be resolved as part of as business as usual.

BENEFITS

Benefits to Community Councils

Improving the effectiveness of Community Councils by encouraging them to achieve the status of Community Councils with competence would help ensure Community Councils have the ability to adapt to the challenges facing the public services and would give County Councils more confidence to delegate or transfer assets and services to them.

It is expected that Councils which achieve the competence status would result in greater democratic and community participation, greater accountability and transparency, and better use of public funds.

Benefits to other people

Community Councils with competence could provide communities with more capable and ambitious Community Councils, increasing public confidence in them including in the delivery of services.

The public's confidence in Community Councils could strengthen local democracy and more people could become involved in determining the priorities for their local area.

Preferred Option

Option 2 is the preferred option because it would enable Community Councils to be more ambitious and innovative and give greater confidence in Community Councils.

4. Workforce Matters

4.1. Guidance to Public Bodies on Workforce Matters and Public Services Staff Commission (s172-178)

Restructuring and reforming Local Government is only one part of the ambitious agenda to transform public services. In September 2015, a non-statutory Public Services Staff Commission was established to deliver the Welsh Ministers' strategic priorities regarding the public sector workforce:

- building an engaged, motivated, and high performing workforce;
- attracting and retaining talent;
- developing skills;
- ensuring equality and diversity.¹³

The Staff Commission will seek to ensure workforce issues are dealt with consistently and effectively, by working with stakeholders to examine issues and to develop advice for the Welsh Ministers to provide to public service organisations. The Commission is intended to consider a wide range of workforce issues faced by all public service organisations in Wales, rather than just issues arising in Local Government as part of the Reforming Local Government agenda.

Previous mergers of public bodies have been accompanied by Staff Commissions, often on a statutory basis. Placing the Staff Commission on a statutory footing could enable it to provide more authoritative advice to the Welsh Ministers, greater assurance to the public sector workforce, and a clear timeframe in which to complete its work.

The costs of implementing advice will not be pre-empted here, as the Commission itself will provide an account of the potential costs and benefits of its advice.

OPTIONS

Two options have been considered:

- Option 1 – Do nothing
- Option 2 – Establish the Staff Commission on a statutory basis

¹³ *Devolution, Democracy and Delivery: Improving Public Services for People in Wales*, July 2014
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Option 1 – Do nothing

DESCRIPTION

Option 1 would introduce no change. The Staff Commission would continue to operate as a non-statutory body.

COSTS

Option 1 would introduce no additional costs to either the public service organisations within the Staff Commission's remit, or to the Welsh Government. The existing annual costs of £530,000 to the Welsh Government would continue.

BENEFITS

Option 1 would introduce no additional benefits.

Option 2 – Give the Welsh Ministers powers to issue guidance to public bodies on workforce matters and establish a statutory Staff Commission to provide advice to the Welsh Ministers on workforce matters

DESCRIPTION

Option 2 proposes to establish the Staff Commission in legislation and give the Welsh Ministers powers to issue guidance on workforce matters to named public bodies, to which they must have regard. Workforce matters include such matters as workforce planning, recruitment, the management and remuneration of staff, training and development etc.

It is intended that the provisions relating to the Staff Commission would be commenced in late 2017 or early 2018, and that it would operate until April 2021 when it would be dissolved. It is proposed that the Welsh Ministers would have a power to extend the life of the Commission up until April 2023, if necessary, but no later. The status of a statutory Commission would provide assurance to stakeholders that the Staff Commission would remain in place to support this period of public service reforms.

The functions of the Staff Commission would be to advise the Welsh Ministers on workforce matters, with powers to request information from public bodies to assist it in producing its advice. The Welsh Ministers could issue guidance to public bodies, having taken into account relevant advice produced by the Staff Commission. The public bodies would be:

- County Councils
- Community Councils

- Fire and Rescue Authorities
- The governing body of a maintained school or federation
- Local Health Boards and NHS trusts
- National Park Authorities
- Arts Council of Wales
- Higher Education Funding Council for Wales
- Local Democracy and Boundary Commission for Wales
- National Library of Wales
- National Museum of Wales
- Natural Resources Body for Wales
- Royal Commission on the Ancient and Historical Monuments of Wales
- Social Care Wales
- Sports Council for Wales.

