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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation – summary of response

## Draft Local Government (Wales) Bill and Explanatory Memorandum

July 2016

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

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# 1. Introduction

- 1.1 The previous Welsh Government consulted on the Draft Local Government (Wales) Bill for a 12 week period from 24 November 2015 to 15 February 2016.
- 1.2 The Draft Bill was based on the proposals set out in the White Papers 'Reforming Local Government: Power to Local People', and the 'Public Services Staff Commission', which were all subject to consultations with the public. The provisions included in the Draft Bill set out a programme of local authority mergers and a new and reformed legislative framework for local authority democracy, accountability, performance and elements of finance. They would also establish a statutory Public Services Staff Commission.
- 1.3 As part of the consultation process 32 engagement events were held with local authorities and other key stakeholders. They were designed to inform stakeholders and test the practical application of the provisions contained within the Draft Bill.
- 1.4 The Communities, Equality and Local Government Committee undertook pre-legislative scrutiny on the Draft Bill. Their report was published on 2 March<sup>1</sup>.
- 1.5 This document sets out a summary of the responses to the Draft Bill consultation and a summary of the views expressed at the engagement events (at Section 4).

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<sup>1</sup> [Draft Local Government \(Wales\) Bill | National Assembly for Wales](#)

## 2. Overview of Responses

2.1 A total of 187 responses were received from organisations and individuals.

2.2 The number of respondents by type was as follows:

<b>Respondent Type</b>	<b>No.</b>	<b>%</b>
Member of the Public	23	13
Elected Member	8	3
Local Authority	25 <sup>2</sup>	13
Town / Community Council	86	47
Political Group / Party	4	2
Trades Union	1	0.5
Third Sector	1	0.5
Representative body / Professional Body or Association	20	11
Government Agency / Other Public Sector Body	15	8
Other	4	2
<b>Total</b>	<b>187</b>	<b>100</b>

2.3 A list of respondents is included at Section 6.

2.4 The consultation asked for views under the following main Parts of the Draft Bill:

- Part 1 Local Government Areas and County Councils
- Part 2 General Power of Competence
- Part 3 Promoting Access to Local Government
- Part 4 Functions of County Councils and their Members
- Part 5 County Councils: Improvement of Governance
- Part 6 Community Councils
- Part 7 Workforce Matters
- Part 8 General and Schedules

2.5 The consultation also asked questions in relation to the supporting documents which were published alongside the Draft Bill, including the draft Regulatory Impact Assessment and specific impact assessments.

2.6 A summary of responses under each of the main Parts of the Draft Bill and the questions asked in the consultation is provided in Section 3.

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<sup>2</sup> 21 principal local authorities responded. Figures include responses from individual local authority committees

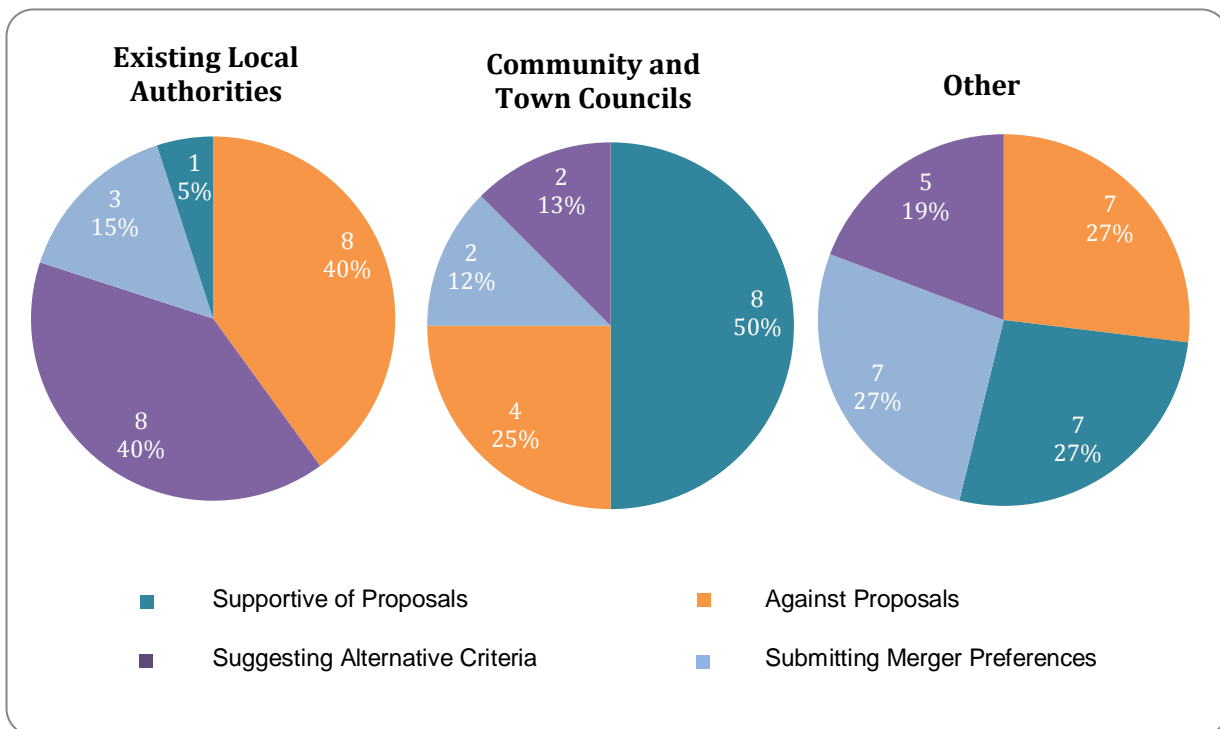
### 3. Summary of Responses to Specific Consultation Questions

#### Local Government Areas and County Councils

##### **Q.1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?**

3.1 Respondents commented on various aspects of the provisions in Part 1 of the Draft Bill and placed particular focus on submitting views regarding the proposed configuration of the new county councils. These views are summarised under the specific questions related to this Part of the Draft Bill.

**Figure 1 – Number of respondents and their views relating to the proposed mergers of existing local authorities.**

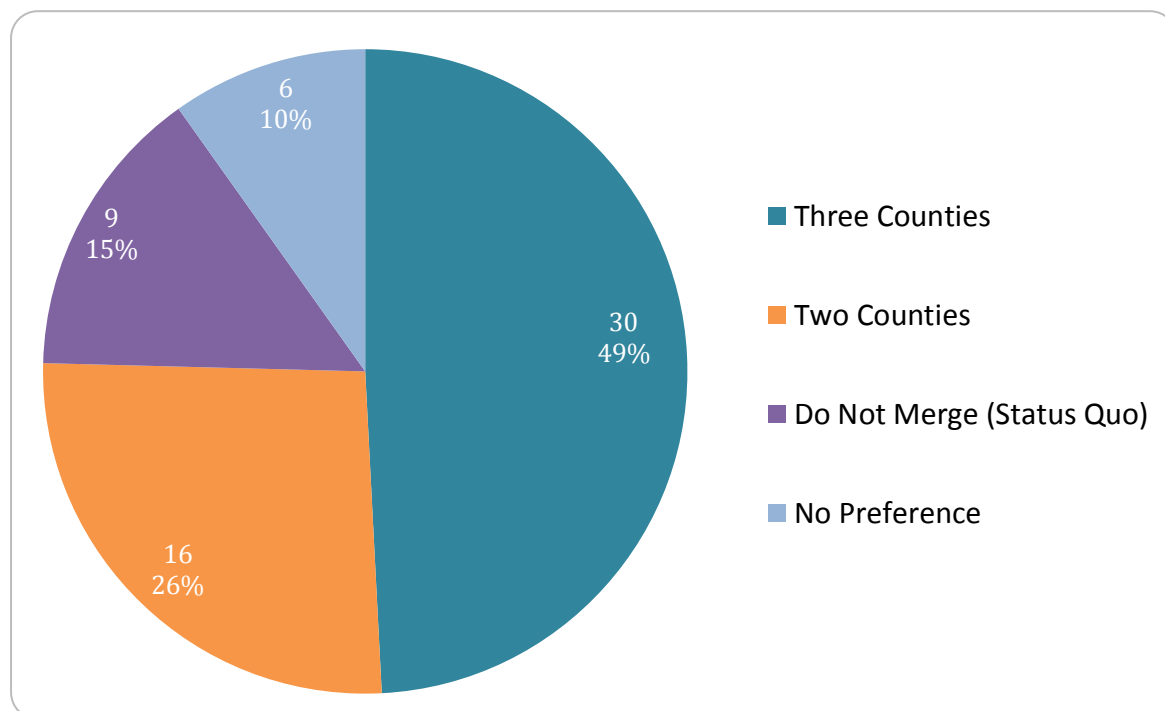


##### **Q.1.2: What are your views on the options for 2 or 3 counties in North Wales, as set out in Schedule 1 of the Draft Bill?**

3.2 There was a general agreement among respondents that in order to establish the preferred option for the configuration of the proposed counties in North Wales, it was important to identify an arrangement which allowed for fair and democratic representation, and also addressed the need for efficient governance. Respondents acknowledged it may be difficult to maintain local accountability if larger authorities were introduced.

3.3 There was support for both options set out in Schedule 1 of the Draft Bill. Of those who expressed a preference, the majority of respondents were in favour of three counties in North Wales.

**Figure 2 – Number of respondents and their preferences towards the configuration of counties in North Wales.**



3.4 Respondents who were in support of the option to create two counties in North Wales believed greater consistency in the size of the new counties would allow better opportunities for benchmarking and comparisons of performance and financial efficiency. Other respondents suggested this option would make it more difficult to respond to local concerns and would cause a drop in standards for Welsh language services.

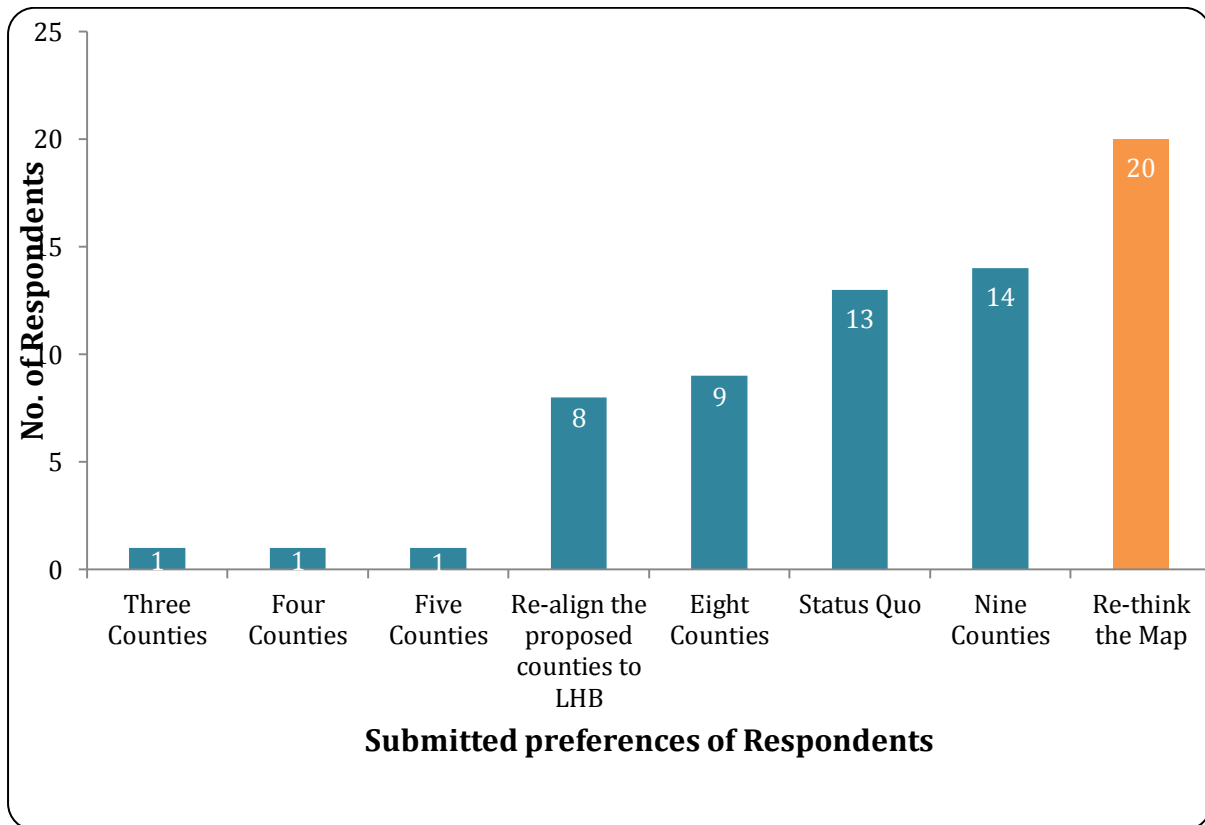
3.5 Respondents who commented on the option to create three counties, suggested the three-county model would better reflect the current make-up of demographics and economies across the existing authorities, and allow for better representation, stating smaller units were more accountable to local residents. Respondents believed the three-county option would fit with the sub-regional structures already in place for the Police, Fire and Rescue Service and the Health Service across North Wales. The majority of local authorities in North Wales supported the three county option.

3.6 The Welsh Local Government Association (WLGA) stated “*it is not clear whether the Welsh Government has applied consistent criteria across the whole of Wales in determining proposed new council boundaries. It is unclear why the case in north Wales is finely balanced....*”.

3.7 One Voice Wales supported the proposal for a reduction in the number of local authorities. It was their view there should be no more than eight county councils in Wales and on that basis considered two counties for North Wales to be appropriate.

**Q.1.3: What are your views on the proposed configuration of local government areas (counties) in Wales?**

**Figure 3 – Number of respondents and views towards the proposed configuration of counties**



3.8 Respondents generally supported the proposal to reduce the total number of local authorities and were in favour of applying a configuration which resulted in improved governance. There was support for both the proposals within the Draft Bill (eight or nine counties). Alternatively, some respondents recommended the proposed map needed to be revised and/or should remain with the current configuration. Among the alternative suggestions for the configuration of local authorities were proposals for the implementation of three, four, and five area models, as well as preferences to create areas which were coterminous with existing Health Board boundaries.

3.9 Of the two proposals included within the Draft Bill there was greater support for the option to create nine authorities. A number of existing local authorities proposed they should retain their existing boundary rather than be included within the proposals to reconfigure local government areas. Other respondents considered the proposal to merge five existing authorities in South East Wales into a single authority would result in an authority which had difficulty in effectively meeting local needs and maintaining fair democratic representation. Respondents believed consideration should also be given to those proposed counties which would cover large areas and have a significant rural element, to ensure they maintained effective representation and accountability.

3.10 In addition to the comments above, the WLGA stated they had long recognised the need for public service reform but *“it is not clear from these proposals what is deemed to be the optimum size for a unit of local government or why different solutions are available in different parts of Wales.”*

3.11 In addition to the configuration of local authorities, respondents commented upon the financial benefits of local authority mergers, expressing that this may require further consideration. It was suggested a fundamental review of local authorities which was not based upon the existing authority boundaries may be beneficial. Alternatively, respondents also recommended an alternative to the proposals to merge authorities, stating focus should be given to implementing more collaborative approaches to services between authorities.

Other views expressed included:

- The final configuration should deliver the best services for the residents of Wales and the new principal authorities should be adequately funded to deliver all services which are necessary and those which further enhance the well-being of residents.
- Our identity is with our historic county, going back at least four hundred years. Electors should be governed locally, not from some remote location.
- The population of merged authorities should more equal. The population of the proposed counties in south Wales was very much higher than the counties in the north, and these should be much smaller in order to balance.
- In a time of increasing collaboration across a range of services, the primary focus should be on delivering essential services at a local level.

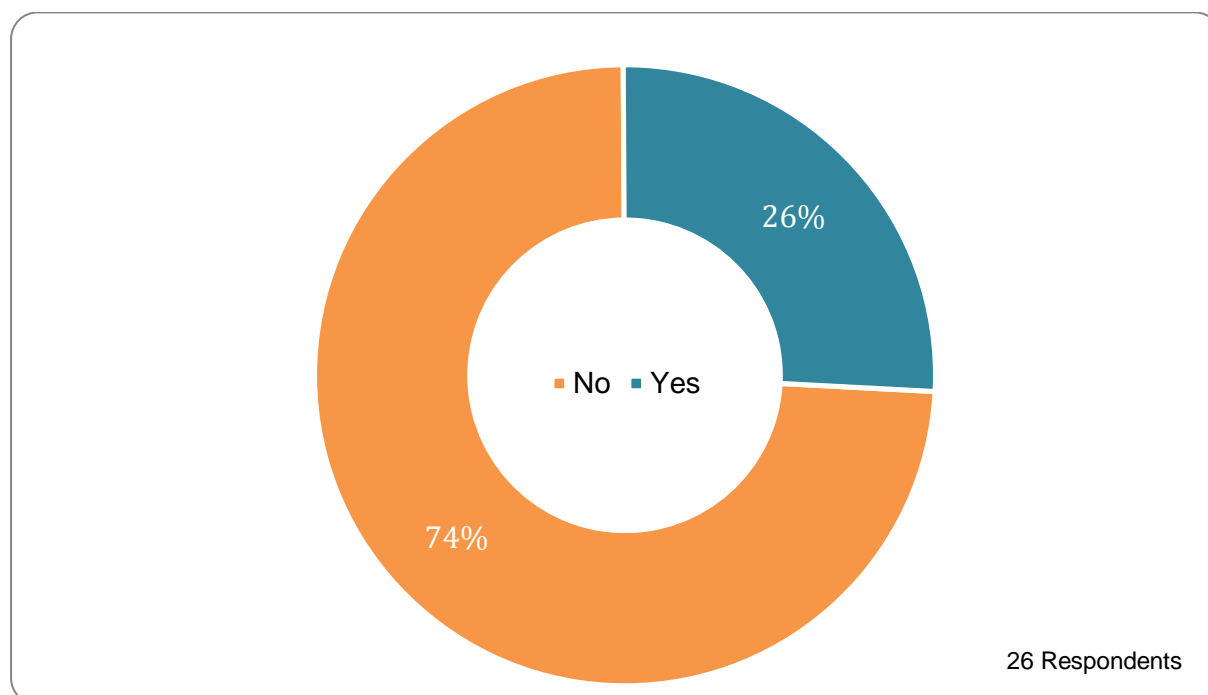
***Q.1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?***

3.12 Respondents who commented on the integration between Powys County Council (PCC) and Powys Teaching Health Board (PTHB) recognised the importance of having an effective working partnership between the two organisations, in order to successfully develop integrated services for the people of Powys.

3.13 The majority of respondents agreed the current level of integration was appropriate for Powys and felt Ministers need not seek any further powers to support the integration of PCC and PTHB. Respondents who did not believe further powers were necessary also saw no added value or benefit from merging these organisations and felt integration should be a matter for the two organisations to address. Respondents also questioned whether the skillsets for PCC and PTHB were compatible.



**Figure 4 – Views on whether further powers need to be sought by the Welsh Ministers to support integration of PCC and PTHB**



3.15 Of the respondents who believed the Welsh Ministers should seek further powers, there were suggestions as to where support for integration would be best aimed. The WLGA recommend this be considered within the areas of corporate planning and regulation, human resources, elected member roles and/or for the creation of a community interest organisation. Respondents felt further powers would require changes to primary legislation in terms of governance and finance. The need for further powers was also supported by PCC.

