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Communities, Equality and Local Government Committee

Local Government (Wales) Bill: Stage 1

Additional information from Unison Wales



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Christine Chapman AM
Chairperson Communities, Equality and
Local Government Committee
National Assembly for Wales
Cardiff Bay
Cardiff , CF99 1NA

18 March 2015

Dear Christine

I am responding to the further queries that you raised, on behalf of the Communities, Equalities and Local Government committee, in your letter dated 9 March 2015.

UNISON's views on the Welsh Government's proposals for a Public Services Staff Commission

Please see attached UNISON's submission to the Welsh Government on this matter which includes our views on the proposals and timescale. It would certainly seem appropriate, from UNISON's view point, for the Local Government (Wales) Bill to include explicit reference to the proposals to establish a Staff Commission(er) and the important role it could play in ensuring the concerns of staff are appropriately dealt with during the reorganisation of Local Government in Wales. Failure to include the need for the establishment of a commission(er) prior to council mergers, whether voluntary or otherwise, would at best heighten the fears and uncertainties currently being experienced by staff and, at worse, would fundamentally undermine the process and threaten the success of any merger. UNISON would liked to have seen the Public Services Staff Commission(er) created, on a statutory basis, as soon as possible as there is work to be undertaken immediately, on an all-Wales cross public service basis, in relation to workforce planning to mitigate the effects of the financial austerity across the public services, a role we envisage for any Commission(er).

Wording of section 4(1)(g)

As detailed in our submission to your committee: "UNISON and the wider trade union movement has long fought for (and continues to fight for in many workplaces) trade union recognition in the workplace. Local authorities in Wales all recognise trade unions and this clause does not acknowledge this fact, allowing for local authorities to by-pass the recognised workplace trade unions." In other words the

employers and the trade unions have established consultation and collective bargaining mechanisms which is not the case for '*any organisation representing staff*' the formulation used in section 4 (1) (g). Therefore the trade unions would like to see '*any organisation representing staff*' to be replaced with '*recognised trade unions*' failure to do so could be interpreted as an undermining of, long fought for, established recognition and collective bargaining arrangements.

How appropriate and practical are the provisions in sections 3 to 10 particularly in terms of time scales?

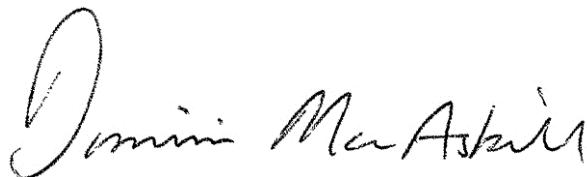
It is UNISON's view that there are unlikely to be any further expressions of interests from councils wishing to pursue a course of voluntary merger until the Minister for Public Services, in the summer, publishes a 'new map' of how the Welsh Government see local government looking in the future. This then would provide a very limited window of time, before the November 2015 deadline, for councils to put together a business case for any merger proposal. In addition the provision of a 6 month period for a shadow authority for councils who chose to go down a voluntary merger process is a very tight timescale to deal with the transfer of governance, business and financial arrangements and, not forgetting, the need to bring together two separate workforces into one.

Pay policy statements and extension of the functions of the Independent Remuneration Panel (IRP).

UNISON shares the view of Richard Penn, Chair of the Independent Remuneration Panel, which he articulated in his evidence to your committee. In Mr Penn's evidence he questioned whether the IRP had the skills or expertise to take on the proposed additional responsibilities and suggested that these were much more appropriate tasks to be undertaken by the Public Services Staff Commission. This view fits in with UNISON position on the establishment of a Staff Commission(er) as detailed above and in the attached document.

I hope that you, and your committee, find these additional comments helpful in your consideration of this Bill and thank you again for inviting UNISON to provide evidence on this important issue.

Yours sincerely,



Dominic MacAskill
REGIONAL MANAGER
HEAD OF LOCAL GOVERNMENT



Welsh Government Consultation on Public Services Staff Commission

UNISON Cymru Wales Response

Introduction

1. UNISON is Wales' largest public service union representing over 90,000 public service workers. UNISON welcomes the intentions from the Welsh Government to establish a Public Services Staff Commission to advise Welsh Ministers and public service organisations on the workforce matters needing action and resolution. We hope the responses to this consultation will stimulate discussion and ensure that the trade union and labour movement is fully involved in developing responses to the current challenges.