The White Paper *Public Services Staff Commission* sought views on whether placing the Staff Commission on a statutory footing would enhance its standing. Around 20 responses from Local Authorities had no strong views, focusing instead on the impartiality of the Staff Commission. However, four trade unions felt strongly that placing the Staff Commission on a statutory footing would enhance its standing. A range of other public bodies felt that the standing of the Commission would be enhanced were it to gain the full acceptance of the key stakeholders, which, given the response of the trade unions, could be achieved by making it statutory.

COSTS

Costs to the Welsh Government

Option 2 would introduce no additional costs to the Welsh Government. No additional commissioners or support would be required for a statutory Staff Commission. The existing non-statutory Staff Commission has an annual cost of £530,000 and this would continue.

Costs to public service organisations within the Staff Commission's remit (including County Councils and Community Councils)

A statutory Staff Commission would not introduce additional costs to public service organisations within its remit. Organisations may be required to provide information to the Staff Commission, but this should be management information which is readily accessible within existing organisational information systems and

is not likely to incur an additional administrative burden over and above business as usual.

Consideration by public bodies of statutory guidance issued by the Welsh Ministers is unlikely to introduce additional costs. Public services are already required to take account of statutory advice on a range of workforce issues, for example, from the Department of Work and Pensions, HMRC and others, and it forms a crucial part of business as usual in the public services.

Where the Staff Commission is providing advice to the Welsh Ministers, which they may subsequently incorporate in guidance to public bodies, the Staff Commission will assess the potential costs and benefits of its advice, which should not be pre-empted here.

BENEFITS

A statutory Staff Commission could be considered to have higher status than a non-statutory Staff Commission. This could enhance its authority when carrying out its functions in relation to public bodies in providing advice to the Welsh Ministers.

At present, Welsh Ministers have a range of responsibilities and powers across the public sector bodies listed. Legislation would create a single, clear statutory duty for organisations within the Commission's remit to have regard to any statutory guidance Welsh Ministers issued on workforce matters and to demonstrate how they have done so. Robust justification would, therefore, be required for organisations to disregard its advice, meaning that the advice would be more likely to be taken into account and have an impact on workforce issues.

A degree of permanence would also be afforded to a statutory Staff Commission, as it could not be abolished within its statutory lifetime without specific legislation to do so. Securing the Staff Commission's existence in legislation is likely to increase confidence and assurance among the public sector workforce, recognised trade unions, employers and other key stakeholders.

Summary

Option 1 proposes no change to current arrangements, maintaining a non-statutory Staff Commission. No additional costs would be introduced.

Option 2 would give the Welsh Ministers powers to issue guidance and set out the Staff Commission's role and remit in statute.

Preferred Option

Option 2 is the preferred option because it would give greater confidence to public sector employees, public bodies and trade unions.

5. RIA Summary

5.1. Costs

There are a wide range of costs associated with the Regulatory Impact Assessment. The total estimated cost to the Welsh Government of the policy intentions identified above is between **£1.9 million** and **£2.1 million**, this has a corresponding Net Present Value of between **£1.6 million** and **£1.7 million**.

The total estimated cost to local government associated with the policy intentions identified above is between **£18.8 million** and **£19.1 million between 2017/18 and 2029/30**. This has a Net Present Value of between **£14.7 million** and **£14.9 million**. The majority of these additional Local Government costs are a result of the establishment of community area committees.

The tables below show a breakdown of the costs for each policy intention. Further details of the calculations behind the costs presented in this draft RIA can be found at Appendix B.