3.16 Of those who did not specifically give a view as to whether it would be necessary for the Welsh Ministers to seek further powers, respondents suggested the following:

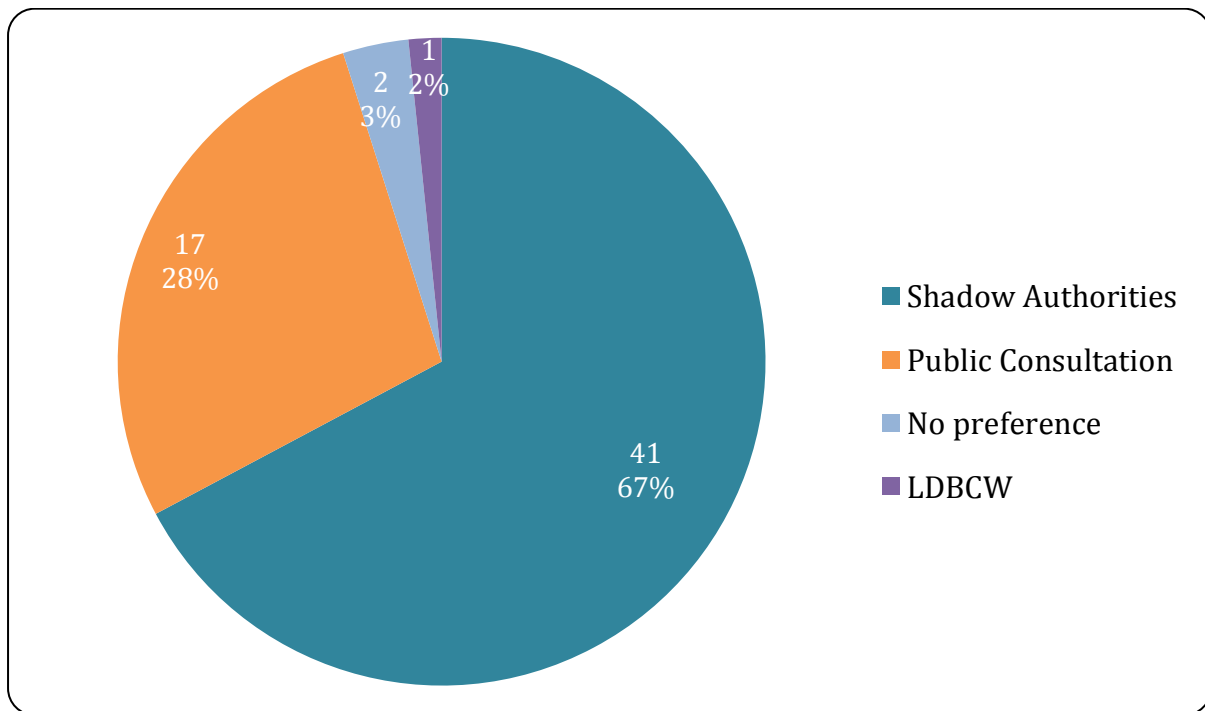
- Further integration will do nothing more than just reduce costs of running, not improving the services; Powys needs to be split into smaller units.
- There are already a number of mechanisms and levers such as public services boards and pooled budgets under the section 33 Agreement<sup>3</sup> which, PCC and PTHB can utilise to assist with integration. It will be important to take stock of these existing powers prior to seeking any further powers.
- Further integration will be driven by the financial pressures that each organisation faces, and the need for them to work more effectively together to tackle their common challenges.

<sup>3</sup> Ref: National Health Service (Wales) Act 2006

**Q.1.5: What are your views on the procedure for naming the new counties?**

3.17 Respondents generally felt the names for the proposed new counties should be relatable to the people who live there. Many respondents emphasised the need to involve the general public in the naming process. They believed that by including public opinion in the procedures for naming counties, and agreeing names that residents could identify with, support from the local people may increase towards the Bill in general.

**Figure 5 – Number of respondents and their preferences towards who should be responsible for naming the new counties.**



3.18 The majority of respondents agreed as set out within the Draft Bill that the shadow authorities should have responsibility for deciding the names. Respondents generally believed the public should be consulted during the process to ensure residents could easily identify with their new county. It was suggested the approach to deciding the new names prior to 2020 before the new local authority elections took place was sensible and would avoid the need for any consequential amendments occurring twice, in short succession. Support was given to providing regulation making powers for the Welsh Ministers to give effect to this.

3.19 A variety of responses were submitted with regards to what criteria should be applied when establishing appropriate names for the new counties, however, there was no outright principle recommended within the responses. The more common suggestions were that the names should be formed from historical links (such as the previous county names, Dyfed, Mid Glamorgan etc.), or alternatively, a more modern approach should give precedence to the main settlements within the new counties.

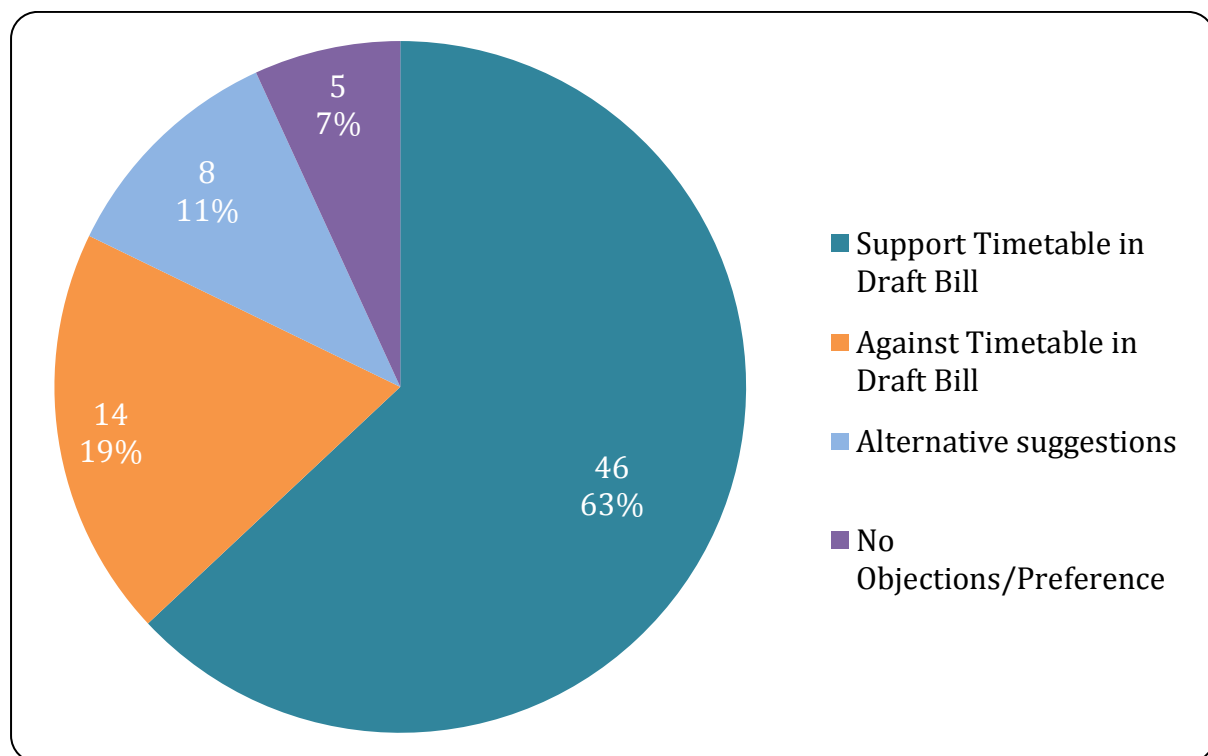
3.20 Some respondents also recommended the new names should be language neutral (i.e. the same in both Welsh and English) such as Powys, or that precedence

should be given towards adopting names for areas which are more widely recognised, across the UK in particular.

**Q.1.6: What are your views on the proposed changes to the local government election timetable?**

3.21 Respondents put forward recommendations for the appropriate length of time an elected member should serve and suggestions towards how the transitional period for new counties would need to be managed. Respondents recognised a requirement for councillors to be in post for enough time to oversee effective change, while they also recommended a balanced approach to the timetable to ensure elections still preserved accountability to local electors.

**Figure 6 – Number of respondents and their preferences towards the timetable of elections proposed within the Draft Bill.**



3.22 The majority of feedback received with regards to the timetable of elections proposed within the Draft Bill was supportive. Respondents considered the provisions appropriate and felt it sensible to have a set pattern going forward. Among the various suggestions about the timetable, the proposal for a five-year cycle starting in 2023 was seen as the appropriate schedule by the majority of respondents.

3.23 With reference to the transition period between 2017 and 2023, concern was expressed among respondents about the proposed arrangements. Respondents highlighted the impact of the transitional arrangements and competing demands on members, stating this should not be underestimated, particularly if the same person were a member of an existing council and a shadow authority at the same time. In terms of the transitional arrangements outlined in the Draft Bill, the period between

the local elections in 2017 and the abolition of the old authorities in 2020 would need to be carefully managed to ensure strong leadership and focus was maintained. It was suggested the 2017 local elections should be dispensed with, and the current term extended until the major changes come into effect to elect the shadow authorities in 2019.

3.24 Respondents thought further consideration would need to be given to the one-off six-year cycle for community and town councils, as this was thought to be a very long commitment for members who acted in a voluntary capacity for no payment.

Other views expressed included:

- The process should commence as quickly as possible in order to reduce the additional burden of costs.
- The principle of the democratic mandate for county councils is the same as that for community and town councils, and there was no reason to make the distinction. County councillors should, therefore, serve the same term in the transition period as community and town councillors.
- Powys County Council suggested their current term be extended to 2018 followed by a five-year term based on the reduced number of councillors proposed by the Local Democracy and Boundary Commission for Wales (LDBCW) in 2011.

***Q.1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to local government finance?***

3.25 Respondents commented upon various aspects of the legislative changes being proposed to local government finance, though the provisions for managing the transition to new authorities were the main focus of comment. In general, respondents agreed it would be appropriate for a phased approach to be used during the transition, but thought there was a need for further clarity.

3.26 Respondents raised concerns with regards to Council Tax during the transitional period, with several agreeing that more clarity on the process for Council Tax harmonisation would be beneficial. Respondents generally agreed that the transition process would need to be carefully planned due to the varying levels of Council Tax within merging local authority areas.

3.27 It was suggested the impact on community and town council budgets would need to be carefully assessed if reform encouraged the further transfer of functions, assets and services to this tier from principal authorities. Respondents felt resources needed to be made available to deal with issues such as merging assets and services, and taking on functions from authorities as well as managing the transformation agenda in terms of boundary arrangements. One Voice Wales recommended that alongside the transfer of functions, assets and services to community and town councils, a proportion of central government funding should also be provided.

Other views expressed included:

- The community council sector should be treated in the same way as county councils with a local transition committee being appointed to oversee changes following the community council review process.
- It was important during the transitional processes that Service Level Agreements and contracts currently in place between authorities and the voluntary sector enabled services to continue seamlessly.

***Q.1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates (NDR)?***

3.28 Respondents generally agreed there was a need to address the issue of avoidance of non domestic rates, and there was support for the provisions within the Draft Bill to address this issue. Respondents recognised the significance of the financial loss currently occurring through non-payment of rates, but appreciated the difficulty in accurately measuring the current levels of avoidance.

3.29 A variety of suggestions were submitted proposing methods to monitor the levels of avoidance within authorities. The most popular recommendation was to create a Welsh Government-led anti-avoidance working group specifically tasked with identifying current levels of avoidance. This approach would aim to share best practice across authorities, and identify the most prevalent, and costly, forms of avoidance or misuse of categories for reliefs and exemptions. Respondents felt this would allow for consistent benchmarking to provide an evidenced based approach of what interventions and actions work best. The WLGA believed the success of this approach could be maximised by involving Welsh Government, WLGA and lead practitioners within a cross-authority working group.

3.30 It was suggested that further clarification should be given to businesses with regards to the procedures and terms for the payment of non domestic rates, and it would be beneficial to place a duty on businesses to register/notify any changes in circumstances to the relevant authorities in due time. Respondents felt this would assist with the measuring of avoidance, as well as benefit authorities by potentially reducing instances of avoidance in the first place.

3.31 Respondents highlighted how avoidance can be notoriously difficult to quantify, and some were wary of introducing a costly administrative process to investigate something which is, by definition, hypothetical. These respondents proposed the idea of commissioning a research project to investigate and inform upon the current levels of avoidance, and ultimately identify the key areas where avoidance proved to be an issue.

3.32 A number of respondents also recommended delegating the responsibility of measuring current levels of avoidance to the new local authorities. Respondents believed authorities held these records and should have due diligence in following up non payment of non domestic rates. However, respondents did identify the high-cost and resource burden on authorities, particularly in respect of court appearances, fees and improved IT facilities, which would be prohibitive to authorities without the

financial backing from the Welsh Government. One response also suggested that in new 'larger' authorities, it may be more difficult to monitor avoidance, and that cases of avoidance may increase.

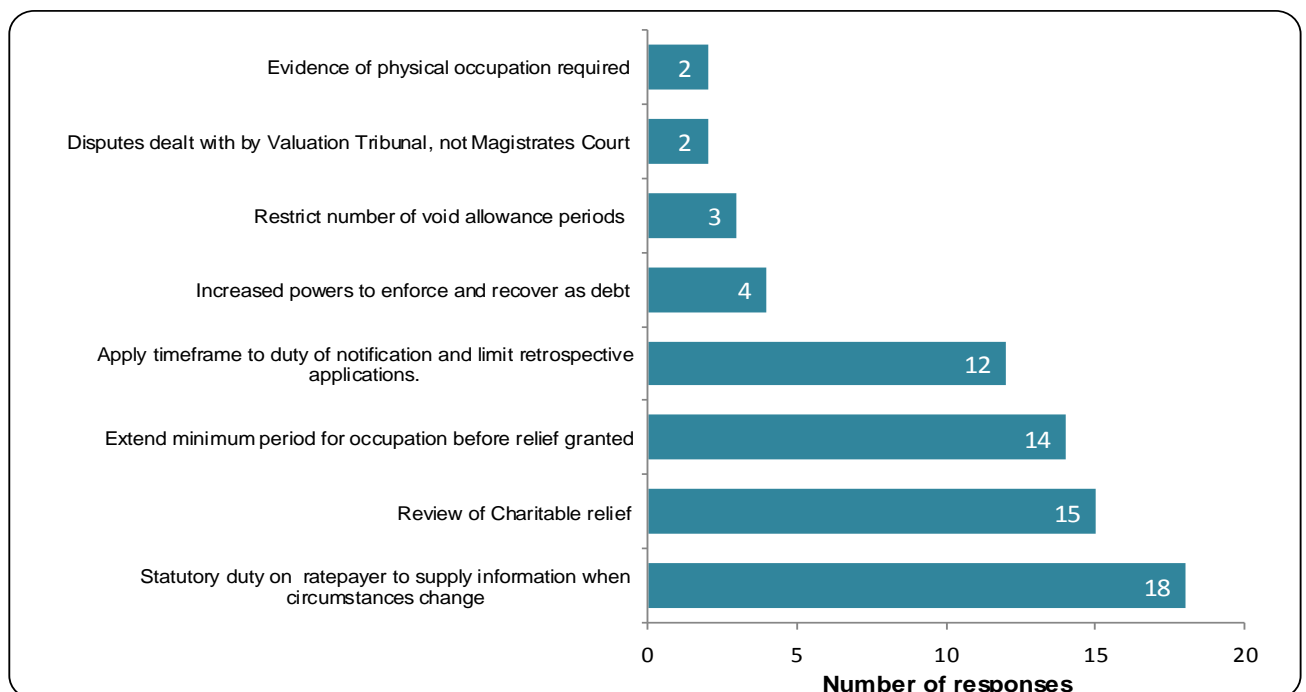
3.33 Respondents also recommended the use of Billing Authorities as the source of ongoing analysis into avoidance, working in cooperation with the Charity Commission to identify fraudulent charities and for the local authorities to produce quarterly statistics on anti-avoidance.

**Q.1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of NDR?**

3.34 While the responses were many, and varied, the majority agreed on four main amendments to the legislation which would assist in reducing instances of avoidance.

3.35 Respondents recommended a statutory duty be applied to the ratepayer to supply details of a change in circumstances. Responses recommended the duty on occupiers and owners should sit in line with the duty on Council Tax payers to report any change in circumstances to the relevant authority. Respondents considered various timescales which might be appropriate for such notifications; however they agreed that the new legislation could be accompanied by penalties imposed for not supplying information or knowingly supplying incorrect information.

**Figure 7 – Suggested ways to legislate to help reduce future instances of avoidance of NDR.**



3.36 There was strong support from respondents for changing legislation to tackle the issue of avoidance. The WLGA, amongst many others, gave support to a fundamental review of NDR legislation aimed at providing clarity over which types of property are eligible for reliefs or exemptions. The WLGA would welcome a statutory

duty which requires ratepayers to notify local authorities of any changes in circumstances and would consider prescription around qualifying usage rates and extending the “six week rule”. The WLGA also agree the use of charities by commercial property owners to gain empty property relief is worth reviewing.

3.37 Respondents suggested the minimum period of 42 days occupation before granting a 6 month exemption from paying rates could be extended from 6 weeks to 3, or 6 months, depending on the type of occupant (commercial or industrial properties respectively). Many responses also suggested legislation could include a limit on the number of applications that could be made per annum and/or the number of retrospective applications that could be made for exemption after occupying a property for the qualifying period.

3.38 In addition to the comments above, respondents also suggested an increase in powers in relation to enforcement and recovery and considered ways of seeking proof of occupation when claims are made in retrospect, thereby reducing the potential for fraudulent claims.

Other views expressed included:

- Disputes on reliefs and liability should be considered at the Valuation Tribunal rather than the Magistrates Court due to the cost and administrative burden on local authorities. Welsh authorities are currently limited to an application of £70.00 court costs, even when disputes are escalated through the courts. The ratepayer should also have responsibility to pay the rate while their appeal is being considered by the Valuation Tribunal.
- Consideration could also be given to prescribing a minimum percentage usage of the property before it is classed as occupied for future exemption purposes as a number of anti-avoidance cases involve minimal occupation of a building.
- The thresholds for Empty Property Relief (EPR) and Small Business Rate Relief (SBRR) should be considered together to avoid the practice of claiming SBRR occupation as a “better buy” alternative to the EPR levy.
- There was support for NDR policies that encourage local small business growth, and perhaps also reward good/ethical employers (e.g. those who pay a Living Wage). Action taken by the Welsh Government on NDR relief was welcomed.
- Avoidance has become so normalised that it is difficult to see how the trend can be reversed. Unless the financial incentive to manipulate occupation periods is removed, then this trend is likely to continue.

***Q.1.10: In what other ways could the Welsh Government enable local government to reduce the level of avoidance and fraud within the NDR system?***

3.39 Respondents generally recognised the difficulties in identifying instances of avoidance and fraud within the NDR system and the majority of suggestions for ways to combat this involve an increase in information sharing and targeted funding.

3.40 The WLGA believed the Welsh Government should target funding, looking at specific abuses, as this could encourage compliance and send a message to those seeking to avoid payment. This view was supported by respondents who felt that by targeting high-profile rate avoidance cases, others would subsequently be discouraged. Respondents also agreed that a working group/specialist unit established by the Welsh Government and local authorities would be of benefit.

3.41 Submissions looking into how Welsh Government could enable local government to reduce the level of avoidance and fraud were closely tied to the responses summarised in Questions 1.8 and 1.9 above. In addition to increased sharing of information the primary methods recommended by respondents with reference to Question 1.10 involved collaborative working between local authorities, fire and rescue authorities, the Valuation Office Agency, the Charity Commission and major landlords. It was felt tackling NDR avoidance was under resourced, and an increase in staff and funding would help, in addition to granting greater enforcement powers for authorities.