Background

2. It is vital that the Welsh Government has a strong vision of the Wales we want for the future, a view of the steps necessary to achieve it, and how the Public Services Staff Commission or an alternative fits into this. The Welsh Government should also provide a strong, clear narrative which outlines the expectations it has for the Welsh Public Service Workforce. UNISON welcomes ongoing engagement to deliver this and achieve effective reorganisation while ensuring public service staff are fairly and equitably treated.
3. Since the Williams Report, UNISON has called on the Government to ensure that the Welsh public service is treated fairly and respectfully. An open, transparent and effective Commission can help Wales protect our valued services by providing the opportunity to ensure that the public service workforce is at the heart of discussions about quality and sustainability.
4. Public Services, and Local Government in particular, have a crucial role in reducing inequality to help deliver a fairer Wales. Inclusion and cooperation are the foundations on which the Welsh Government can renew and reinvigorate the Welsh public service delivery system and should not be ignored throughout this process.
5. It is imperative that any approach is not just a talking shop, but rather a catalyst for transformational change across Wales. The Welsh Government has a good record in crafting solutions suitable for Wales such as their

successful programme to tackle youth unemployment attracting attention from the rest of the UK.

6. In regard to the makeup of local councils, UNISON is not wedded to a specific number but are supportive of the organisations boundaries being coterminous with the Health body boundaries. This would greatly assist in moving forward with the necessary integration of Health and Social Care services and towards a one public service for Wales.

The Workforce Partnership Council

7. The Welsh Government already has a successful social partnership body chaired by the First Minister for public service employers and staff trade unions to discuss both specific and cross public services issues above the official collective bargaining machinery. In UNISON's view this body, the Workforce Partnership Council, has been effective and efficient for both sides in providing a forum for raising, discussing and progressing common issues.
8. The Welsh Government are consulting about establishing a new body, The Public Services Staff Commission, to deal with the staffing issues connected with the major Local Government re-organisations over next three years but also to be a forum for making recommendations on innovation, best practise and future challenges going forward.
9. UNISON does consider that specific independent work on Local Government re-organisation would be helpful to all parties and the Welsh Government for a variety reasons. Our concern is that the new body may overlap with the work of the established Workforce Partnership Council and given tight budgets this cannot be justified on cost or effectiveness grounds.
10. In coming to this conclusion, we also considered a variety of innovation or new issues that cross all Welsh public services, such as:
 - health/social care integration
 - staff education, qualification levels and training
 - new technology, on-line services and related new jobs and skills
 - Personalised budgets and services
 - Universal Credit
 - Introduction of new EU public procurement directive in 2015 with new options for social, environmental and labour provisions
 - Increasing proportion of older workers as no default retirement age with different needs
 - Flexible Working in light on 2014 extension of right to request
 - New areas for Apprenticeships
 - Zero Hours Contracts
 - Cuts in funding
 - Shortages of qualified staff in key areas such as social work or NHS

11. We came to the conclusion that all these issues would need to be discussed at both the Workforce Partnership Council and the new Public Services Staff Commission if created and this would cause confusion.
12. However, we have considered an alternative which builds on the best of the existing social partnership but would be a resource that could advise on Local Government re-organisation and innovation and best practise to address future challenges.

Building on the best – a Public Services Commissioner

13. UNISON believes that instead of a Commission the Welsh Government could have an independent Public Services Commissioner, a single post with a small team of staff with different expertise, who could work with Ministers and the Workforce Partnership Council.
14. This would avoid the duplication of two bodies reporting to ministers, reduce costs and have the advantage of some independent assessment of UK, EU and international evidence of successful public service reform that might work in the Welsh context.
15. The Commissioner could be given specific inquiries and remits by the Workforce Partnership Council (WPC) to investigate upcoming issues and challenges in Welsh Public Services and report back to the WPC with recommendations for government, employers and staff.

We would be prepared to expand on this option further on request.

Formal Consultation Questions

16. We will respond to the main consultation questions for the record.

How would this relate to existing “bargaining arrangements”?

17. The non-statutory Staff Commission or Commissioner should not supplant existing pay and terms and conditions collective bargaining arrangements within the public service sectors.

Q How best should the Workforce Partnership Council and the Public Services Staff Commission work together?

18. The Workforce Partnership Council (WPC) has demonstrated how the Welsh Government, trade unions and employers in the public sector can work in partnership in the interest of protecting our valued public services. As set out above we believe that a Commissioner, not a Commission, would work best with the Workforce Partnership Council.

Q Are the public bodies listed in paragraph 49 the appropriate bodies to be included in a public service wide remit?

19. The Careers Wales company ‘Careers Choices Dewis Gyrfa’ should be included in the list of public bodies covered in the Commission’s or Commissioners remit. Careers Choices Dewis Gyrfa is an all Wales public service that gives people of all ages free and valued career advice which assists in career development and transition which will be an important component of any restructuring of public services. Wholly owned by the Welsh Government, UNISON believes the Careers Wales company should be

incorporated into the public bodies list in paragraph 49 to ensure that it can be an integral part of the one public service Wales vision.