Summary Cost Tables

Local Government Costs

Policy Intention	Preferred Option	2017/18		2018/19		2019/20		2020/21 to 2029/30		Total		NPV	
		Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
General power of competence (GpC) (1.1)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Public Participation in Local Government (1.2)	Option 3	-	-	-	-	£113,500	£127,700	£673,900	£758,100	£787,400	£885,800	£616,300	£629,100
Community area committees (1.3)	Option 2	-	-	-	-	£1,846,600	£1,864,800	£15,312,300	£15,312,300	£17,158,900	£17,177,100	£13,340,000	£13,356,400
Improvement Requests (1.4)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Broadcasting & filming of Council Meetings (1.5)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Constitution Guide (1.6)	Option 3	-	-	-	-	-	-	£43,100	£47,300	£43,100	£47,300	£37,600	£41,200
Duties on County and Community Councillors (1.7)	Option 3	-	-	-	-	£8,100	£8,100	-	-	£8,100	£8,100	£7,300	£7,300
County Councillors' Annual Reports and Performance (1.8)	Option 3	-	-	-	-	-	-	£8,100	£8,100	8,100	8,100	£7,100	£7,100
Duty on leaders of political groups in relation to standards of conduct (1.9)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Roles and responsibilities of Leaders and Elected Mayors (1.10)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Considerations of Equality and Diversity when Appointing Members of the Cabinet and Assistants to the Executive (1.11)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Making information available to overview and scrutiny committees (1.12)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Joint Scrutiny Committees (1.13)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Corporate Plans (2.1)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Self-Assessment and Peer Assessment (2.2)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Combined Assessments and Co-ordination between Regulators (2.3)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Intervention (2.4)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Corporate Governance and Audit Committees (2.5)	Option 2	£57,600	£64,800	£57,600	£64,800	£57,600	£64,800	£403,200	£453,600	£576,000	£648,000	£479,000	£538,900
Community Council Review (3.1)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Community Councils with competence (3.2)	Option 2	£47,900	£77,900	£71,900	£107,800	£89,900	£143,800	-	-	£209,700	£329,500	£194,500	£305,600
Guidance to Public Bodies on Workforce Matters and Public Services Staff Commission (4.1)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Total		£105,500	£142,700	£129,500	£172,600	£2,115,700	£2,209,200	£16,440,600	£16,579,400	£18,791,300	£19,103,900	£14,681,800	£14,885,700

Welsh Government Costs

Policy Intention	Preferred Option	2017/18		2018/19		2019/20		2020/21 to 2029/30		Total		NPV	
		Min	Max	Min	Max	Min	Max	Min	Max	Min	Max	Min	Max
General power of competence (GpoC) (1.1)	Option 3	-	-	-	-	-	-	-	-	-	-	-	-
Public Participation in Local Government (1.2)	Option 3	-	-	-	-	£4,800	£4,800	-	-	£4,800	£4,800	£4,300	£4,300
Community area committees (1.3)	Option 2	-	-	-	-	£16,600	£16,600	-	-	£16,600	£16,600	£15,000	£15,000
Improvement Requests (1.4)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Broadcasting & filming of Council Meetings (1.5)	Option 3	-	-	-	-	-	-	£5,100	£5,100	£5,100	£5,100	£4,400	£4,400
Constitution Guide (1.6)	Option 3	-	-	-	-	-	-	£12,600	£12,600	£12,600	£12,600	£11,000	£11,000
Duties on County and Community Councillors (1.7)	Option 3	-	-	-	-	£17,700	£17,700	-	-	£17,700	£17,700	£16,000	£16,000
County Councillors' Annual Reports and Performance (1.8)	Option 3	-	-	-	-	-	-	£15,000	£15,000	£15,000	£15,000	£13,100	£13,100
Duty on leaders of political groups in relation to standards of conduct (1.9)	Option 3	£5,100	£5,100	-	-	-	-	-	-	£5,100	£5,100	£4,900	£4,900
Roles and responsibilities of Leaders and Elected Mayors (1.10)	Option 3	-	-	-	-	-	-	£5,100	£5,100	£5,100	£5,100	£4,400	£4,400
Considerations of Equality and Diversity when Appointing Members of the Cabinet and Assistants to the Executive (1.11)	Option 3	-	-	-	-	-	-	£11,500	£11,500	£11,500	£11,500	£10,000	£10,000
Making information available to overview and scrutiny committees (1.12)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Joint Scrutiny Committees (1.13)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Corporate Plans (2.1)	Option 3	-	-	£13,300	£13,300	-	-	-	-	£13,300	£13,300	£12,400	£12,400
Self-Assessment and Peer Assessment (2.2)	Option 2	-	-	-	-	-	-	£456,600	£512,200	£456,600	£512,200	£344,000	£385,700
Combined Assessments and Co-ordination between Regulators (2.3)	Option 3	-	-	-	-	-	-	£550,200	£550,200	£550,200	£550,200	£412,600	£412,600
Intervention (2.4)	Option 2	-	-	-	-	-	-	£38,100	£38,100	£38,100	£38,100	£28,500	£28,500
Corporate Governance and Audit Committees (2.5)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Community Council Review (3.1)	Option 3	£120,800	£153,600	£343,100	£386,300	£269,500	£302,500	-	-	£733,400	£842,300	£680,100	£781,900
Community Councils with competence (3.2)	Option 2	£14,100	£14,100	-	-	-	-	-	-	£14,100	£14,100	£13,600	£13,600
Guidance to Public Bodies on Workforce Matters and Public Services Staff Commission (4.1)	Option 2	-	-	-	-	-	-	-	-	-	-	-	-
Total		£140,000	£172,800	£356,400	£399,600	£308,600	£341,600	£1,094,200	£1,149,800	£1,899,200	£2,063,700	£1,574,400	£1,717,800