Other views expressed included:

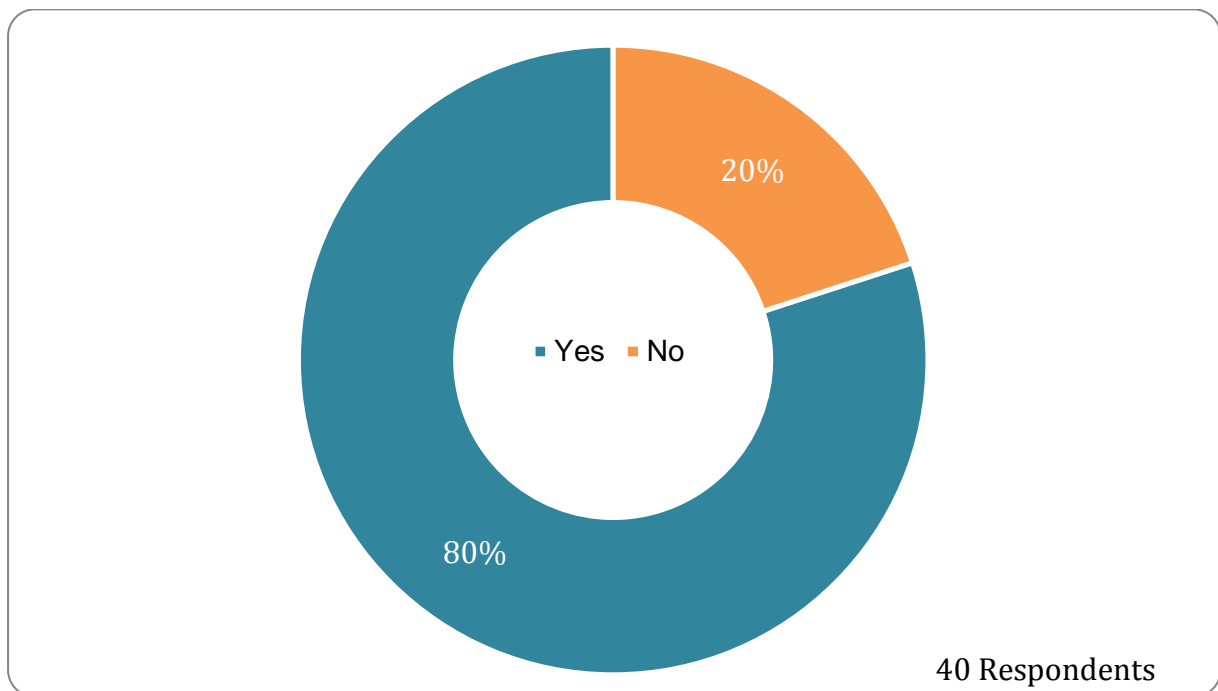
- The redesign of forms to make positive responses mandatory (the example of having 'zero' as a response rather than leaving a box blank on returns etc.) would limit potential avoidance.
- An alternative to NDR was considered by the Silk Commission Part 1: Land Value Tax (LVT). The problem with NDR is that it usually falls on the occupier and bears little relationship to trading conditions or turnover, hence an additional burden on enterprise. LVT on the other hand would fall on the owner and relate to the long term economic circumstances internalised in land value.
- Transfer the assessment and collection to an all-Wales Tax Authority, there is a cross over with stamp duty land tax.
- One respondent recommended that Welsh Government could look into how the National Fraud Initiative could be extended, for example, to include real-time checking of entitlement of exemption of properties from NDR.
- In relation to properties in the nature of pubs/clubs where licenses are involved, it might be easier to stop repeat offenders avoiding paying rates if it was easier to refuse applications for new licenses in the first place, particularly if the applicant was a known avoider of paying NDR historically.



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

3.42 Respondents commenting upon the proposals recognised the administrative benefit of moving away from the use of preserved counties (created in the Local Government (Wales) Act 1994) as most of the purposes for which the preserved counties were created had now fallen away. The majority of respondents also generally agreed that the role of Lord-Lieutenants and High-Sheriffs should be applied to the new county structures in Wales after 1 April 2020.

**Figure 8 – Views on whether the preserved counties in Wales should be abolished.**



3.43 There was strong support from respondents for the proposals within the Draft Bill to abolish the preserved counties. It was generally agreed that as the boundaries for the new counties would form the new administrative regions in place of the preserved counties it would be appropriate for the existing preserved counties to be abolished. Respondents felt it would be sensible to create a consistent geographical area for all civic and administrative purposes. For those respondents who did submit a preference to retain the preserved counties, the primary reason against abolition was so that the names would remain. One Voice Wales, amongst others, felt that the existing names formed part of the modern history of Wales, although there was acceptance the boundaries of preserved counties would still need to be changed to reflect the new counties.

3.44 Some respondents questioned the current need for the ongoing roles of Lord-Lieutenants and High Sheriffs, stating a belief that the role was now largely symbolic. One respondent considered the benefit of these appointments and suggested the roles of Lord-Lieutenant and High Sheriffs could be reviewed.

**Q.1.12: Are there other matters of a technical nature which should also be considered?**

3.45 Respondents provided a variety of comments on matters which they believed should also be considered within the Draft Bill. These primarily centred on the transition period taking place while the new authorities are being created and how the general process and finances would be managed during this time.

3.46 Further comment was made regarding a lack of detail in the proposals to fund the merger process. Respondents commented on the Regulatory Impact Assessment (RIA) stating the figures used to assess the financial viability of local government reorganisation were based on a contested KPMG/CIPFA study which did not account for the age of the data and/or take into account projected savings local authorities will have made by 2019/20. With reference to the ability for shadow authorities being able to manage the transition successfully, respondents thought there was no evidence of assessing comparable exercises of this type or scale elsewhere, or any assessment of the financial risks of a transition from the existing authorities to the new. In general, respondents believed further clarity using current and projected figures was necessary in order to best consider and prepare for reform. Respondents also felt the details of harmonisation of pay and terms, as well as staffing matters would need to be considered in greater detail to best prepare for the transition.

3.47 Respondents also questioned why the provisions made no reference to other specific service areas that would need to be addressed, such as the harmonisation of council services which may currently be delivered independently within existing local authorities (e.g. education, housing, waste, highways).

3.48 Respondents reiterated the need for further clarity around Council Tax and many believed this issue should be regarded as a significant priority, both in terms of legality and in the interest of residents in merging authorities.

3.49 The Welsh Language Commissioner and other respondents commented on the need to account for Welsh language within the planning of local government reform.

3.50 There were a number of responses which recommended consideration should be given towards the rural/urban characteristics of new local authorities when setting directions to the LDBCW. Respondents believed it would not be appropriate to place a blanket councillor to elector ratio across the new counties within Wales. This would not be reflective of the varying population densities and urbanisation across regions within Wales, and would thereby limit the capability of the LDBCW to implement effective and convenient local government arrangements. Respondents suggested assessing the rural/urban characteristics and demographics of the new counties, in order to establish a sustainable method for councillor allocation.

3.51 South Wales Fire and Rescue noted the proposed changes to existing local authority boundaries, and expressed concern the draft legislation did not adequately deal with the consequential implications for other statutory bodies, such as fire and

rescue authorities. The abolition of existing local authorities would have consequential impacts on the Fire and Rescue Authorities' Combination Orders.

## **General Power of Competence**

### ***Q.2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?***

3.52 Respondents commented on a variety of issues relating to the provisions for the general power of competence within the Draft Bill. In general, the responses demonstrated there was support for the introduction of provisions in this section. The majority of local authorities (20) welcomed the provisions included within Part 2 and a large number of community and town councils (23) also supported the proposals.

3.53 Concern was raised with regards to the legal restrictions surrounding the general power of competence and whether this would make it difficult to implement. Respondents highlighted how the Draft Bill placed constraints on the use of this power by restricting qualifying local authorities from doing anything which they are currently prohibited from doing, by existing or future legislation, and it was noted how local authority lawyers would need to carefully consider these provisions before the power could be used. Denbighshire County Council stated they did not see the need for any further constraint and encouraged the Welsh Ministers to use their powers to make regulations in respect of the exercise of the general power in such a way that they reduce, rather than increase, the barriers to its use. Despite the legal constraints proposed within the Draft Bill, the WLGA identified the general power of competence introduced in England, under the Localism Act 2013, had given authorities the confidence to work in new ways and develop new services and partnerships.

3.54 Flintshire County Council welcomed the general power of competence, but pointed to the absence of an equivalent power for other parts of the public sector (such as other members of public services boards) with whom local government sought to work in partnership. The Council believed this could limit ambition and practical co-operation. In agreement with this view, South Wales Fire and Rescue also questioned whether the general power of competence should be extended to other statutory members of the public services boards. This would facilitate a holistic approach by all partners of the board in driving forward joined up public sector reform, and ensuring that action was not compromised through lack of power of particular partners to act.

### ***Q.2.2: Do you have any comments on our proposals relating to community councils with competence?***

3.55 Respondents were largely in favour of granting community and town councils access to the general power of competence. It was recognised how introducing this provision could create wider reputational benefit for councils, by providing other organisations with a degree of confidence in their capacity and capability.

3.56 Respondents generally agreed the term '*competent*' for qualifying community and town councils was inappropriate, primarily because those who did not meet the criteria for being able to access the general power of competence could be labelled as '*incompetent*'. Respondents believed this would carry negative inferences and connotations that could cause a lot of unnecessary and avoidable harm to a council's reputation. Although respondents recognised the provisions did not place any terminology on councils which do not resolve themselves as '*with competence*', many suggested alternatives for both.

3.57 The majority of respondents were also concerned with the criteria being proposed for councils to qualify for '*competent*' status. Respondents were concerned the criteria requiring the qualification of clerks and the proportion of councillors to be elected could be counter-productive and result in a loss of experienced personnel, therefore restricting the ability of councils to be properly resourced.

3.58 Whilst welcoming the additional powers available to community and town councils, respondents raised concerns over the practicality of the requirement for the clerk to hold a relevant professional qualification, such as the Certificate in Local Council Administration. The need for suitably qualified clerks was recognised by many respondents. However, as an example, Offa Community Council explained only a handful of clerks in North Wales currently held this qualification. Respondents agreed more clarity surrounding relevant qualifications would be useful so councils could make arrangements to ensure clerks meet the qualifying criteria. Many respondents proposed including a provision to recognise clerks with either long service, or other suitable experience/qualifications.

3.59 Respondents suggested the requirement for at least two thirds of a community or town council to be elected members could not be met by a significant number of community and town councils across Wales. It was suggested particular difficulty would be felt in rural areas where distances are excessive, communications difficult and attendances much more costly. It was noted in responses that some areas may receive insufficient candidates for election to fulfil this aspect of the qualification criteria, and as such, would act as a barrier to progressing the broader strategic aim of the provisions.

3.60 Respondents raised concern with regards to the continuous assessment of a '*competent*' council. Several respondents felt ongoing '*competency*' should be assessed more regularly, and a provision to revoke eligibility for the general power of competence when appropriate be considered. Respondents feared the competence concept would become de-valued if councils were not delivering as expected.

3.61 Many respondents felt there was a need to obtain further clarification of the provisions. It was suggested councils would benefit from clearer guidelines and rules in order to more easily work within, and get up to speed with, their legal requirements and to prepare themselves for achieving the necessary qualifying criteria. Some respondents believed the general power of competence should be devolved to all community and town councils or none at all, rather than have qualifying criteria.

## Promoting Access to Local Government

### **Q.3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?**

3.62 Respondents commented on a range of issues covered in Part 3, but the majority focused on the community area committees (CACs) and the public participation duty detailed in the Draft Bill. The majority of respondents agreed anything which improved public participation in local government was commendable. However, they questioned the need to legislate as this would add additional regulatory burdens onto local authorities, reducing time and money spent on front-line services. These views are outlined below.

3.63 The Society of Local Council Clerks (SLCC) believed the current community councils should be strengthened and a number of services be delivered directly by clusters of community councils, supported by the local authority, with guidance and directions. They felt this was a more appropriate model for public service delivery in Wales as opposed to the CACs.

Other views expressed included:

- Questioning why the public participation duty did not extend across the whole public service and not just local government.
- The link between CACs and public services boards was questioned and the view expressed that the areas of the committees should not be linked to the community areas defined by the public services boards.

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

3.64 There was overwhelming support (71 out of the 72 respondents) for the concept of a public participation duty placed upon local authorities.

3.65 However, the majority of local authorities who responded stated this should not be a legislative process. Instead, good practice should be encouraged and a process of sharing such good practice should be established through bodies such as the WLGA or the Welsh Government. The local authorities were also, largely, against a statutory 'Public Participation Strategy,' stating that it would add further confusion over who has responsibilities to improve public participation in 'connected authorities', such as national park authorities or fire and rescue authorities in their area.

3.66 Authorities also stated that consultation on the budget would become largely counter-productive due to the different priorities people would have. The council would not be able to create a meaningful budget due to the complexities of the areas it funded. Conwy County Borough Council stated: *"This is not a requirement for other public organisations and we must remember that Elected Members are elected to represent the views of the community and decide the budget accordingly."*

Other views expressed included:

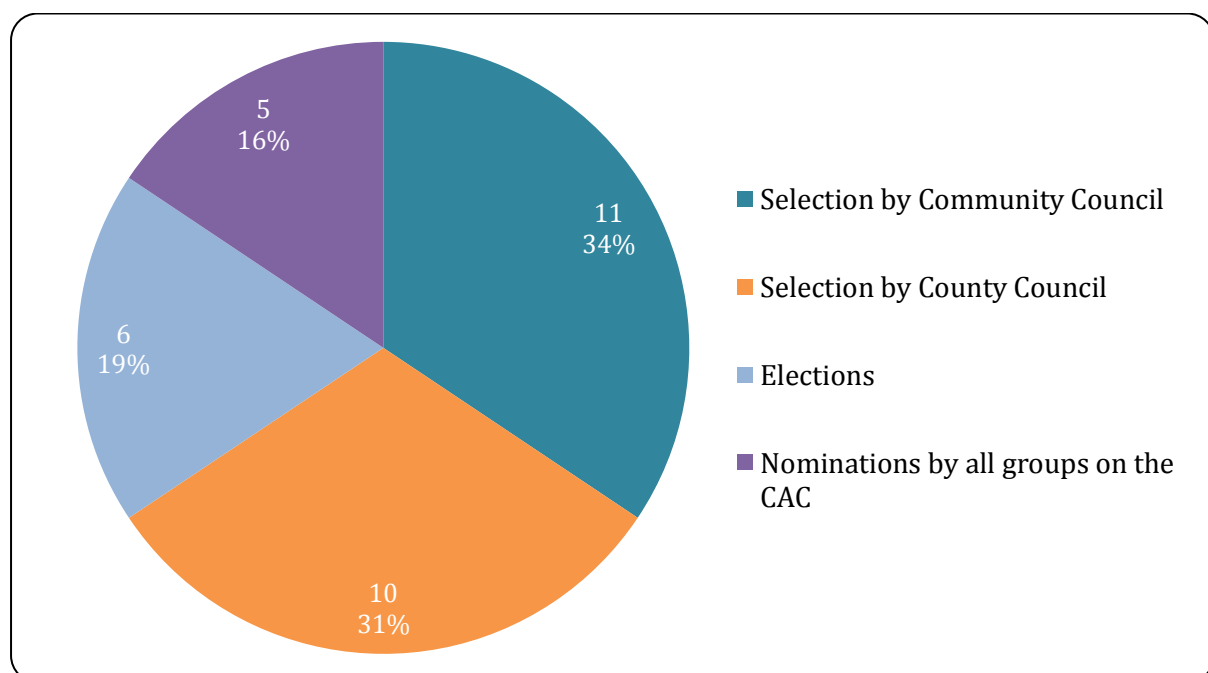
- UNISON suggested if local authorities were to report on its budget and financial information, one standard form should be produced by Welsh Government so comparisons could easily be drawn from across Wales.
- Any strategy should include and incorporate the work of the public services boards in order to maximise public participation.
- Any strategy must recognise the importance, and help develop the use, of the Welsh language in any public involvement and work.

**Q.3.3: How should the community representatives to sit on community area committees be sought and selected?**

3.67 Overall the majority of respondents (60 out of 99 respondents) were against the CACs in principle and believed other models should be explored. A number of respondents (17 of the 99 respondents) felt they needed more information on the roles and function of the CACs before they could comment further.

3.68 Out of those who responded to the question on how community representatives should be sought and selected, the views expressed were an even balance between nominations by all those involved in the CACs; elections, selection by the county councils, and selection by the community councils. Among the respondents who supported the selection by community councils, respondents were predominately from the community council sector and similarly the support for the selection by the county councils were mainly received from the local authorities.

**Figure 9 – Number of respondents and their views on how community representatives to sit on community area committees should be selected.**



3.69 A range of respondents believed the members of CACs should be democratically elected in order to maintain public accountability and scrutiny, especially if they were to be given powers over service delivery. It was felt by a small number of those who responded that only elected members of the CAC should have voting rights when it came to the decision making process of the CAC.

3.70 Further comments suggesting setting up a community forum, enabling everyone to attend and contribute ideas to the effective running of the area, instead of having only a small number of organisations selected and invited to sit on the CACs.

***Q.3.4: Do you agree county councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?***

3.71 Respondents generally disagreed with the CACs having any functions or delivery of services delegated to them, believing instead service delivery should lie with the community councils and county councils. They were seen as an additional layer of bureaucracy which would detract from the delivery of services across the community. Those who did agree CACs could be given some functions mainly revolved around advisory and scrutiny functions. Respondents felt core services should always remain with the county councils in order to provide a coherent strategy and avoid a post-code lottery of vital services, such as health, social care or education. Where the respondents agreed functions could be delegated, suggestions included: *“Economic development within each former authority area, housing, the youth service, culture and leisure, non-strategic environmental functions”*. However, no consensus of view was put forward.

3.72 There was a general view throughout the responses that clarification was required on the role and membership of the CACs, before respondents could comment on the delegation of functions to the committees in the future.

3.73 The local authorities which responded generally shared the overall views of the respondents outlined above. Eleven agreed the delivery of certain services at the local level would be beneficial to the electors, and agreed the CACs would be the best body to deliver local services, whilst benefiting from economies of scale. Eight agreed core services should remain with the council in order to provide a coherent strategy. Six authorities thought clarification was required to comment further, whilst three disagreed with the proposal, stating services would best be delegated to community and town councils, as CACs would add an additional level of government which would result in no overall improvement in delivery.

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

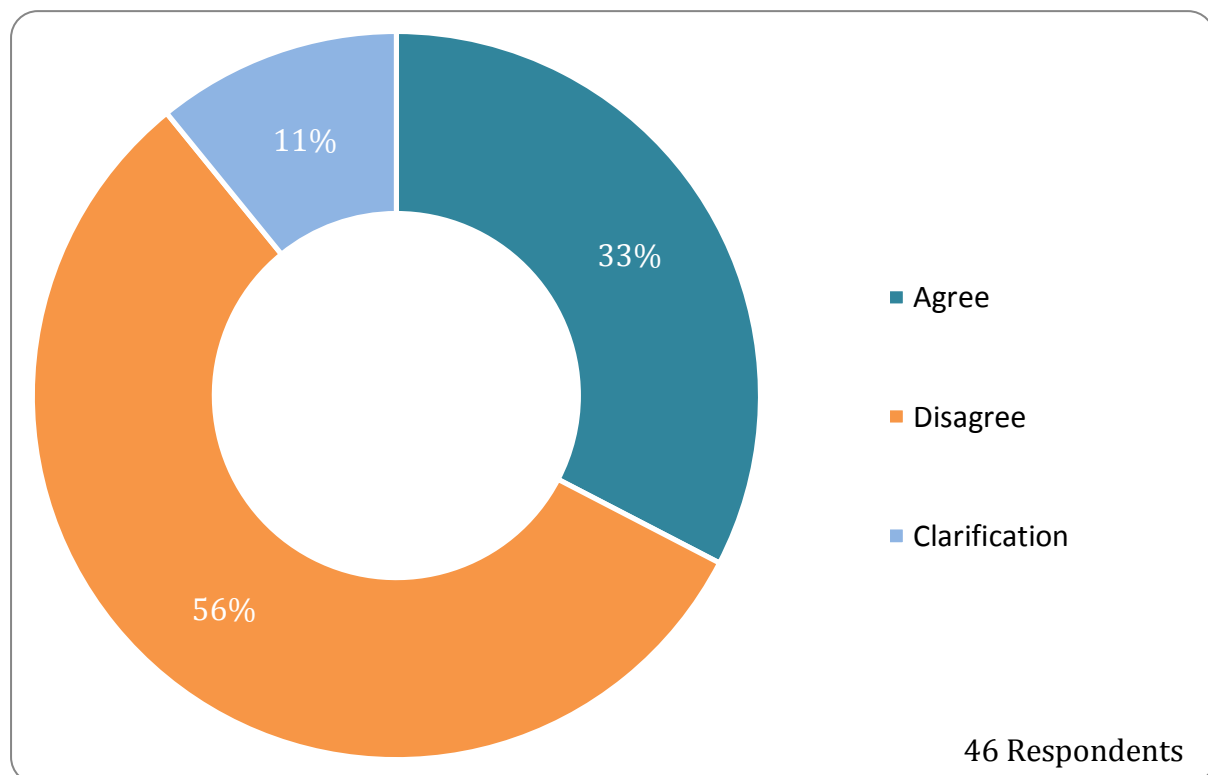
3.74 The overall feeling was clarification was needed before respondents could comment on the need for transitional arrangements. However, respondents agreed a significant amount of lead-in time would be required before changes were made to the existing area committees, where they existed at present.