20. For a truly shared, collaborative and citizen centred set of public service values UNISON also believe that Further and Higher Education institutions should be covered by the remit of the non-statutory Commission or Commissioner. Any public sector body that receives funding from the Welsh Government should be included. This would provide an all-encompassing remit which would represent the entirety of the Welsh public service workforce.

Q Is the approach outlined in paragraphs 50 to 55 the appropriate approach?

21. UNISON agree that the Commission, or Commissioner, should be independent but have access to a range of experts, who would not only offer a range of relevant skills and experience in workforce matters and organisational development but, who have also the conviction to see the Public Service Commission or Commissioner role succeed and develop.
22. The remit of the Commission or Commissioner needs to be developed so that it is set in the context of supporting public service provision and opposing privatisation. The marketised public services in England, which UNISON opposes, have seen loss of expertise, compliance expense, secrecy and a lack of sharing best practise for commercial gain. Service improvement might only happen at the retender stage after 4 to 7 years and does not happen continuously in such a model.
23. The Commission/er needs to look at the whole public sector and its remit should also cover and apply to staff in private sector and voluntary organisations that deliver public services under contract.
24. We agree that Welsh Ministers should take direct advice from the non-statutory Commission or Commissioner via the WPC. The proposed advice to Welsh Ministers and the WPC should be published online and circulated directly, through newsletters, to the public services workforce and to the relevant organisational groups to demonstrate openness and transparency for all stakeholders.

Q Do you have any views about the timing of the establishment on the non-statutory Staff Commission?

25. UNISON welcome that the Commission or Commissioner will be set up prior to the voluntary Local Authority mergers taking place in order to ensure that the affected workforce are treated in a fair, equitable and consistent manner during the restructuring process.
26. Although we understand why the Commission or Commissioner should initially be set as a non-statutory body and that this could allow it to be more innovative and challenging, UNISON believes the Commission or Commissioner should either transfer to a statutory body as soon as possible or gain some other form of statutory underpinning in order to provide the necessary authority for the Welsh Government, WPC and the public sector employers to act on the recommendations.
27. Moreover, the Commission/er should continually brief the WPC and public sector staff on the timetable and reorganisation of local government, and other public sector restructurings, so that they are fully informed of all events and changes.

Q Do you have any further comments on the functioning of the non-statutory Staff Commission?

28. Its authority and relationship with the WPC and Welsh Ministers needs to be clearly defined. The advice and recommendations published by the Commission or Commissioner should be clear and presented in a way that makes it extremely difficult for them to be misinterpreted or ignored. The way recommendations are phrased will be of vital importance.
29. UNISON recommend that the Commission or Commissioner should itself conduct mini-consultations annually to ensure it evolves and adapts in line with what public services require. Consultations could be organised online and include an initial short questionnaire which monitors views over the years. This could then be collated at the end of the reform to measure the impact of the reorganisation on public service workers.

Q Are the skills and experience identified in paragraph 57 correct? & Are there any skills and experience which the non-statutory Staff Commission requires which is not included in the list?

30. We agree that the skills, experience and capability of the Commission/er and their team will be extremely important to establish its credibility and therefore believe that the skills need to be expanded upon.
31. UNISON welcome that the team should have knowledge of local government but should also have an extensive knowledge of public services as a whole to fulfil a wider role than local government reorganisation.
32. In addition the Commission or Commissioner need to have access to impartial expert advice and research capacity and are not reliant on civil servants to drive the work of this body. This would ensure that the Commission or Commissioner is sufficiently resourced to be able to pursue the remits set by the WPC. Job evaluation will be an integral part of the remit and therefore should be included in the list of skills. Members of the Commissioners team should have experience of previously delivering job evaluation in order to understand the complexities that arise from this area.
33. UNISON calls for a commitment from the Welsh Government that the Commission or Commissioner is not overly reliant on civil service support. The civil service work well in an administrative role, but their views should continue to be impartial and recommendations made purely by the Commissioner.
34. The appointment of the Commission or Commissioner should reflect the diversity of Wales and be conducted in an open, transparent and fair way.

Q Are the proposed communication processes outlined in paragraphs 59 to 62 appropriate?

35. The communication processes outlined in paragraphs 59 to 62 outline the need to communicate, but lack substance on exactly how this will be achieved. UNISON welcome the circulation of regular bulletins but how, at what interval and where the information is shared needs to be defined. We recommend that the Commissioner has its own website.
36. In addition to a website, the Commission/er should utilise social media channels, such as Twitter. When bulletins are sent out, the defined bodies in paragraph 57 and all public sector stakeholders should be encouraged to, at

minimum, make staff and interested bodies aware of the Commission/er website.

