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Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Response from: GMB Wales and South West Region

**GMB –
Britain's
General Union
Response to:**



**Welsh Governments
Consultation Document on**

Local Government (Wales) Bill 2015

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GMB response to Welsh Government: Local Government (Wales) Bill 2015.

BACKGROUND

The Local Government (Wales) Bill will enable the biggest changes to local government in Wales for twenty years. The responsibility falls upon the National Assembly for Wales to scrutinise this legislation effectively to ensure that the merger process removes as much uncertainty as possible from the thousands of staff who work for local authorities across Wales as well as for the millions of people in our communities who rely on the services that they provide.

General overview

The Welsh Government has recently completed a White Paper consultation on the establishment of a Public Services Staff Commission. The Wales TUC submitted a joint response on behalf of all of the trade unions involved in the Workforce Partnership Council – the social partnership structure for the public services in Wales. The Trade Union Movement argues strongly that there should be a Public Services Staff Commission/er with statutory powers established as soon as possible. The GMB and its sister Trade Unions have been arguing for this for well over 12 months as a response to ever-declining financial settlements and the concurrent push for public service reform.

Paragraph 3.116 of the Williams Report states that:

“...austerity is likely to continue for at least the next decade, as we explained in our introduction. As matters stand, local authorities will be unable to offset such pressures with the scale of long-term savings that merger is very likely to bring. So the choice becomes either one of prolonged and ultimately unsustainable cuts to frontline jobs and services; or investing in a reformed structure which will yield significant long-term savings and so mitigate the need for service cuts. In our view that is no choice at all: it is infinitely preferable to invest in a public sector that is fit for the future and to protect front-line jobs and services than to allow public services to decay and decline to the point of failure.”¹

We remain concerned for our members that unless a whole-Wales public sector approach can be taken to look at the shape of public services and the workforce planning required to deliver them, then we will face year on year redundancies, leading to eventual local government reorganisation and the services left to deliver by the new authorities will be unrecognisable from those that the public want and rely upon today.

The Local Government (Wales) Bill does not introduce any requirements for a Public Services Staff Commission/er to oversee the merger process, leaving the individual transition committees, individual authorities and the Independent Remuneration Panel to address issues of pay without any recourse to either the recognised trade unions or to a Public Services Staff Commission/er.

Section 28 of the Bill which details the requirements for Pay Policy Statements is explored further below.

¹

However as a general point, at this stage, I would like to flag up the need to look to protect and enhance the position of Councils that have completed Job Evaluation/Single Status and or have also implemented the Living wage. A Staff Commission/er could ensure that there is not a retrograde step in this regard, but could look to apply a consistent approach across from the old to the new Authorities. In addition, a Staff Commission/er could ensure that the legal requirement for Equal Pay is applied across Local Government in Wales and thereby reduce the threat for further equal pay claims being made, especially where those authorities that have completed Job Evaluation/Single Status negotiations, merge with ones that have not yet completed this task.

The other general observation from the GMB relates to statutory guidance re-issued by the Welsh Government last year – the Code of Practice on Workforce Matters (commonly referred to as the Two-Tier Code). This Code covers all aspects of the public service and relates to protection for employees who find themselves working for part of the public service that is ‘outsourced’. The Code provides a level of protection unfound in any other part of the United Kingdom and we have warmly welcomed the commitment of the Welsh Government to the public service workforce when they re-issued the Code.

Unfortunately, the powers available to the Welsh Government mean that local government only has to ‘have regard to’ this Code, unlike the ability of the Welsh Government to be able to ensure that the NHS ‘must’ follow the Code. This has meant, in our experience, a number of authorities ignoring the spirit in which the Code was issued.

We urge the National Assembly for Wales and the Welsh Government to include a reference to the Two Tier Code in this legislation to put Local Government on the same legal footing as the NHS with regard to this document thus ensuring that local authorities cannot wriggle out of implementing it.

Specific Sections of the Bill

The specific sections of the Bill that we intend to concentrate on in our written evidence are set out below. We will be happy to explore these issues further in our oral evidence as well as take any questions on other aspects that Assembly Members may feel affect our membership.

Section 4: Consultation before making merger application

While this section relates to the voluntary mergers and we understand that there are currently no voluntary mergers going ahead, the wording of Section 4.1 (g) has caused the GMB extreme concern.

Sub section (g) states that the local authority must consult “*any organisation representing staff employed by any of the principal local authorities which has asked to be consulted*”. The explanatory notes of the Bill make it clear that

the intention of this sub-section is for the authorities to consult with 'any trade unions or other organisations representing staff employed by....'

The GMB and the trade union movement has long fought for (and continues to fight for) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions via the appropriate National collective Bargaining arrangements, and this clause does not acknowledge this fact, thereby potentially allowing for local authorities to by-pass the recognised workplace trade unions in this process.

We have raised this matter with the Minister for Public Services directly since the publication of the Bill and have sought an oral commitment that a Government amendment will be tabled to address our concerns.

Section 10 (6) sets out that TUPE will apply in relation to the voluntary mergers and to a transfer made under the merger regulations whether or not the transfer is a relevant transfer for the purposes of those regulations. This section is welcomed.

Section 13 sets out the functions of the transition committees including recommendations on:

1(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority;

1(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and

1(c) any other purposes that the Welsh Minister may specify by directions.

As stated in the general overview above, we are looking to the Public Services Staff Commission/er to take a wider look at workforce planning across the public sector and to play a specific role in local government reorganisation that is not recognised in this section of the legislation.

Sections 28 and 35 deal with Pay policy statements and the extension of the functions of the Independent Remuneration Panel (IRP), to enable them to make recommendations with regard to these statements. We currently have very little engagement with the preparation of pay policy statements in accordance with the Localism Act 2011 and are, therefore, unsure of the full implications of this section on our members. At the time of writing, we are exploring the relationships between our existing National Collective bargaining arrangements, the requirements of this Bill, the Independent Remuneration Panel and our preferred all-Wales Public Services Staff Commission model. (We would welcome further clarity upon this point, and opportunity for response if necessary, as the bill progresses)

The proposals for an expanded IRP are new to the trade union movement and we are, at the current time, unsure as to their full implications upon our members. As previously stated, we have initial concerns that the expansion of the IRP will undermine the work of the Public Services Staff Commission/er

and lead to fragmentation of the arrangements for local authority merger in relation to workforce matters – something we have strongly argued against. We have read with interest the cost implications outlined in the Regulatory Impact Assessment for the extended IRP.

The final question for the Committee on Section 28 is – is 42 days long enough to enable certainty for staff about arrangements for the new authorities in the event of mergers being imposed rather than volunteered for? We reach no conclusion on this but it is an area that we will continue to monitor closely.