3.75 There were a number of differing views around the timing of the establishment of the new CACs. Some stated this should not be completed until after the establishment of the new local authorities and it should be the local authorities themselves which set new CACs up dependent on local knowledge and working structures. Other respondents suggested the public services boards should lead the transition and create the CACs as they would have had time to establish themselves (from April 2016) as opposed to the shadow authorities which would not be established until 2019.

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

3.76 The majority of respondents felt the proposal in the Draft Bill was an overly prescriptive approach to issues for which local authorities already had suitable and effective processes in place. 88% of local authorities who replied agreed with this view.

**Figure 10 – Views on the revised provisions for ‘improvement requests’**



3.77 The Vale of Glamorgan Council stated: “Councils already have a constant dialogue with a host of bodies and groups on what improvements should be made across the whole gambit of Council services and activities. ... Engagements, consultation and complaints mechanisms already exist, and no useful purpose would be served by introducing formal “improvement requests” ... and would only serve to create additional bureaucracy and slow down decision making”.



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

3.78 Respondents overwhelmingly agreed with the principle of the provisions laid out in the Draft Bill, though a number of concerns were raised, such as the cost involved in installing and administering the technological infrastructure, enabling the elderly to participate in a digital democracy, and data protection issues surrounding the recording of proceedings. Further comments related to possible issues arising from the recording and broadcasting of young and vulnerable people taking part in council debates or asserting that recording and broadcasting of meetings should not be a right of every meeting, but it should be encouraged as far as practicable.

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

3.79 The vast majority of those who responded agreed enhancing participation of younger people was to be encouraged and actively pursued. Many of the local authorities who responded stated they already ran youth councils and had a range of initiatives with schools to help foster this cause further. However, some respondents questioned the need to legislate on this point as local authorities were already actively involved on this issue and legislating would only create more work for local authorities, schools and charitable organisations which could hamper the progress in this area.

Other views expressed included:

- Highlighting the issues revolving around the recording and broadcasting of meetings, in respect to the aim of increased young people's involvement in the council.
- Politics should be included in the school curriculum to improve participation.
- Lowering the voting age to 16 would provide young people with the feeling of being able to influence the council and would highlight the groups' needs.

## **Functions of County Councils and their Members**

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

3.80 Respondents commented on a range of issues covered in Part 4 of the Draft Bill, but the majority of responses focused on the performance duties for elected members and the monitoring and reporting roles of standards committees. The common theme showed concern for the proposed legislation being over-prescriptive and, in particular, resource intensive. However, respondents did generally support the idea of adopting these provisions as an effective guidance measure, and

accepted them as a tool to improve the function of local authorities and their members.

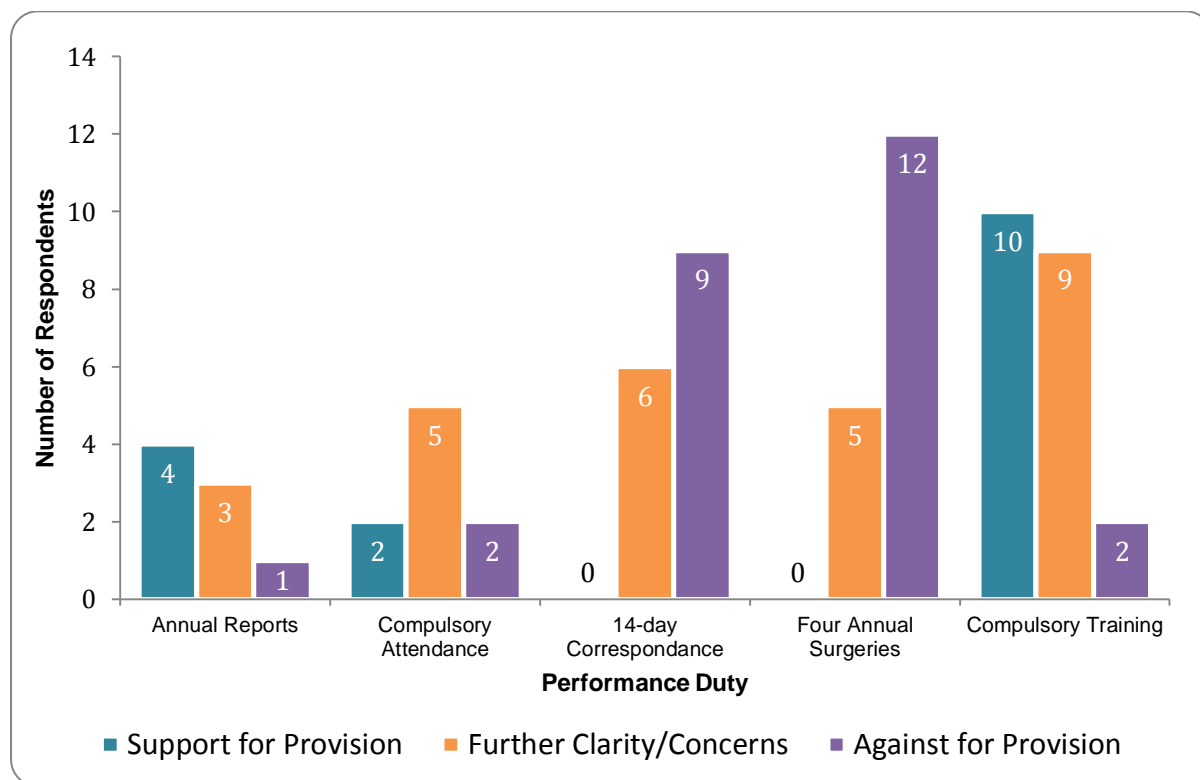
3.81 There was general support with the aim of seeking improvements in the way councillors operated on behalf of their electorate. Respondents favoured applying these measures to elected members as a positive step towards clarifying and modernising the arrangements across local government. However, there were several concerns regarding the specific details of each measure, outlined below.

- Many respondents disagreed with the requirement to hold a minimum of four surgeries per year, and felt this placed an additional burden on members who already had an active engagement with their electorate through other means. Several respondents considered the number of surgeries should be discretionary, rather than prescriptive.
- Respondents supported an increased focus on attendance, however, they pointed out there was no definition of what a '*good reason*' for non-attendance might be, and requested further clarity on this point.
- Many respondents supported the provision of an agreed programme of compulsory training, although many did not support any sanctions for non-attendance.
- The requirement to answer correspondence within 14 days was questioned. Many respondents highlighted this provision was at odds with the requirement for responding to correspondence in other levels of government. Some respondents believed this should fall in line with the local authorities' code of practice.

3.82 Some respondents questioned whether the adherence to the performance standards would automatically equate to 'good performance' in all cases, and suggested they should, therefore, only be used as a guide for best practice. Many respondents believed the highly-prescriptive nature of the proposed performance duties on elected members could also potentially lead to vexatious complaints, especially considering the ambiguity surrounding the criteria for members having a '*good reason*' for non-compliance. In addition, some responses highlighted there was no such statutory requirement on Assembly Members.

3.83 The WLGA believed the standards relating to a councillor's standards of conduct should be applied consistently across all levels of representative government. The WLGA disagreed with the proposed performance duties for councillors, as they appeared to be based upon an outdated understanding of the role of a local councillor, which was at odds with the community activist concept outlined elsewhere in the Draft Bill.

**Figure 11 – Number of respondents and their views relating to the proposal to legislate for the Performance Duties of Elected Members.**



3.84 Many respondents commented upon the monitoring and reporting roles of standards committees and the proposals included within the Draft Bill to legislate for the process of investigating breaches of duty. Respondents suggested the proposed legislation was too prescriptive and could have an adverse impact on the workload of monitoring officers. Some saw potential for the legislation to be used as an effective guidance measure, and for standards committees to refer to the existing Code of Conduct procedures when conducting an investigation into a breach. There were many comments received regarding this specific provision within Part 4 of the Draft Bill and further information can be seen in the responses to Question 4.2 below.

Other views expressed included:

- It was suggested for some of the areas of potential concern listed within the relevant sections, more appropriate alternatives existed. For example, in their current form, the vagaries of when a monitoring officer should refer to the chair of the standards committee could lead to confusion and inconsistent application of the referral process. It was suggested a reduction of the six month attendance rule<sup>4</sup> would provide a much clearer, more objective, and much less resource intensive mechanism to address the issue than that proposed.

<sup>4</sup> Section 85 of the Local Government Act 1972 provides that a member who fails to attend any meeting of the authority throughout a period of six consecutive months shall cease to be a member, unless the reason was approved by the authority.

- The implementation of manifestoes for local authority leaders was welcomed, although there was some concern as to when this should take place.
- A proposal for a mayor combining the three roles of leader, chair and presiding officer with potential savings.
- One Voice Wales believed the sector had a useful and important role to play in the implementation of scrutiny within other public sector bodies. Representatives from appropriate community and town councils should be factored into the make-up of these operations.

***Q.4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the standards committee?***

3.85 The majority of those who responded agreed with the general duty of group leaders to take reasonable steps to promote good conduct amongst members and to co-operate with the standards committee. Many of the respondents supported the proposals allowing of the standards committees to consider complaints about councillors, believing this to be an appropriate safeguard against the misuse of political power. However, there were some concerns the proposed legislative duty could prove to be overly-bureaucratic.

3.86 Some who were generally supportive of the proposals felt the proposed duties placed upon leaders of political groups and standards committees might be overly prescriptive, and it might not be appropriate to apply these proposals with a one-size-fits-all approach. Some felt the proposals within the Draft Bill would be better used as a form of best-practice guidance, rather than as a prescriptive measure. Respondents also suggested the proposals would increase the accountability of councillors and group leaders, which may have the effect of reducing the number of individuals who are willing to come forward to perform those roles. Respondents were also mindful of the increased work burden on the monitoring officer and other local authority staff to carry out local investigations.

3.87 Several respondents felt the proposed duty of the standards committee to consider complaints about councillors who had breached their new statutory duties would move the standards committee to more of a 'performance management' role, rather than their duty to monitor member's adherence to the Code of Conduct. Respondents questioned whether the standards committee was the appropriate body to manage member performance, and the electorate should be the prime arbiters of member performance.

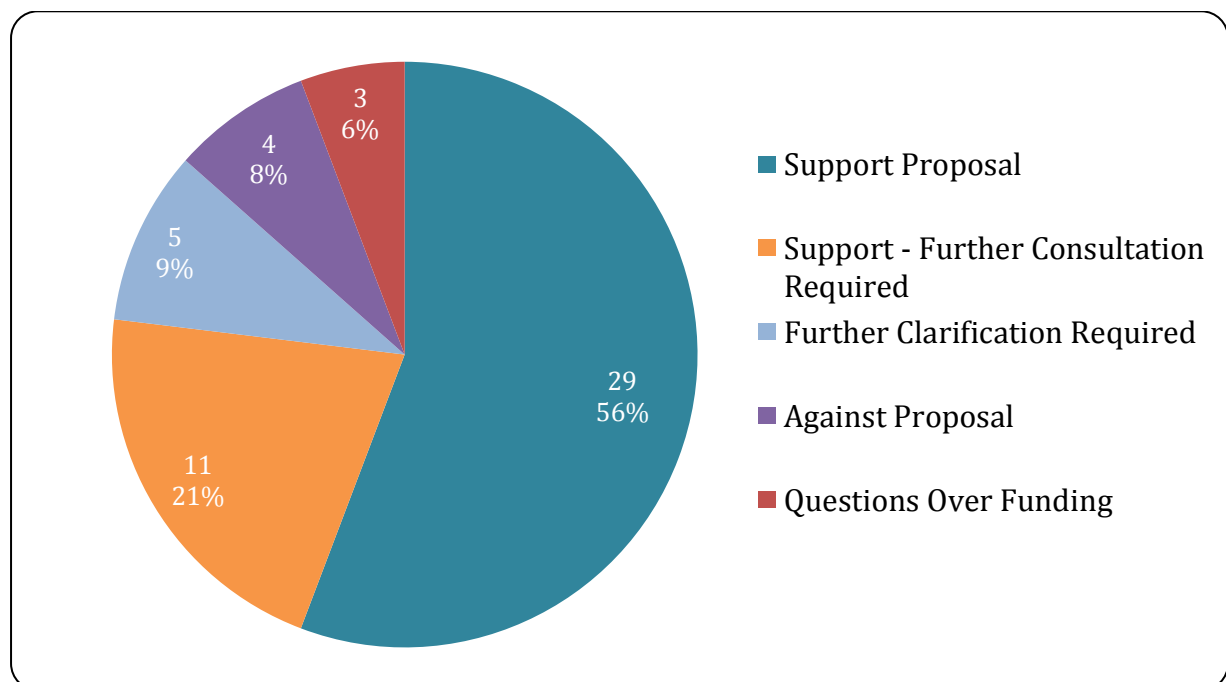
***Q.4.3: Do you have any comments on our proposals in relation to the delegation of functions by local authorities?***

3.88 Respondents generally agreed with the proposals relating to the delegation of functions by local authorities. Many responses suggested a provision for this, included within the Bill, would grant greater flexibility to local authorities to provide services and raise revenue through innovative means. However many respondents

expressed the need for further consultation and the potential for including some prescription to the measure.

3.89 Those who supported the proposal for the delegation of functions felt local authorities would benefit from the introduction of more flexible models of service delivery. Many agreed the existing provisions within the Deregulation and Contracting Out Act 1994 be replaced with a system that allows for the delegation of services to third parties. One Voice Wales supported the proposals within the Draft Bill and acknowledged the intention to create a new power of delegation be extended to include the community and town council sector.

**Figure 12 – Number of respondents and their views relating to the proposal for delegation of functions by local authorities to third parties.**



3.90 Some respondents who supported the proposals felt the provision to delegate functions from local authorities was a practical operational arrangement, subject to the controls and parameters of public accountability. The WLGA, amongst others, supported the proposals to reform regulations concerning delegations of functions and wanted to see further consultation on these proposals as they were developed.

3.91 Those who disagreed with the proposal considered the existing arrangements to be adequate. They believed the introduction of a measure to allow local authorities to delegate functions to third parties would result in further dismemberment of local government and a lack of democratic accountability. One respondent also raised concern over the delegation of any local authority decisions to third parties, if they are not fully accountable to those authorities and not subject to the operation of the Nolan principles.

Other views expressed included:

- Many functions have been allocated to the local authorities by those legislators who approved the primary legislation in the first place, and it would not seem appropriate for the Welsh Ministers to be able to permit delegation of functions by regulations.
- Decisions to delegate the functions of local authorities are most appropriately taken by the authorities themselves to take account of local circumstances and third party structures, which vary across Wales.

***Q.4.4: Do you have any comments on our proposal to give Welsh Ministers a power to direct the Independent Remuneration Panel for Wales (IRPW) to have regard to guidance when reviewing the remuneration framework for councillors?***

3.92 The majority of respondents agreed a review of the remuneration framework for councillors was best set independently and transparently. Respondents strongly believed the IRPW should continue to operate independently of political influence and their determinations should be based on evidence and their engagement with stakeholders. Respondents suggested the proposal to give the Welsh Ministers a power to direct the IRPW when reviewing the remuneration framework for councillors would undermine the credibility of the Panel.

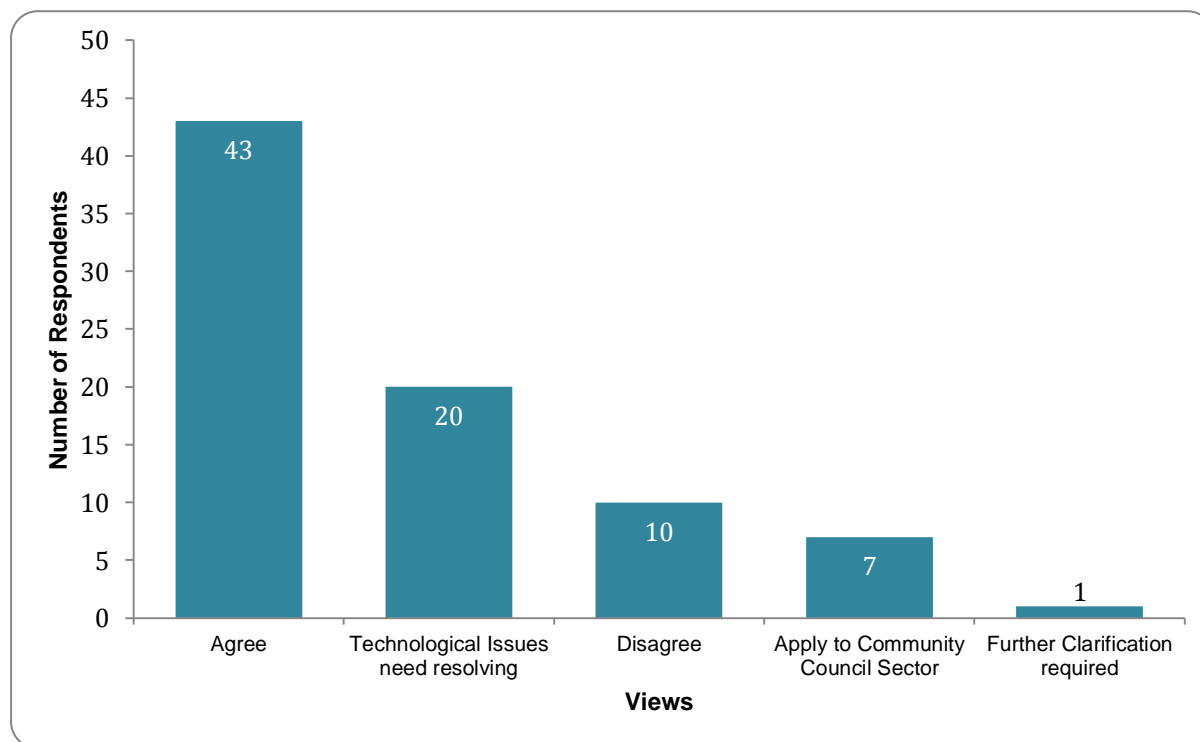
3.93 The WLGA strongly objected to the proposal to give the Welsh Ministers the power to direct the IRPW, though some respondents were in favour. Respondents highlighted community councillors did not receive remuneration and there was support from some community and town councils to consider bringing remuneration and allowances for community councillors in line with local authority councillors, to address increasing workloads and responsibilities.

3.94 One Voice Wales was of the view the proposals would put pressure on IRPW, which may then feel obliged to follow the guidance provided by Ministers, with the IRPW thereby ceasing to have independence. In addition, One Voice Wales also believed the increased or delegated functions of community and town councils which results in increased responsibilities should be adequately recognised in remuneration.

***Q.4.5: Do you agree the provisions relating to remote attendance in the Local Government (Wales) Measure 2011 should be made more flexible?***

3.95 The majority of respondents supported improving the provisions for the use of remote attendance, and respondents recognised this was an appropriate issue to consider, especially as technologies in this area improved. Respondents were in favour of increasing the variety of technology which could be utilised, and felt this would prove particularly useful within a larger local authority, and was seen as a positive step. Respondents also believed the use of modern communications should enable members of community and town councils to participate in meetings remotely.