5.2. Benefits

There are a wide range of non-quantifiable benefits associated with the preferred policy options set out in this Regulatory Impact Assessment. These include greater openness and transparency, increased community involvement in Local Authority decision making and better performance management.

Below is a table setting out the key benefits associated with each of the policy intentions, along with the identified preferred option.

Policy Intention	Preferred Option	Benefits
General Power of Competence	Option 3	County Councils and Community Councils with competence have scope to respond innovatively to the severe financial and demographic pressures they face
Public Participation in Local Government	Option 3	County Councils are more open and transparent, local democracy is stronger and local people are more involved
Community Area Committees	Option 2	A community leadership role for Councillors which enables the views of communities to influence funding decisions
Improvement Requests	Option 2	Community bodies contribute to improving services and outcomes
Broadcasting and Filming of Council Meetings	Option 3	The public can engage more actively with local democracy
Constitution Guide	Option 3	People have a better understanding of how County Councils work and how the public can engage with them
Duties on County and Community Councillors	Option 3	The responsibilities of County Councillors are set out clearly to increase transparency and accountability
County Councillors' annual reports and performance	Option 3	People have a better understanding of what County Councillors do and what they achieve for local people
Duty of leaders of political groups in relation to standards of conduct	Option 3	Higher standards of behaviour encourage more diverse people to stand as Councillors

Policy Intention	Preferred Option	Benefits
Roles and responsibilities of Leaders and Elected Mayors	Option 3	Stronger accountability through a better understanding of the priorities of Leaders and the objectives of Cabinets and Chief Executives, and their progress in achieving them
Considerations of Equality and Diversity when Appointing Members of the Cabinet and Assistants to the Executive	Option 2	Better diversity among members of the Executive and assistants to the Executive
Making information available to overview and scrutiny committees	Option 2	Better scrutiny of Council decision-making
Joint Scrutiny Committees	Option 2	More efficient and effective scrutiny of jointly commissioned services, leading to better services and public outcomes
Corporate Plans	Option 3	Consistent and robust corporate planning supports more effective governance arrangements
Self assessment and peer assessment	Option 2	Better governance and earlier action on opportunities for improvement
Combined assessments and co-ordination between regulators	Option 3	Better governance and earlier action on opportunities for improvement in County Councils, and more effective regulation
Intervention	Option 2	Appropriate and timely support, leading to better governance and outcomes for the public
Corporate Governance and Audit Committees	Option 2	Better governance, more effective challenge and greater assurance
Review of Community Council arrangements	Option 3	Community Councils with greater capacity and capability to support their communities
Community Councils with Competence	Option 2	Community Councils can be more ambitious and innovative. Greater confidence in Community Councils
Public Services Staff Commission	Option 2	A more effective public sector workforce and greater assurance to the workforce

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