**Figure 13 – Views relating to the proposal to make the use of remote attendance more flexible.**



3.96 While in support of the proposals, some respondents felt they could only support improved flexibility of remote attendance if its use was reserved for exceptional circumstances. There were concerns raised about the potential for abuse of the system. Many respondents preferred elected members to be present when representing their electors’ views and needs, and it was argued that being present and able to listen to the views of others was important as it gave a sounder judgement.

3.97 Many respondents questioned the technological capability of local authorities to fully adopt the use of remote attendance practices. Several respondents were concerned with connectivity in rural areas in particular, broadband speed, costs, Welsh language preference and confidentiality and felt some decisions could be subject to challenge if technical difficulties arose whilst the meeting was taking place. Powys County Council felt the use of remote attendance should be at the discretion of the authority.

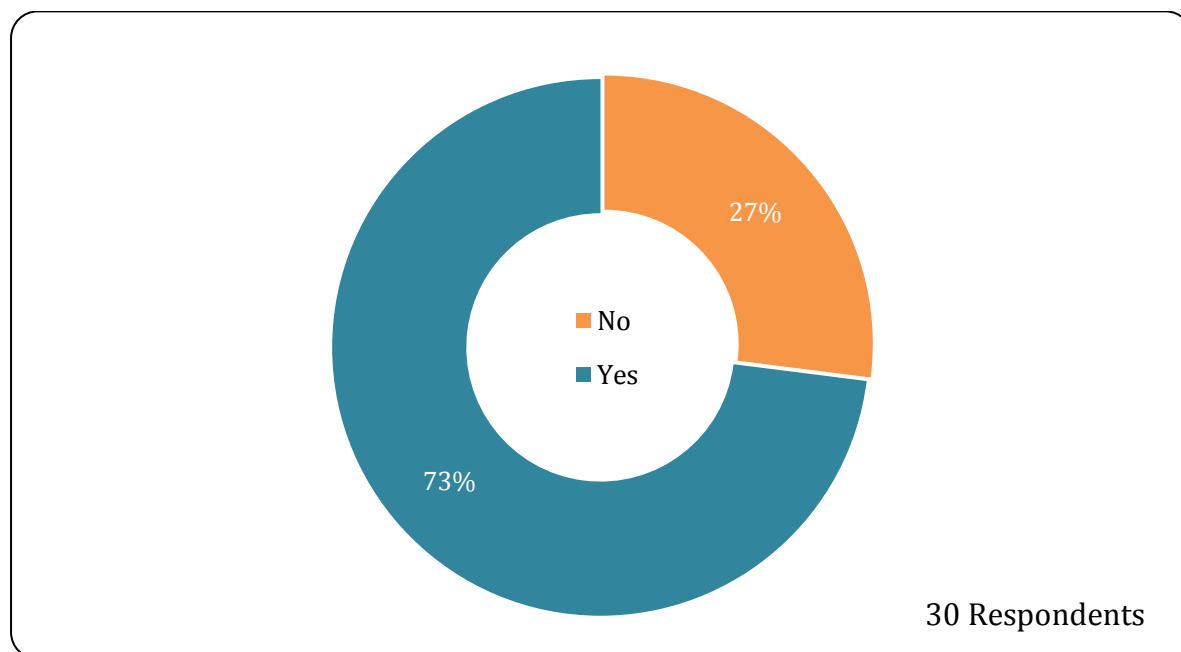
***Q.4.6: Do you have any comments on our proposal that shadow authorities should be required to appoint interim returning officers?***

3.98 The vast majority of responses agreed with the proposal to give shadow authorities the power to appoint returning officers to serve until such time as it was convenient, given the timescales set out in the Draft Bill.

3.99 Conwy County Borough Council gave support to the proposal, however, it raised questions regarding payments for returning officer duties for non-devolved

elections, which would be funded by the UK Government Cabinet Office. Torfaen County Borough Council suggested further clarity could be given within the Draft Bill on the question of which returning officer roles would be regarded within the role of chief executive, particularly with regards to non-devolved elections.

**Figure 14 – Views on the proposal that shadow authorities should be required to appoint interim returning officers.**



**Q.4.7: Do you have any comments on the desirability of giving councils the power to dismiss the chief executive, the chief finance officer, the monitoring officer and the head of democratic services through a vote?**

3.100 Respondents generally agreed the proposals to introduce the power to dismiss the chief executive, the chief finance officer, the monitoring officer or the head of democratic services through a vote could leave local authorities exposed to costly constructive or unfair dismissal claims and believed the dismissal procedures should remain in line with employment law. Many were of the view the existing arrangements, which retain an independent person to justify the decision to dismiss a senior officer, were an important safeguard within the process.

3.101 Many respondents also felt there is a danger the proposal could be subject to political influence and there was strong opposition to the suggested provision. Some agreed dismissal should only be considered when an independent investigation justified the dismissal, while a voting system could be open to abuse. In addition, respondents felt there was a need to protect statutory officers who may feel professionally unable to support such a decision.

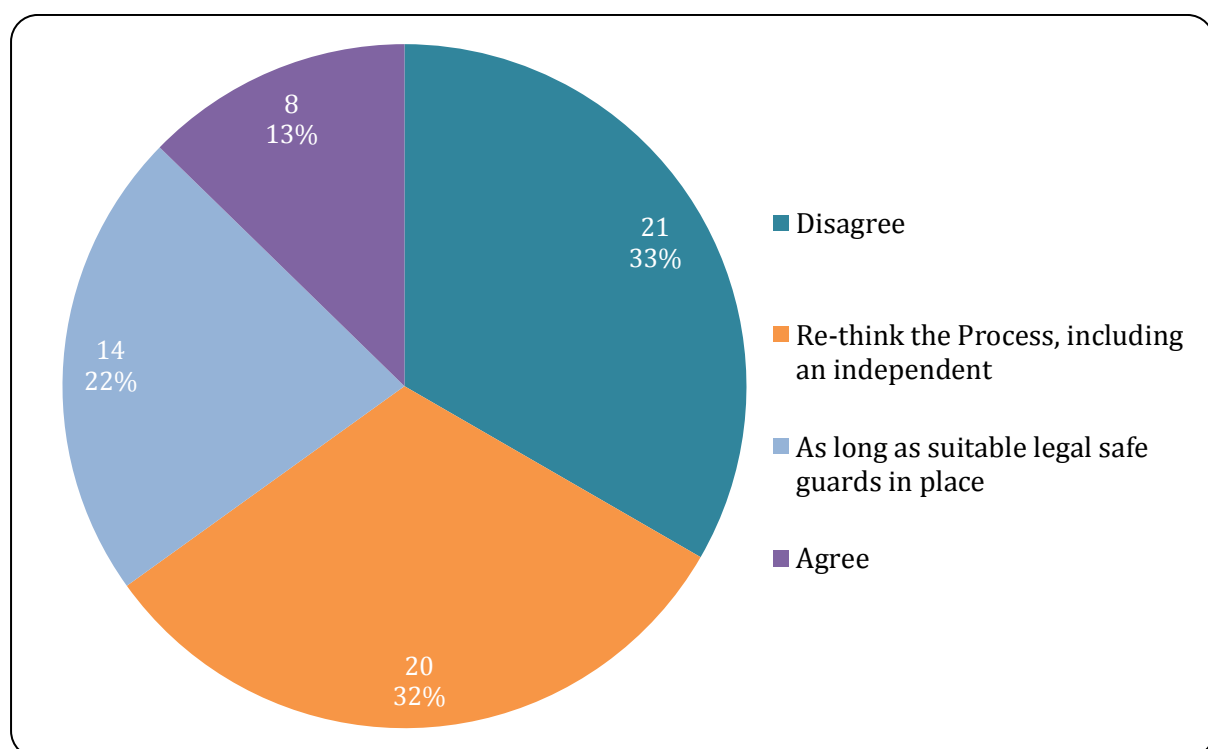
3.102 However, some respondents felt the introduction of a power to dismiss senior officers through a vote would be desirable and the ability to do so would help ensure accountability. Respondents highlighted the current Designated Independent Person (DIP) process could be lengthy and bureaucratic, and involve substantial costs. It



was recognised strict legal safeguards would need to be implemented to avoid the potential for claims of unfair dismissal.

3.103 The WLGA, amongst others, suggested an alternative process needed to be sought. It recommended a review of the existing statutory process with a view to replacing it with a streamlined alternative which still incorporates a role for an independent third party. In support of the above, the Association of Local Authority Chief Executives highlighted that in England, although the DIP provision had been repealed, the replacement provision requires a council to consider the advice and views of an Independent Panel before dismissing a statutorily-protected officer.

**Figure 15 – Number of respondents and their views on the proposals to give councils the power to dismiss the chief executive, the chief finance officer, the monitoring officer and the head of democratic services through a vote.**



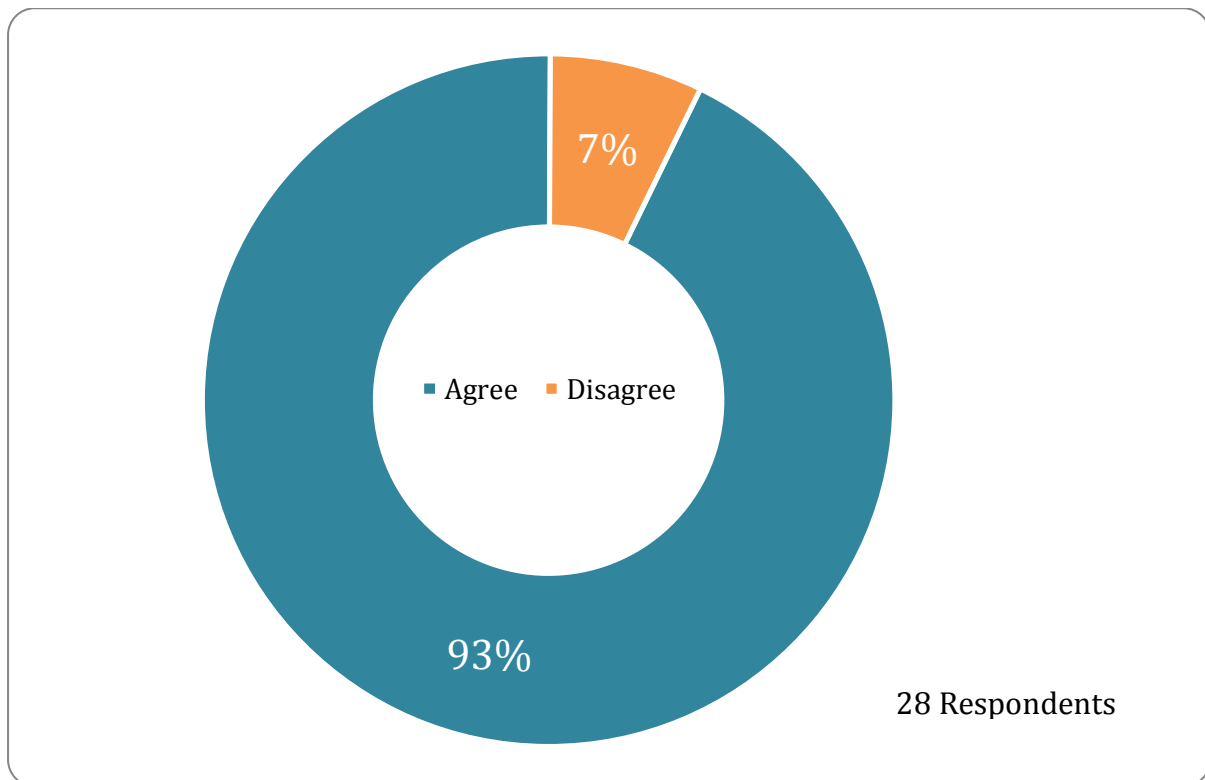
**Q.4.8: Do you have any comments on our proposal to change the framework within which councils and their executive determine how their functions are to be allocated?**

3.104 Respondents generally agreed the existing framework for allocating functions within councils was outdated and required greater flexibility in order to best fit current practice. Many respondents highlighted the proposals would rectify the current allocation issue faced by local authorities whereby the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) fail to keep up with changes in other legislation.

3.105 The vast majority of respondents welcomed the introduction of a more liberal provision and agreed the existing functions were overly prescriptive. The WLGA

welcomed the proposal to reform the framework. It commented that since the introduction of executive arrangements through the Local Government Act 2000, there had been a complex framework relating to the responsibilities for the discharge of certain council functions, duties and powers. Respondents agreed the changes would help to avoid stagnation of duties and would better reflect current practice.

**Figure 16 – Views on the proposal to change the framework for allocating functions within councils.**



3.106 Respondents felt the decision to allow councils and their executives the ability to delegate their functions allowed for greater determination on such matters. Torfaen County Borough Council agreed for key strategic policy decisions to remain the responsibility of the full council, and also suggested the principles in the Draft Bill should include the setting of the council’s key priorities and objectives within its corporate plan.

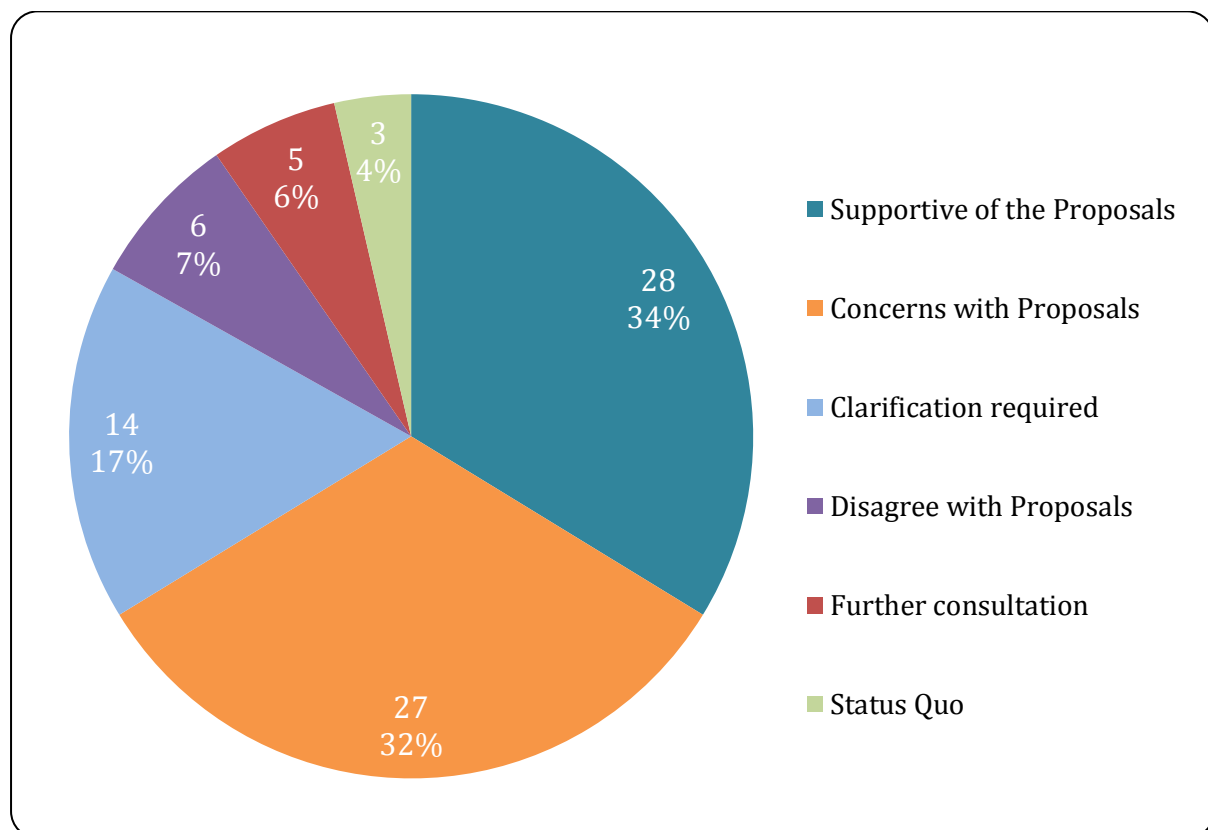
3.107 Denbighshire County Council believed in some form of consistency amongst authorities, particularly where they may wish to collaborate or operate joint committee arrangements in the discharge of their functions. This view was further supported by Bridgend County Borough Council who did not consider it appropriate for authorities to have different allocations of functions. It considered this to be confusing for the public and counter to the aims of the legislation to make local government more accessible to the public

***Q.4.9: Do you have any comments on our proposals in relation to the disposal and transfer of local authority assets?***

3.108 Respondents generally felt the proposals to legislate for the disposal and transfer of local authority assets would be a positive step and help reduce the existing barriers to asset transfer between local authorities and community bodies. Many respondents agreed this was a complex issue to resolve, although appreciated the need to address it in a time where local authorities were looking to cut costs and improve efficiency.

3.109 Many respondents agreed the proposals seemed fair and reasonable in principle, but believed community and town councils should be given the option to acquire the asset before it was offered for sale. Respondents also suggested consideration could be given to facilitating transfers at below market value where there were clear community benefits. However, respondents highlighted a need to balance how a community asset transfer can benefit local services, against any financial implications that are borne.

**Figure 17 – Number of respondents and their views relating to proposals for the disposal and transfer of local authority assets.**



3.110 Respondents recommended the creation of a community asset register, to include all assets over a specified value. The WLGA was broadly supportive of the principles around community asset transfer and noted many authorities already worked closely with communities regarding the transfer or management of community assets. Respondents also highlighted a need for a clear disposal process to ensure there was no obligation for the local authority to retake ownership or for the community or town council to sell on assets for a profit.

3.111 Respondents raised a range of concerns including the resource implications for local authorities and community bodies, the potential lack of legal and health and safety expertise within some community bodies, the need for capacity building, business advice and development support to help community bodies take on assets and services.

3.112 Many respondents felt further clarification of the terminology in the Draft Bill was required in order to minimise any risk of differences of interpretation.

Other views expressed included:

- The Federation of Small Businesses (Wales) were concerned the current disposal of assets had overly prioritised the not-for-profit sector and have not allowed small, local businesses to take on local authority assets.
- While there was broad support for the idea that communities should have “first refusal” when community assets are put up for sale, there are also some concern over how charities owning assets would fit within this framework. Assets held by charities must, under charitable law, achieve best value on disposal. It is difficult for a charity to sell at less than market price unless there are very clear benefits to the charity in terms of its charitable objects.

## **County Councils: Improvement of Governance**

### ***Q.5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?***

3.113 Nineteen of the local authorities, the WLGA and the Society of Local Authority Chief Executives (SOLACE) responded to the questions covering Part 5 of the Draft Bill. All agreed good governance was essential in any public organisation. However, they cautioned this should not be set out as proposed in the Draft Bill, suggesting a duty be placed on local authorities and their representative bodies to develop a ‘Best Practice’ guide or forum, where good governance methods and ideas could be shared.

3.114 Another strong view held among the respondents was the reporting procedures laid out in the Draft Bill should link in and be associated with the varying reporting structures established in the Well-being of Future Generations (Wales) Act 2015. Monmouthshire County Council stated: *“It is therefore unclear why there needs to be two separate statutory duties to produce what are, in essence, the same set of principles.”* Caerphilly County Council stated: *“There is an opportunity to streamline local government planning and performance reporting as well as reinforcing our Well-being Duty as our organising principal by making it clear that Local Authorities can bring these together into a single planning and reporting framework.”*

3.115 Further comments centred on the membership of the corporate governance and audit committees. Some respondents stated this was too prescriptive and

decisions regarding the membership of the committee should rest with the council itself, dependent on experience and the committees' functions. Many of the local authorities praised the work of the lay member on the committee, with Wrexham County Borough Council stating their lay member is the chair of the committee; however, they state the work of the committee is often complex and needs officer-led discussions.

**Q.5.2: Do you have any comments on our proposal to subject local authorities to a governance arrangements duty?**

3.116 Twenty-eight respondents (90% of those who commented) agreed good governance was essential, however, as SOLACE stated: *“Councils should be entrusted to self-govern and self-improve. Excessive external regulations, and interference and intervention by national government and national bodies, has had questionable impacts and can be debilitating force in under-mining local confidence to self-improve. A balance has to be struck between external regulation and accountability, and local and internalised self-regulation.”*

3.117 Additional comments centred on ‘stream-lining’ the reporting structures laid out in the Draft Bill to those already established under the Well-being of Future Generations (Wales) Act. The WLGA stated: *“The good governance, corporate planning and reporting proposals, as outlined in the Draft Bill should be better aligned with the new duties of the Wellbeing of Future Generations (Wales) Act 2015. The specific corporate planning proposals (and other objective setting proposals elsewhere in the Draft Bill) duplicate new Wellbeing duties and therefore will increase internal bureaucracy and do little to aid public understanding or accountability.”* A small number of respondents questioned the need for additional structures as this will create additional resource implications for local authorities; creating a complex regulatory framework within which to operate.

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

3.118 Seventeen of the local authorities, plus the WLGA and SOLACE agreed peer and self-assessments were crucial for developing and improving services. However, they overwhelmingly agreed this should not be legislated for as proposed in the Draft Bill. The WLGA, supported by a number of local authorities stated *“...Peer review should remain a sector-led, sector-owned and sector-commissioned model and should not be legislated for. This is the model applies to England and currently in Wales, which operates with some success and credibility. The WLGA therefore does not agree that there should be legislative requirements for peer reviews.”* The WLGA went on to state: *“At present, peer review is an effective improvement process owned by, designed and timed to meet the needs of authorities. The suggested model turns it into a quasi-regulatory role which potentially duplicates the role of the Wales Audit Office. Formalising the process will affect the dynamics and flexibility of the review process and the openness and ownership of the authority.”* In addition to the comments mentioned above, the WLGA provided an example where the peer-review process, as laid out in the Draft Bill, would create a system which was excessive and caused unintended consequences. They stated *“...for example, councils would only be allowed to choose Welsh peers from a non-*

*neighbouring authority; given Powys County Council borders all but one of the proposed new County Councils, the only Welsh peers that the council would be permitted to use would be the new Cardiff-Vale of Glamorgan council.”*

Other views expressed included:

- The Auditor General for Wales questioned the model stating: “...my view is that the available pool of potential peers that meet the requirements set out in the annex is currently very small. Considerable effort will need to be made in developing such a pool and building capacity in the sector as well as quality assuring potential reviewers.”

**Q.5.4: Do you have any comments on the proposed role for the corporate governance and audit committee in relation to the local authority’s response to the self assessment, peer assessment, combined assessment and governance review?**

3.119 The majority of the respondents agreed to the role of the corporate governance and audit committees in regards to its functions in holding the local authority to account. However, the perceived prescriptive nature of these committees, as laid out in the Draft Bill, received a largely negative reception from the respondents.

Other views expressed included:

- Any recommendations made by the committee should be binding on the county councils.
- Questioned the need for these prescriptive measures, which could detract from the important work that the committee undertakes.
- The committees should be set up in all public bodies to improve public accountability and accessibility.

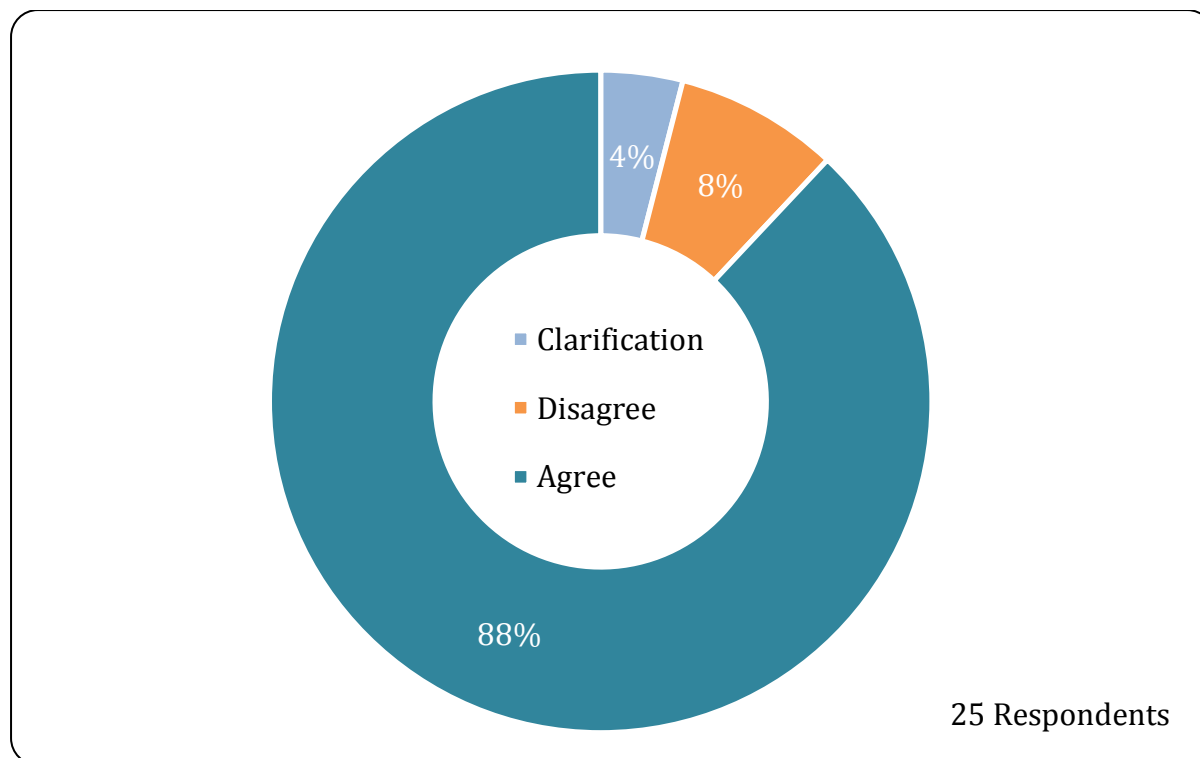
**Q.5.5: Do you have any comments on our proposal to reject local public accounts committees?**

3.120 The majority of respondents agreed there was little need for local public accounts committees due to the numerous other methods of scrutiny of functions set up under the Draft Bill, in addition to the Well-being of Future Generations (Wales) Act 2015.

3.121 A number of local authorities and the WLGA, suggested methods by which various committees could be strengthened to enhance their remit over scrutiny of public services in their areas, creating a more flexible approach. The WLGA stated “*Although scrutiny committees could continue to exercise the power under S21 (2)(e) of the Local Government Act 2000 ‘to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area’, the WLGA would favour an amendment to S169 of the Well-being of Future Generations (Wales) Act 2015 or implementation of the scrutiny of*

designated persons regulations to give local authority scrutiny (and therefore local democratic representatives) greater remit over the scrutiny of public services in their areas.”.

**Figure 18 – Views on the rejection of local public accounts committees**

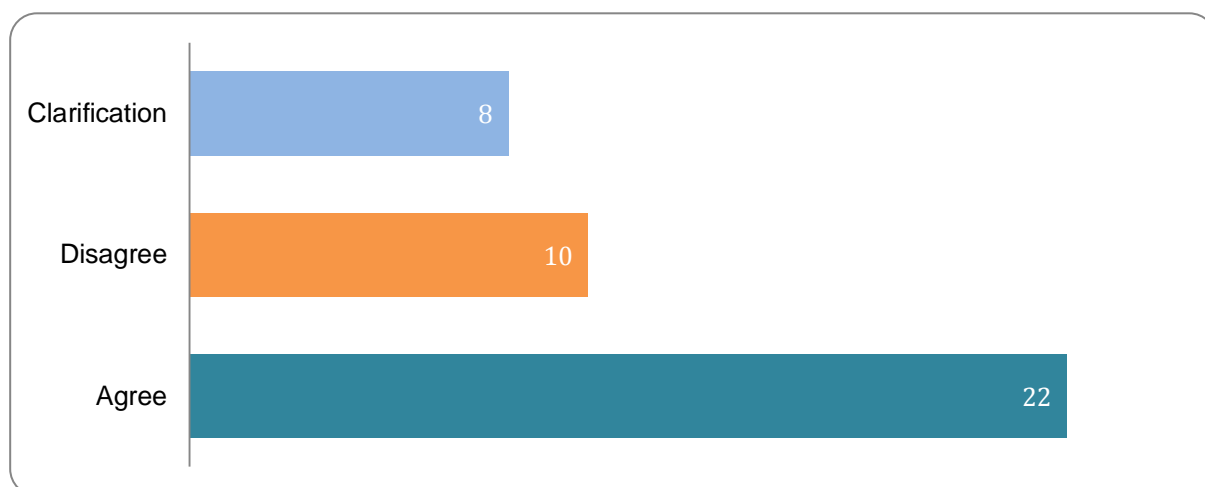


**Q.5.6: Are public services boards the right bodies to examine the policy choices facing local public services?**

3.122 There was general consensus among the respondents that public services boards were the correct body to examine the choices local authorities make in regards to the provision of local public services.

3.123 Nonetheless, ten respondents disagreed the public services boards should assess the policy decisions of local authorities. Powys County Council stated “*The Public Services Board has a role to play. However the Local Authority should have the role of scrutinising policy choices.*” Merthyr Tydfil County Borough Council commented further: “*Public Services Boards and their individual member organisations were established to consider and inform (through wellbeing assessments) the policy choices facing public services. As noted above, local authority scrutiny needs to be strengthened to allow locally elected members a broader remit in examining policy choices facing all public services (either individually or collectively) in their area.*”

**Figure 19 – Number of respondents and their views on whether public services boards are the right body to examine the policy choices on public services?**

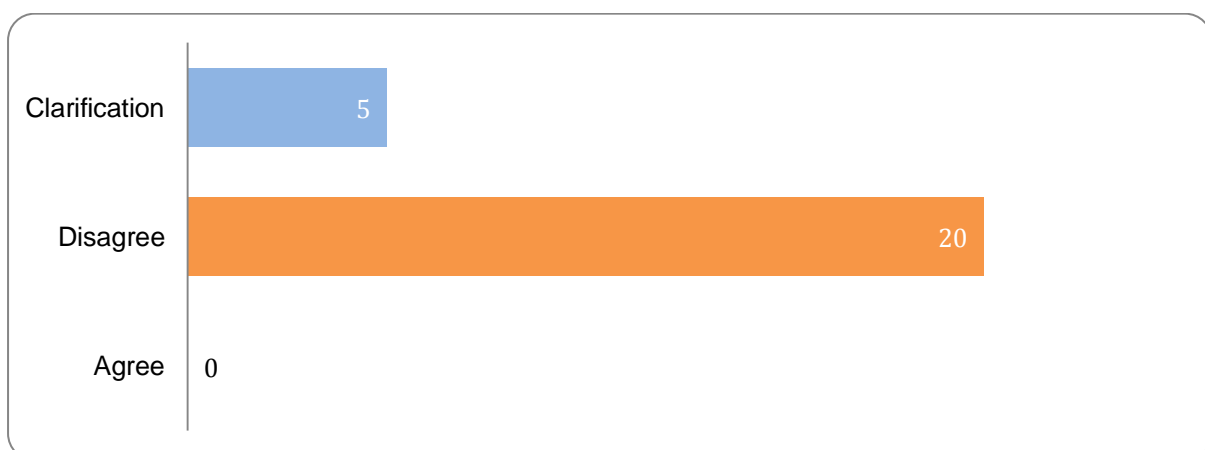


3.124 A small number of respondents felt they needed additional information regarding the operation of public services boards, as they are still relatively new entities with unknown results.

***Q.5.7: If so, would they benefit from additional legal powers?***

3.125 Notwithstanding the responses to the question above, the majority of respondents felt the powers given to public services boards in the Well-being of Future Generations (Wales) Act would be sufficient to enable them to examine the prospective policy choices facing local public services.

**Figure 20 – Number of respondents and their views on whether public services boards benefit from additional legal powers?**



3.126 A number of respondents thought clarification was needed on the operation of public services boards before they could comment any further. This was as a result of the relatively short period since public services boards had been in existence.



**Q.5.8: What legislative measures could be considered to enable local government to take a public sector-wide shared services role?**

3.127 Overall, respondents felt further clarification was needed over this aspect of the consultation before they could make any further comments. The WLGA and several local authorities raised fears of running certain services in a commercial setting due to other legislation which would restrict their continued operation. Nonetheless, some local authorities felt there were enough legal safeguards available to them, in order to operate arms length trading companies presently, and they felt no further legislative measures would be needed.

3.128 Torfaen County Borough Council felt councils were able to operate commercial operations under existing legislation which was sufficient to the desired aims of the Welsh Government without the need of further legislation. However, they felt the biggest problem regarding shared services was the, “...*cultural attitudes and protectionism within public sector organisations...*” which would not be affected by any legislative measures, but by a sector-led intervention and discussion groups.

3.129 UNISON raised concerns regarding any shared services between councils with other organisations such as the police or health boards, or private companies which were not democratically elected, and could further undermine local accountability and democracy.

## **Community Councils**

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

3.130 Respondents commented on a range of issues covered in Part 6 of the Draft Bill, but the majority of responses were focussed upon the criteria and processes involved within the review of community and town council arrangements across Wales. Many respondents felt further clarity was required with regards to the ‘grouping’ of community councils in particular, and although many identified the benefits of merging smaller community councils, it was noted within some responses this could create more remote community representation and cohesion.

3.131 In addition to recommending a need for further clarity relating to the criteria to be applied when reviewing community and town councils, several responses stated a belief in the importance of assessing the impact a review would have on the funding arrangements for the sector. Many suggested the local electorate would have a strong opinion on this issue and would likely object to any changes which affected them directly. Respondents noted there would be increased pressure on community and town councils to ensure they are delivering value for money if the structure and functions change. There were considerations relating to building capacity and capability within the sector.

3.132 Many respondents acknowledged the need to produce annual reports and gave general support to the proposal to require councils to prepare and publish reports which allow local people to understand what the council has achieved.

Other views expressed included:

- One of the first important tasks when undertaking a comprehensive community review is to set the size for the community councils (or common councils). This forms a central pillar to how such a review may be conducted. The Draft Bill makes little mention of council size, nor does it require the LDBCW to consult on its proposed community council size policy (either an all-Wales policy, or eight or nine individual ones).
- While there are requirements to inform and send copies of the implemented recommendations to the LDBCW, community councils, local authorities and the Welsh Government, there is no mention of sending electoral arrangements orders to Ordnance Survey.

***Q.6.2: Should the LDBCW be required to submit their draft reports to shadow authorities from May 2019?***

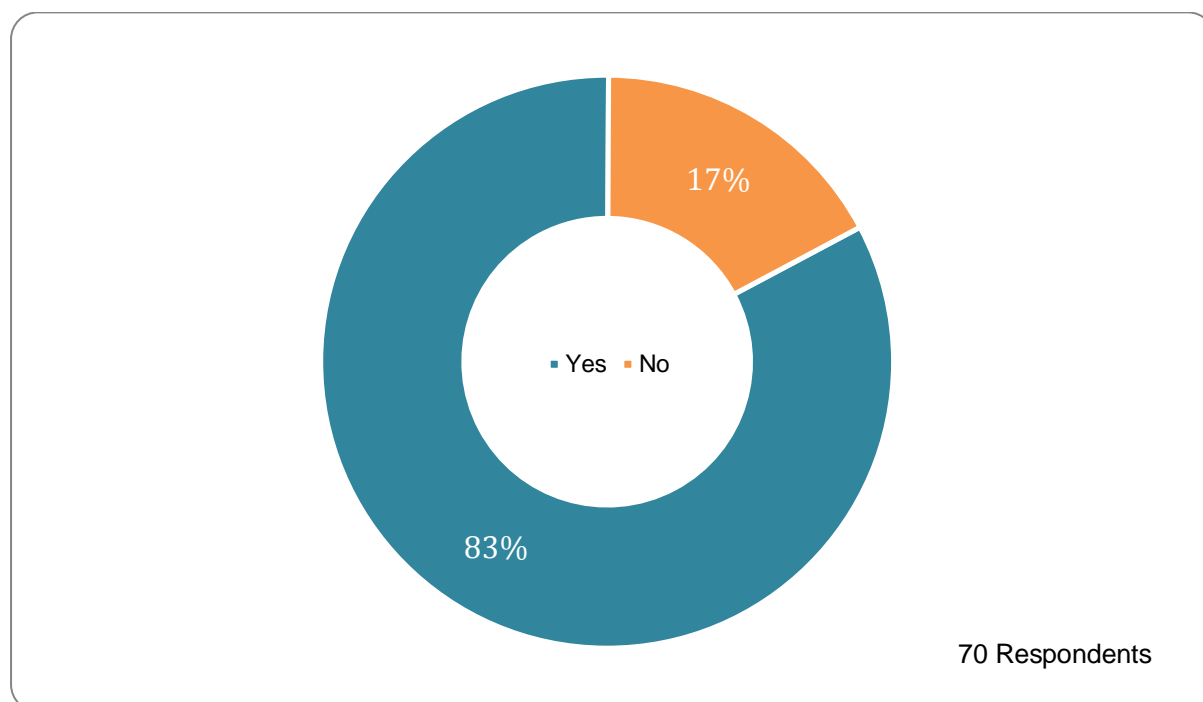
3.133 The majority of respondents were in support of the proposals to require the LDBCW to submit their draft reports to shadow authorities from May 2019. The responses submitted to the Draft Bill generally accepted this proposal would allow the LDBCW to submit their draft recommendations earlier and allow for more timely consideration of proposals. The WLGA reinforced this view within their consultation response and other respondents also acknowledged how the earlier availability of draft reports would assist in reducing any period of uncertainty which resulted from local government reform.

3.134 Some respondents who were not in favour of the proposal to report in 2019 stressed the importance of LDBCW having the required amount of time and resources in order to ensure proposals are fully considered. One Voice Wales were against placing a limited timeframe for the completion of a critical exercise and suggested an April 2020 timeframe would be more realistic, considering the volume of community and town councils across Wales.

3.135 One common theme was the importance of the LDBCW being equipped to take a fair and considered approach to this significant task, particularly if smaller councils are to be merged into larger councils. Also, it would be important to allow sufficient time for the LDBCW to conduct a thorough assessment to deliver the right outcome first time round.

3.136 The LDBCW response acknowledged the review of community councils would be resource intensive and wished to work with Welsh Government to identify the resources required to undertake the programme of work within the required timescales. The LDBCW confirmed its preferred timetable would be to submit draft reports from May 2019, as this would allow the Commission to timetable and conduct the reviews in an orderly manner.

**Figure 21 – Views on whether LDBCW should be required to submit their draft reports to shadow authorities.**



Other views expressed included:

- SLCC supports the modification of section 30 of the Local Government Act 1972 to prevent a community application being made for a period of time following the proposed implementation orders come into force. This would allow common councils to become established without the threat of being immediately abolished as a result of general public dissatisfaction with any element of the community council review programme.
- One Voice Wales members want the Welsh Government to provide directions to the LDBCW to have due regard to the safeguarding of the Welsh language when making its recommendations.

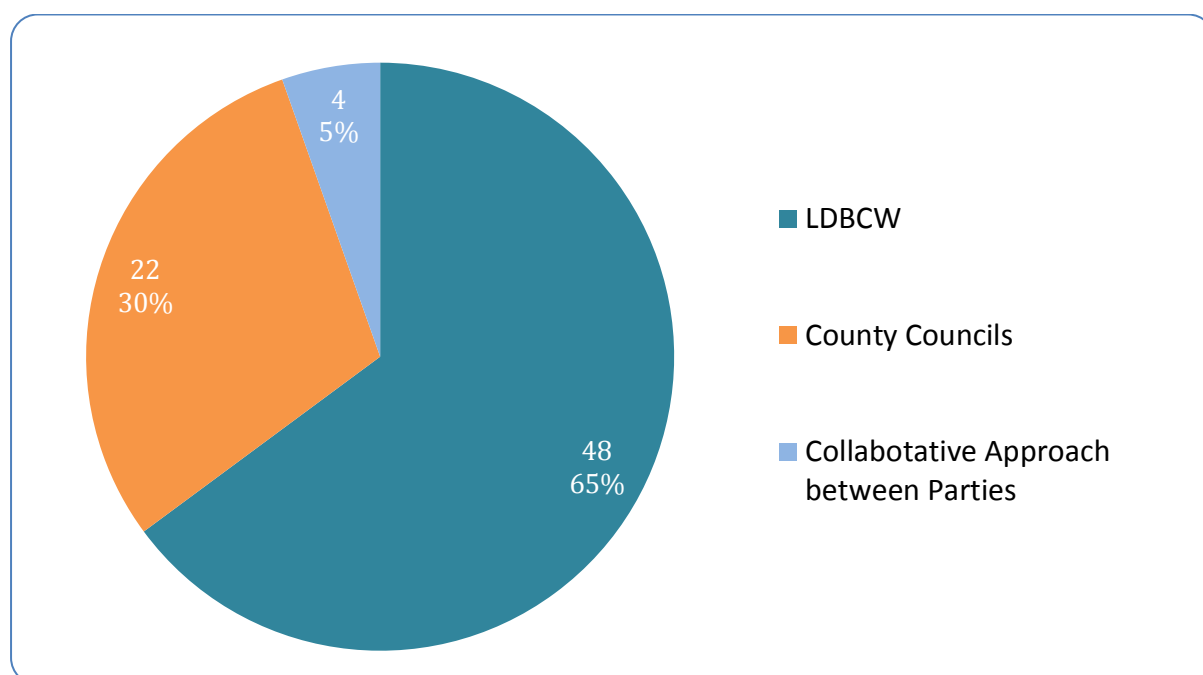
**Q.6.3: *Should the new county councils implement the LDBCW's recommendations or should this be a responsibility of the LDBCW itself?***

3.137 Respondents generally agreed with the proposal to amend the provisions within the Draft Bill to allow the LDBCW to implement their own recommendations by Order. Many responses acknowledge the final proposals produced by the LDBCW would be required to consider feedback and opinion from councils and local communities when formulating their proposal reports, and provided this is done consistently, respondents felt it would be appropriate for the LDBCW to produce the Orders to implement these recommendations.

3.138 A number of consultation responses did submit a preference for local authorities to implement the recommendations of the LDBCW. However, some

highlighted this would only be appropriate provided there was sufficient staff resources to do so. Respondents stressed the importance of considering local knowledge when reviewing communities and some councils believed they would have better knowledge of their communities, suggesting there should be a robust consultation process and a political input when formulating recommendations. Conversely, some respondents believe the responsibility for implementing recommendations would be best placed with the LDBCW to avoid the possibility of Ministers or local authorities attempting to use this power to unduly influence outcomes of such reviews.

**Figure 22 - Number of respondents and their preferences for who should be responsible for implementing the LDBCW's recommendations.**



3.139 On the whole, respondents agreed an inclusive approach in formulating the proposals would be beneficial, to ensure an appropriate amount of local feedback and knowledge was taken into account by the LDBCW.

Other views expressed included:

- The Draft Bill does not make provision for appeals against the outcome of boundary reviews conducted by the LDBCW.

**Q.6.4: Do you have any comments on our proposals relating to compulsory training for community councillors?**

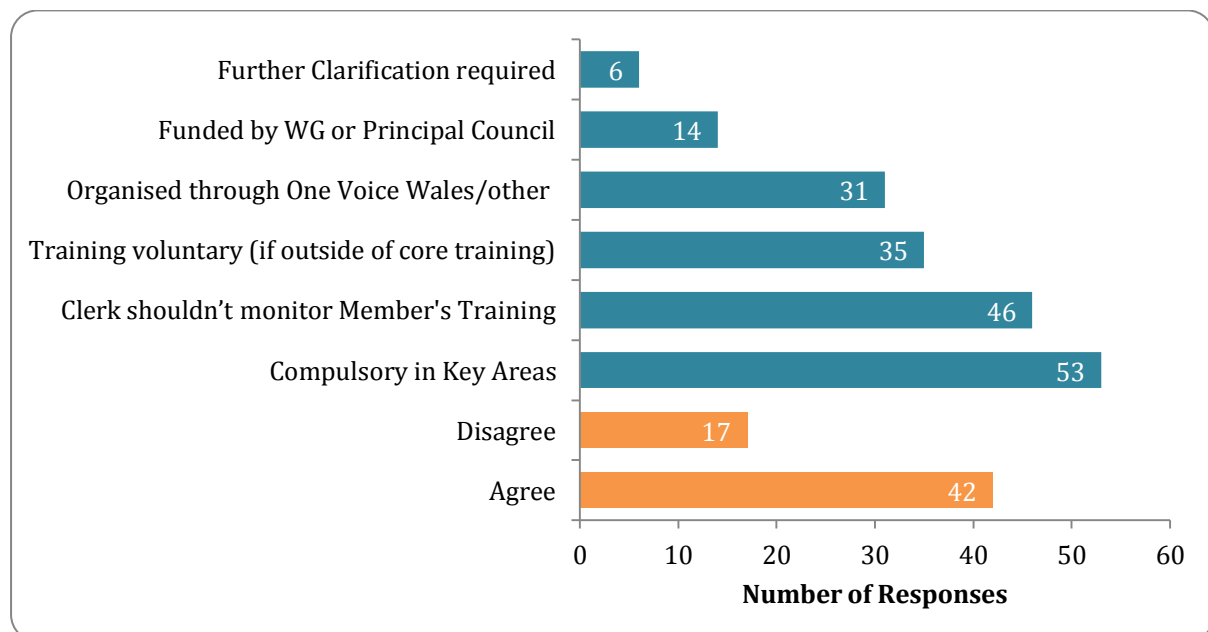
3.140 The majority of respondents agreed with the principle of training for community councillors and saw this as a benefit for both the council and their councillors, particularly with regards to core subject areas required for their roles. Some of the areas put forward as core were basic induction, code of conduct, finance and

planning. However, there was strong resistance to county councils being responsible for determining compulsory training.

3.141 Many respondents highlighted the role of a community councillor was voluntary and, therefore, non-key training should not be made compulsory. It was suggested as there was no requirement for elected representatives to have a minimum prescribed level of education when taking the role, applying compulsory training commitments might discourage some from standing for election and prevent sections of the community from council involvement. There was also a suggestion the expectation of councils in relation to training should differ depending on their size.

3.142 With regards to the monitoring of members' training, a large number of responses highlighted concerns about placing this responsibility on the clerk within a community council. Many considered this option would ultimately place an unnecessary strain on the good relations between the clerk and the council, in addition to adding unnecessary work to an already busy workload. One respondent recommended the standards committee as the appropriate body to investigate and issue appropriate sanctions, so relations between the council, councillors and the clerk were not strained.

**Figure 23 - Views on the proposals relating to compulsory training for community councillors.**



3.143 A number of respondents were supportive of proposals to ensure all members were able to receive the same high standard of training. Many stated this could be achieved through the use of an overarching body, such as One Voice Wales, to deliver and apply accreditation for training within the community council sector.

3.144 Some respondents commented on the increasing responsibilities to be placed on community councils as a result of the proposals and thought community councillors needed to have the necessary knowledge to undertake their new duties.

Respondents suggested the determination of funding should be considered by the Welsh Government and appropriate funding provided to community councils to undertake this. One respondent suggested the training provision should be linked to the review of the functions of One Voice Wales.

***Q.6.5: Do you have any comments on our proposal to extend the term of community councillors elected in 2017 to six years?***

3.145 Respondents proposed a variety of options for the timetable of community council elections after 2017, although the need to address this effectively during a period of significant reform was recognised. The proposal for a, one-off, six-year term from 2017, received plenty of support and many saw this as the pragmatic approach to take during this period of change.

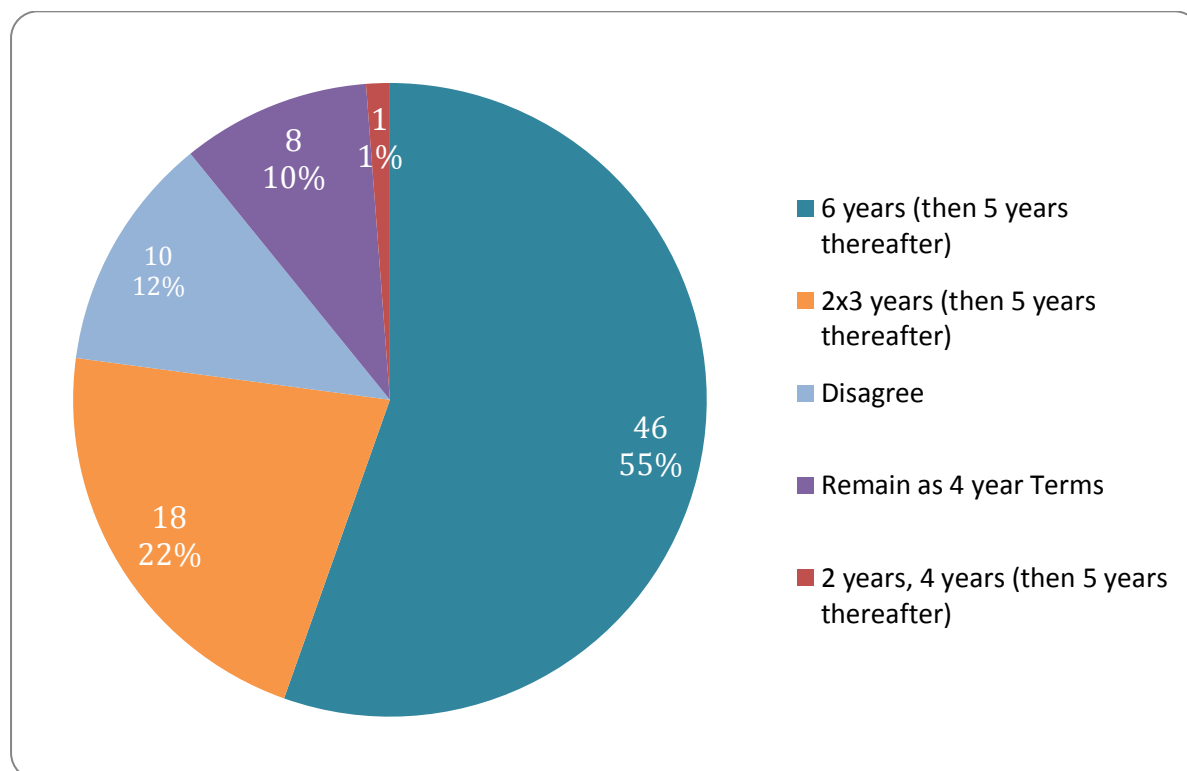
3.146 It was suggested by those who agreed with the proposal for a term of six years that, although it was a long period to stand in office, it would be necessary to ensure continuity and facilitate smooth transition. Respondents acknowledged this proposal was intended to cater for a unique set of circumstances and would be operationally effective, as well as being the most cost effective option.

3.147 The primary concern within the responses was from those who felt the single six-year term, although proposed as a one-off, would simply be too long. Respondents believed this proposal was not in the interests of healthy local democracy and, consequently, could put off potential councillors from standing for election due to the length of commitment required. Some respondents also highlighted the difficulties of managing potentially “difficult or sedentary members” over an extended period.

3.148 Although the majority of respondents indicated a preference to support the option for one six-year term, followed by five-year terms thereafter, there were many suggested alternatives. The most popular alternative recommendation was to adopt subsequent three-year terms from 2017 and continue with five-year terms from 2023. Some respondents were of the view two terms of three years would be more democratic for their electorate, and more appealing for attracting candidates. One respondent felt this would also help in building the two thirds elected member criteria for competence accreditation. However, others preferred the single option of a six-year term because of the costs of holding two elections during the same period.

3.149 Some respondents were against the change to the existing electoral timetable and felt any proposal to amend the term lengths either way could create problems. A number of those against a change felt the terms for community council and county council elections did not necessarily have to match the Welsh Assembly Government election dates going forward and, therefore, the existing 4-year term timetable should be retained.

**Figure 24 – Number of respondents and their preferences for community councillor’s term in office, from 2017 onwards**



**Q.6.6: Do you have any comments on our proposal that community councils should be required to consider and plan for the training needs of their own members and employees?**

3.150 Overall, respondents agreed it would be beneficial for both councillors and employees to properly consider and plan for the training needs of their own members and employees. The majority of responses supported the proposals for community councils to determine their own training needs, although many questioned the need for compulsory training, believing community councils were best placed to consider their training needs. Those respondents felt the duty should be left to individual community councils to consider and agree any non-mandatory training with its members, including a requirement for regular review and adequate budget allocation. However, responses did highlight the potential drain on resources required to plan for training, in combination with writing annual reports and managing performance, which would adversely affect smaller community councils in particular. Many suggested various alternatives for who should be responsible for planning training needs.

3.151 Some respondents had a preference for county councils to include the training needs of community councils within their training programmes, suggesting they would be best placed to deliver cost effective, and appropriate, training to community councillors in topics where there is a shared duty or function. One respondent believed smaller community councils would welcome guidance on training from county councils, provided a national framework existed to allow councillors to supplement skills.

3.152 Many One Voice Wales members stated they would be wary of having their training needs guided by county councils following potential reorganisation and agreed it would be suitable to have a training regime regulated by their own sector. One response highlighted One Voice Wales already provided an annual training programme which was received by all member councils for consideration. One Voice Wales believed it was ideally placed to support and monitor such developments with appropriate support from Welsh Government. Although there was support within some of the responses which recommended a collective body within the sector could oversee training requirements, one respondent did not agree with granting a monopoly on delivering or determining training needs.

3.153 Some respondents noted the need for further clarity on what functions community and town councils were to carry out. They felt it was not possible to comment on training needs until the role of these councils was defined. Consequently, the power to prescribe training should be a reserve power and not for immediate implementation.

***Q.6.7: Do you have any comments in relation to the setting of objectives for a community council clerk?***

3.154 The majority of respondents supported the introduction of a performance management framework for community council clerks and believed the setting of objectives was a matter of good employment practice. However, many responses stressed this needs to be proportionate to the size of the council. Overall, the respondents believed smaller councils should be encouraged to set objectives for their clerks although it was acknowledged the proposals for training, annual reports and performance management would be a burden on resources for smaller community councils.

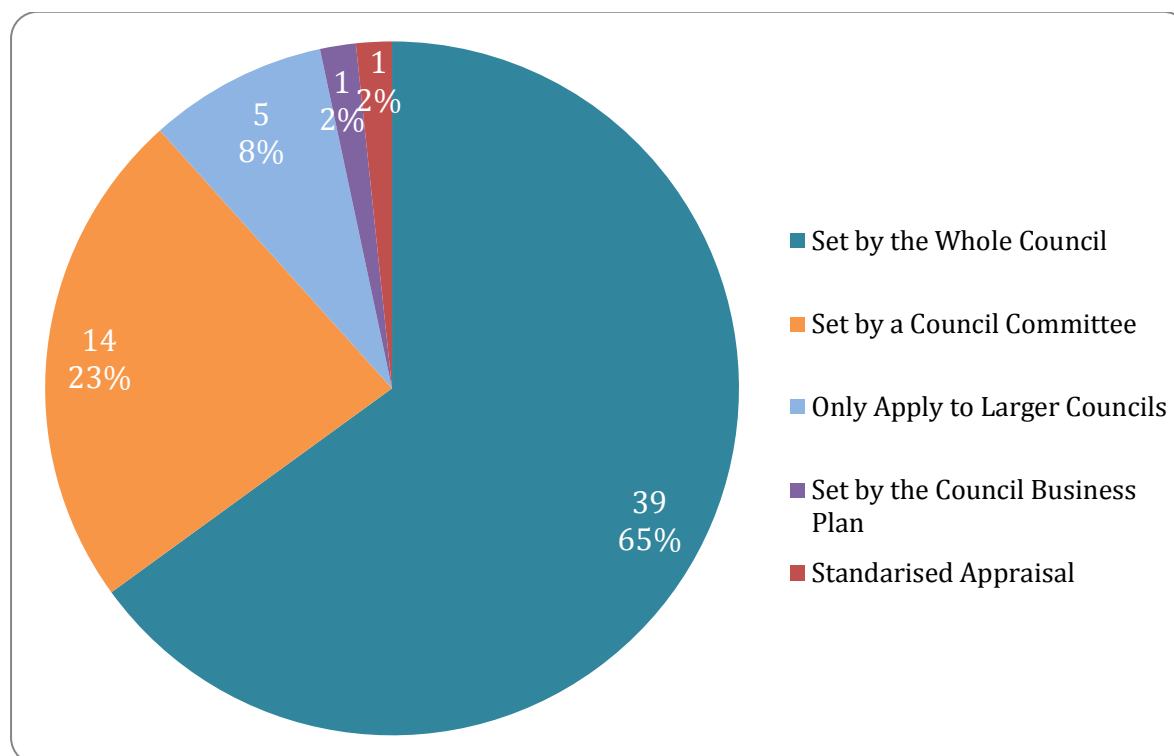
3.155 Many respondents disagreed with the notion for the chair setting the clerks objectives and believed it would be undemocratic to give one person the sole responsibility of this task. Respondents questioned why the setting of objectives should be reliant on one individual, especially one who may have limited knowledge of the clerk role.

3.156 One common proposal within the responses was to recommend the objectives be reviewed and set by the council as a whole, in consultation with the clerk and any staff committee. Some respondents believed this to be the appropriate process and highlighted the chair did not have any enhanced responsibility in comparison to other council members as the role of chair is purely honorary.

3.157 An alternative recommendation within the responses was to set up a council committee to address the process of setting clerk objectives and monitoring performance. These respondents agreed the objectives for the clerk should not be the role of an individual member, including the chair, but rather of an appropriate committee or sub-committee.



**Figure 25 – Number of respondents and their recommendations for who should be responsible for setting a clerk’s objectives.**



3.158 With reference to smaller community councils, many respondents highlighted the additional burden the performance management of clerks would place on their resources. Many respondents, therefore, believed this duty should rest on the council to make appropriate arrangements, taking its size into consideration. Colwinston Community Council explained how it provided a full and clear job description and already had an experienced clerk for a very small council. It considered, therefore, that it would be appropriate for this duty to apply only to larger councils. In addition, one respondent considered that if community councils were to become bigger, it would be appropriate and in accordance with good practice for all clerks to have performance objectives.

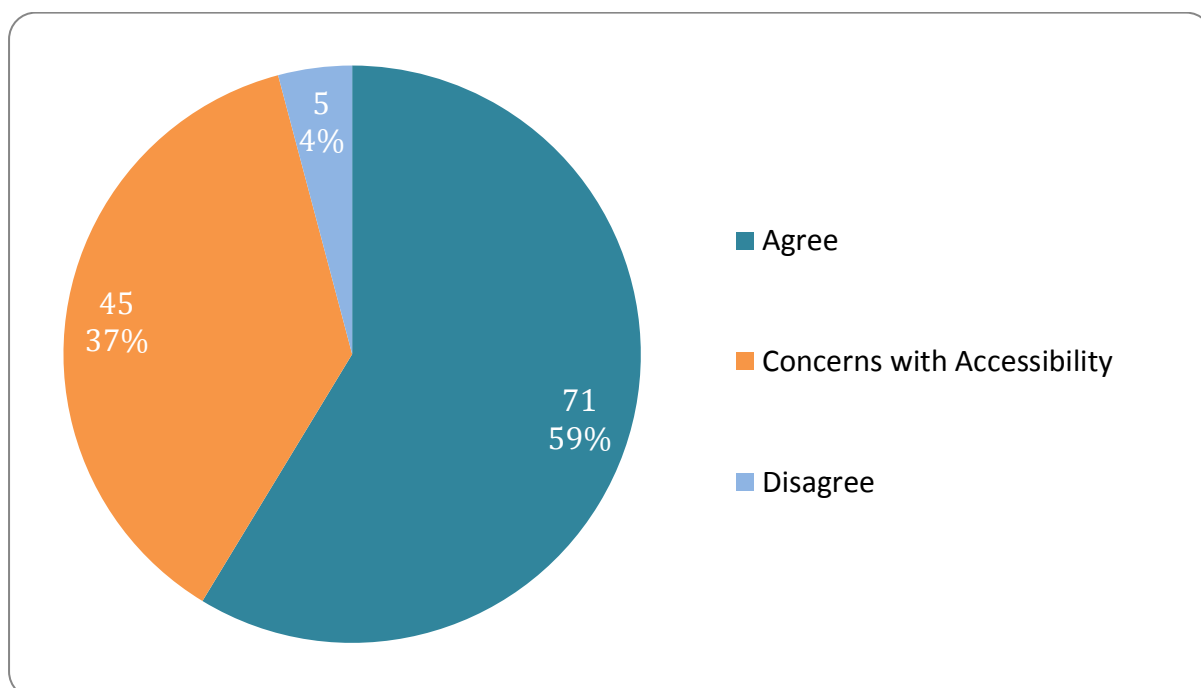
Other views expressed included:

- There would be a benefit in having a standardised appraisal scheme for all community and town councils. This could be developed by One Voice Wales.
- Who would assist the Chair in managing the performance of the clerk in setting the annual objectives? Consideration could be given to appropriate guidance from a body such as the Wales Audit Office with the advantage of comment, good or otherwise, in the annual audit.

- The relationship between the chair and clerk is pivotal to the smooth running of the council and, therefore, should not be threatened by a personal approach by the chair over performance levels.
- This should already be included in the terms of employment contract and additional monitoring should not be required.

**Q.6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that local authorities should implement a system of e-petitions?**

**Figure 26 – Number of respondents and their views on proposals to repeal legislation relating to community polls and to implement a system of e-petitions**



3.159 The majority of responses agreed to the provision to implement a system of e-petitions. Respondents welcomed the proposal as a means of reducing the burden and costs for county councils, as well as creating a more accessible mechanism for communities to express their views. Many of those in agreement preferred the use of e-petitions, because they felt there was a risk community polls were too often misinterpreted as being binding referendums for councillors, which sometimes caused tension between electors and their representatives.

3.160 The primary drawback identified within the responses was the need for improved broadband coverage throughout Wales. A large proportion of those who supported the proposal to introduce e-petitions also expressed concern it would limit the ability of some sections of society to contribute, and recommended a phased approach to introducing e-petitions would be more viable. In support of this, Welshpool Town Council stated it believed it was too soon to implement the proposals to repeal community polls and suggested that for a period of five years, legislation should allow for both e-polls and paper based polls.

3.161 Some respondents were against the proposals and felt the current legislation should remain. They believed e-petitions were open to abuse and too heavily weighted towards those with internet access to the exclusion of certain members of the community.

## **Workforce Matters**

### ***Q.7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?***

3.162 Respondents generally advocated a degree of localism in the delivery of public services across Wales and felt the provision to introduce centralised influence over workforce matters by the Welsh Ministers would undermine democratic accountability. Comments with reference to the provisions in Part 7 of the Draft Bill suggested a one size fits all approach would not be appropriate and concerns were highlighted regarding Ministerial power over the control of local authorities.

3.163 The majority of local authorities agreed with the view put across by the HR Directors Network (HRD) and the WLGA that the definition of workforce, combined with the ability to issue guidance to particular public bodies, was too far reaching and would potentially allow Welsh Ministers to make regulations which could affect the entire local authority workforce. Many respondents endorsed the view that democratically elected councillors were best placed to determine the direction for their workforce, in order to deliver the most cost effective services to meet the needs of local communities. Some respondents felt more recent directions to senior appointments and pay had increased bureaucracy, sometimes needlessly. The HRD argued the determination of the size of the workforce and its composition was linked directly to the allocation of the budget and the priorities of the particular local authority. This was a fundamental role for the HR profession in supporting the local business needs of each authority, and given the diverse nature of local government services this often needed to be at an individual service level to be truly effective. Torfaen County Borough Council expressed concern because of the lack of parameters built into the power, which stated there was no need for a county council to be failing before Ministers were able to exercise these powers.

### ***Q.7.2: Do you have any views on whether it would still be desirable to establish a statutory public services staff commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory commission?***

3.164 Respondents generally welcomed the Public Services Staff Commission (PSSC) as a vehicle to assist with workforce issues. However, many suggested that if the planned local government reforms did not go ahead, then the PSSC would not need to be moved to a statutory footing.

3.165 The majority of responses showed a desire for the PSSC to be explicitly linked to local government reform and pointed to the benefits of the PSSC supporting the establishment of new councils during the transitional period. Respondents commented that if by placing the PSSC on a statutory footing compromised its

effectiveness, then they would favour the PSSC continuing to operate on a non-statutory basis. One respondent suggested it was not necessary to constitute a statutory staff commission, as the final decision on staffing issues would always remain the statutory responsibility of the relevant authority. The authority would, therefore, only ever need to “have regard towards” the advice or guidance of the PSSC.

3.166 The WLGA, amongst others, also requested clarity and a renewed agreement on the continuation of a non-statutory PSSC should the restructuring of local government not take place.

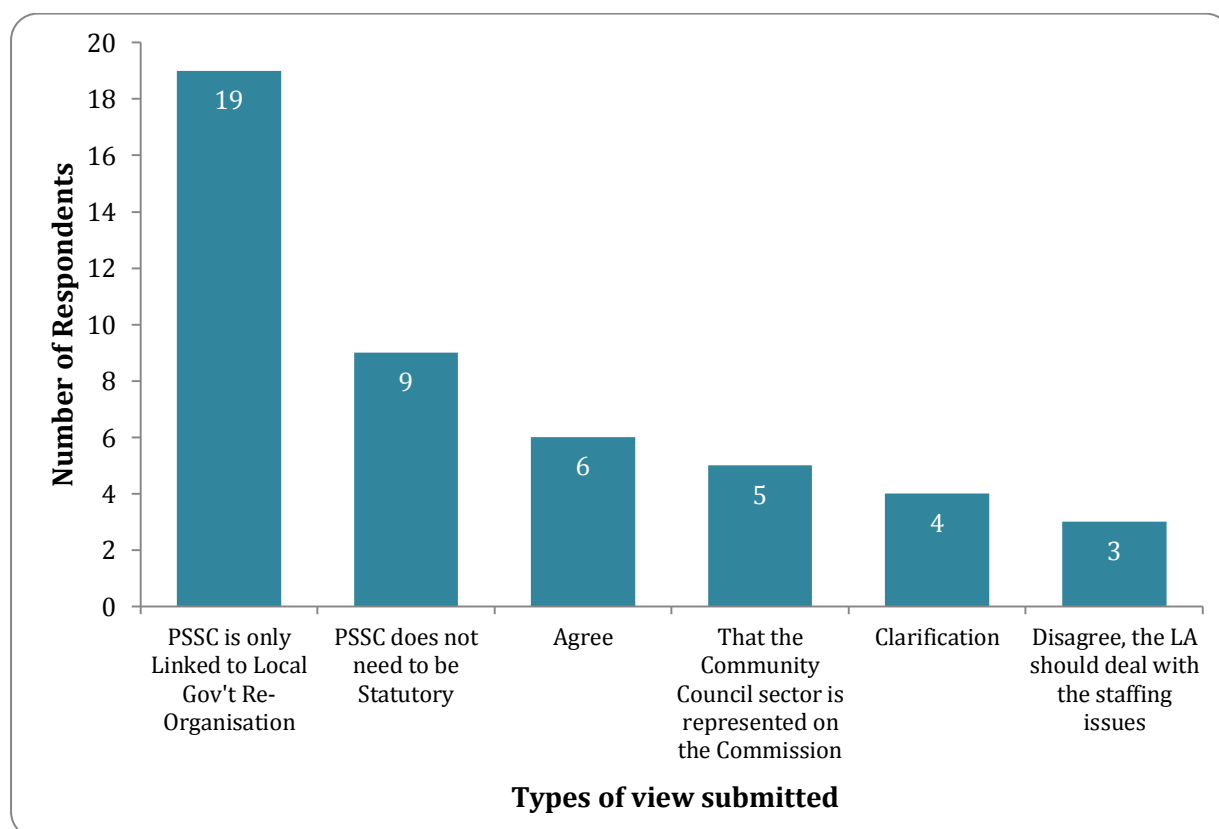
3.167 Community councils were broadly supportive of the establishment of a PSSC with local council sector representation. One Voice Wales supported this view given the potential service and community asset implications for community and town councils following any local government reform. One Voice Wales felt they and other sector bodies, such as the SLCC, were well placed to work with Welsh Government to ensure all workforce related matters were appropriately considered.

3.168 Those in opposition to the establishment of the PSSC felt the statutory establishment would add another level of bureaucracy. One respondent felt as long as county councils worked within the law, staffing decisions should be made by those councils, which best know their community and organisational needs.

Other views expressed included:

- It would be important to ensure there is clarification between the function of the proposed statutory PSSC and the temporary role of the IRPW in respect of the salaries of chief officers of existing local authorities.

**Figure 27 – Views on whether it would be desirable to establish a statutory PSSC.**



## General and Schedules

### ***Q.8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill?***

3.169 Notwithstanding the comments above, respondents stated the various schedules appeared appropriate. However, there were a few specific comments which various bodies referenced.

3.170 Both the Wales Audit Office and Inspection Wales suggested the ability of Welsh Ministers to regulate the timetabling and scope of inspections and peer reviews, as currently proposed within the Draft Bill, should only be allowed after a resolution of the National Assembly. Additionally, South Wales Fire and Rescue stated the Draft Bill's ability to allow the Welsh Ministers to change the fire and rescue authority areas without holding a public inquiry was contrary to the Fire and Rescue Services Act 2004.

## **Additional Questions**

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

3.171 Generally there was no knowledge between the representative bodies of both local authorities and community councils of any existing legislation which would require amending as consequence of the Draft Bill.

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

3.172 There was a general appreciation of the documents provided for the consultation. However, a few respondents suggested creating "...*executive summaries...*" which would enable a quicker understanding of the main points of the consultation, and suggested it would possibly encourage more responses.

3.173 Only a small proportion of respondents made some reference either directly or indirectly to the Regulatory Impact Assessment or costs and benefits of the Draft Bill. The majority suggested the case for reducing local authority numbers had not been made, or was not clear, and thought there was a lack of both qualitative and quantitative data. CIPFA, the Wales Audit Office and the WLGA all broadly accepted the figures presented, but submitted some criticisms focussed on the use of out of date data and on the presentation of the RIA.

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

3.174 A number of respondents stated there were no provisions within the Draft Bill relating to the retention and preservation of records, or records management, despite there being provisions in the Local Government Act 1972. The National Library of Wales stated this could cause issues surrounding accountability and the continuing delivery of services.

3.175 The Welsh Language Commissioner, among others, stated the Welsh language needed to be considered and fostered throughout any reorganisation, and the work of Gwynedd and Ceredigion in enhancing and developing the widespread use of the Welsh language needed to continue in any reformed local government structure.

3.176 A few respondents suggested reform provided an opportunity to realign services across Wales and council areas into a coherent scheme, more easily understood by the public. It would also enable 'double taxation' due to concurrent functions at present to be addressed.

3.177 The LDBCW suggested powers to make consequential amendments to electoral ward boundaries to address any anomalies resulting from community reviews should also be included in the Draft Bill.

## **4. Summary of Engagement events**

4.1 As part of the consultation process 32 engagement events were held with local authorities and other key stakeholders. They were designed to inform stakeholders and test the practical application of the provisions contained within the Draft Bill.

### **General remarks**

4.2 On the whole attendees of the engagement events were positive about the proposals contained within the Draft Bill and discussion was constructive. There was, however, a general lack of awareness amongst attendees of the reform timetable.

4.3 Concerns were expressed at one event that there was nothing in the Draft Bill to update section 60 of the Local Government (Wales) Act 1994 regarding local authorities' arrangements for the care, preservation and management of information and records.

### **General Power of Competence**

4.4 There was broad support for the principle of community councils needing to meet certain requirements to be eligible for the general power of competence. The general view was the term "community councils with competence" wasn't appropriate. Some concern was expressed about the ability of councils to meet the requirements, particularly the proportion of elected members. Questions were raised about how the eligibility requirements (and other provisions in the Draft Bill) would be impacted by any new community council arrangements.

### **Promoting Access to Local Government**

4.5 There was support for community area committees from areas already working this way, for example, Denbighshire and Monmouthshire, but less so from other areas. Particular concern was raised about the relationship with community and town councils, both in terms of service delivery and community representation.

4.6 The need to have safeguards against vexatious activity was highlighted in respect of the proposals relating to improvement requests.

### **Functions of County Council and their Members**

4.7 There was support for the proposed performance duties, but concerns were raised that standards committees would be asked to police both councillors' conduct and their performance duties. Support was also expressed for the proposal in the consultation paper to relax the existing regime on the allocation of functions and responsibilities within each council.

4.8 Concerns were expressed about some of the proposed duties to be imposed on councillors in new authorities including the holding of surgeries and the proposed requirement that councillors should respond to correspondence within 14 days of receipt.



## **County Councils: Improvement of Governance**

4.9 There was support for the enhanced role for corporate governance and audit committees as part of accountability mechanisms. There was also general support for the self- assessment and peer-assessment proposals, though attendees did highlight it was important not to be too prescriptive about how peer assessments should be conducted.

## **Community Councils**

4.10 In addition to reflecting on the reviews of community council arrangements there was a wide ranging discussion about the provisions in Part 6 of the Draft Bill in relation to election dates, training and proposals in the consultation document such as performance management and annual reporting.

4.11 There was support for certain training being compulsory, with most of the concern around whether it should be for county councils to determine and the practicalities of attendance.

4.12 Concerns were expressed about the rationale, process and outcome of the proposed review of community council arrangements. Some suggestions were made on the factors which should be taken into account when doing the reviews. There was a call for the Bill to cover transitional arrangements.

## **5. Next Steps**

5.1 The Welsh Government has considered the responses to the consultation on the Draft Local Government (Wales) Bill. Whilst there is support for many of the reform proposals, there is no consensus on the approach to structural reform. Consideration will now be given to developing further options in conjunction with local authorities and other stakeholders. A statement on local government reform will then be made in the autumn 2016.

## **6. List of Respondents<sup>i</sup>**

Responses were received from the following organisations and individuals:

Aberaeron Town and Ciliau Aeron and Llansantffraed Community Councils  
Abergele Town Council  
Abergwili Community Council  
Abermule with Llandyssil Community Council  
Acton Community Council  
Adam Graham  
Association of Local Authority Chief Executives and Senior Managers (ALACE)  
Aneurin Bevan University Health Board  
Archives and Records Association (Wales)  
Archives and Records Council (Wales)  
Association for Public Service Excellence  
Audrey E Parry  
Bangor City Council  
Barry Town Council  
Bay of Colwyn Town Council  
Beaumaris Town Council  
Bishopston Community Council  
Blaenau Gwent County Borough Council  
Blaenhonddan Community Council  
Borth Community Council  
Brecon Town Council  
Bridgend County Borough Council  
Caernarfon Town Council  
Caerphilly County Borough Council  
Caerwys Town Council  
Carmarthenshire County Council  
Carmarthen Town Council  
Ceredigion County Council  
Ceulanamaesmawr Community Council  
Chartered Institute of Public Finance & Accountancy (CIPFA)  
Childrens Commissioner for Wales  
Chirk Town Council

Churches Together in Wales  
Churchstoke Community Council  
Cilibeyll Community Council  
City and County of Swansea Council  
City of Cardiff Council  
Cllr Alan Speake  
Cllr Deborah Wilcox  
Cllr Gail Giles  
Cllr John W Cole  
Cllr Mark Whitcutt  
Cllr Neil Moore  
Cllr Peter Jones  
Cllr Terence Scales  
Coedffranc Community Council  
Colwinston Community Council  
Conwy County Borough Council  
Conwy County Borough Council Standards Committee  
Conwy Town Council  
Country Landowners Association Wales  
Cowbridge with Llanblethian Town Council  
Croesyceiliog & Llanyrafon Community Council  
Cwmlllynfell Community Council  
Cymdeithas yr Iaith Gymraeg  
Denbighshire County Council  
Dr Peter Claughton  
Dyfodol i'r Iaith  
Dyserth Community Council  
East Williamston Community Council  
Eclusham Community Council  
Emeritus Professor J D R Thomas  
Eric Thomas Wilde  
Estyn  
Federation of Small Businesses (FSB) Wales  
Flintshire County Council  
Gelligaer Community Council

Genau'r Glyn Community Council  
Gill Jones  
Glamorgan Archives  
Gorslas Community Council  
Gwersyllt Community Council  
Gwyn Jones  
Gwynedd Council  
Halkyn Community Council  
Hirwaun and Penderyn Community Council  
Holywell Town Council  
Human Resources Directors Network for Local Authorities in Wales  
Huw Vaughan Thomas, Auditor General for Wales  
Ian Reid  
Independent Remuneration Panel for Wales  
Inspection Wales  
J McKenzie  
John Burrows  
Julian Mahy  
Keith Toy  
Kerry Community Council  
Lisvane Community Council  
Llandough Community Council  
Llandudno Town Council  
Llandyfaelog Community Council  
Llandygai Community Council  
Llanelli Rural Council  
Llanelli Town Council  
Llanengan Community Council  
Llanfair Community Council  
Llanfair Mathafarn Eithaf Community Council  
Llanfairfechan Town Council  
Llangennech Community Council  
Llangollen and District Branch Labour Party  
Llangyfelach Community Council  
Llangynidr Community Council

Llanharan Community Council  
Llanstadwell Community Council  
Llantrisant Community Council  
Llew Thomas  
Local Democracy and Boundary Commission for Wales  
Maesteg Town Council  
Maesycwmmmer Community Council  
Merthyr Tydfil County Borough Council  
Merthyr Tydfil County Borough Council, Labour Group  
Mike Garland  
Mochdre with Penstrowed Community Council  
Mold Town Council  
Monmouth Town Council  
Monmouthshire County Council  
Mudiad Meithrin  
National Library of Wales  
National Parks Wales  
Neath Port Talbot County Borough Council  
Newbridge Community Council  
Newport City Council Labour Group  
Newtown and Llanllwchaiarn Town Council  
Neyland Town Council  
Nia Thomas  
North and Mid Wales Association of Local Councils  
North Wales Fire and Rescue Service  
Northop Community Council  
Offa Community Council  
Older People's Commissioner for Wales  
One Voice Wales  
Owen Jordan  
Paul Barrett  
Pembrokeshire County Council  
Pembrokeshire County Council Standards Committee  
Penarth Town Council  
Pencoed Town Council

Pontardawe Town Council  
Pontarddulais Town Council  
Pontypool Park Estate  
Pontypridd Town Council  
Porthmadog Town Council  
Powys County Council  
PWC  
Rhondda Cynon Taf County Borough Council  
Rhondda Cynon Taf County Borough Council, Welsh Liberal Democrats  
Rhosllannerchrugog Community Council  
Richard Rowlands  
Robert Hepworth  
Roy Owen  
Royal College of Nursing  
Royal Town Planning Institute Cymru  
Ruthin Town Council  
Scouts Cymru  
Sesswick Community Council  
Skwirel Vincent  
Society of Local Council Clerks  
SOLACE Cymru  
South Wales Fire and Rescue  
South Wales Police  
Spittal Community Council  
St Fagans Community Council  
Tenby Town Council  
The National Deaf Children's Society  
Torfaen County Borough Council  
Torfaen County Borough Council, Ethics and Standards Committee  
Towyn and Kinmel Bay Town Council  
Tref Alaw Community Council  
Trefnant Community Council  
Trelawnyd & Gwaenysgor Community Council  
Tremeirchion, Cwm & Waen Community Council  
UNISON Wales

Vale of Glamorgan Council  
Vale of Glamorgan Council, Standards Committee  
Wales Council for Voluntary Action  
Wales Pre-School Providers Association  
Welsh Language Commissioner  
Welsh Local Government Association  
Welshpool Town Council  
Wenvoe Community Council  
Wrexham County Borough Council  
Ynys Môn County Council

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<sup>i</sup> 5 respondents requested to remain anonymous.