37. UNISON welcome further consultation to ensure the work programme remains current, flexible and adaptable to the changing circumstances for public sector workers in Wales.

Q Are the proposed links between the non-statutory Staff Commission and the IRP appropriate?

38. UNISON welcomes the Welsh Government's intention to extend the provisions in the Local Government (Democracy) (Wales) Act 2013 in relation to the Independent Remuneration Panel for Wales (IRP) to include all Local Authority chief officers for the duration of the local government merger programme.
39. We agree that that there will need to be a close and effective working arrangement between the IRP and the non-statutory and statutory Public Services Staff Commission or Commissioner.
40. However, the proposed links between the non-statutory Staff Commission or Commissioner and the IRP will need further consideration to avoid an unforeseen consequences i.e. under the amended regulations, Local Authorities would no longer be able to offer Chief Officers vacancies, with salaries over £100,000, as 'suitable alternative employment' in a redundancy situation and would require all such vacancies to be advertised externally. This could force councils to make senior staff redundant which would create problems for authorities restructuring at the higher level and increase transitional costs.

Q Are there other priority workforce issues the non-statutory Staff Commission should be engaged with?

41. UNISON support that the Commission or Commissioner will not supplant existing bargaining and negotiating mechanisms. The Commission or Commissioner should not only act as a reactive body but also proactively engage with other priority issues that occur across the public sector in Wales as a result of this reorganisation.
42. The Commission or Commissioner should be tasked to focus on maintaining directly provided integrated public services with a valued and motivated workforce that will attract and retain talent for the future.
43. Equality should be at the heart of the Commission/er's consideration and part of this will be to ensure that restructured public services can deliver equality proofed single status pay structures.
44. Other important issues for the Commission/er to develop are: developing redeployment opportunities across public sectors; developing 'best practice' and consistent discretionary policies and support; the harmonisation of Terms & Conditions; ensuring pension portability; ensuring education and support are available for all grades of staff to ensure continual service quality improvement and to ensure there are consistent engagement and negotiation mechanisms with the recognised trade unions.

45. In some defined circumstances it may be appropriate for the Commission/er to play an arbitration role between public sector employers and their recognised trade unions.

46. If the Welsh Government is fully committed to improving the Welsh public sector then strong incentives to continue working in the public sector must be provided. In light of job mergers, the opportunity of career progression, pathways and development should be enhanced.

Q What additional powers might Welsh Ministers need to effectively support the work of the statutory Staff Commission, for example, powers of direction or guidance?

47. A statutory Commission/er will be able to make directions and guidance which Ministers, the WPC, unions and public sector employers should have to consider.

Q Will making statutory provisions for the Staff Commission in the second Local Government Bill to be introduced in to the National Assembly for Wales in the Autumn of 2016 enhance the standing of the Commission?

48. Yes, if a Commissioner

Q Should the Staff Commission be given powers to issue guidance in its own right, or should it only be able to make recommendations to the Welsh Minister about issuing guidance?

49. UNISON believes that the Commission or Commissioner should be given powers to issue guidance in its own right, working with the WPC. Guidance should be issued in collaboration with the WPC. The powers described in paragraph 71 are correct in that the Commissioner should have the ability to issue statutory guidance in its own name, working with the WPC and that there may be times when it is more appropriate that the Welsh Ministers address certain issues. The majority of the time it should be the Commissioner with statutory powers which issues directions to the new bodies being created, after consulting and receiving direction from the WPC.

Q What powers will the statutory Staff Commission need in order to provide accurate and authoritative guidance?

50. UNISON believes that the Commission/er whether non statutory or statutory needs sufficient powers to enable it to fulfil its remit, thus ensuring its guidance is followed.

Q Are the powers described in paragraphs 71 and 72 the right ones?

51. UNISON agree that the Commission/er will also need a power to require existing Local Authorities and any other public bodies to supply relevant information on proposed mergers and restructures.

52. Quantitative data is important in order to analyse and measure the impact of the Reform programme on the public sector workforce, but qualitative information should also be gathered. Qualitative information will provide an in-depth source of information for the Commissioner, Workforce Partnership Council and Welsh Government which may provide an insight in the issues affecting the public service workforce.

Q What additional powers might Welsh Ministers need to effectively support the work of the statutory Staff Commission, for example, powers of direction or guidance?

53. Welsh Ministers should be able to accept recommendations, act on guidance and direction from the Commissioner and WPC, provide feedback and information when requested, provide early warning to the WPC and Commissioner of any planning substantive changes to previously agreed arrangements and provide early warning of any proposed changes to senior management teams.

Q Should the statutory Staff Commission be time limited and phased out at the end of the current reform programme?

54. The Commission/er should not be time limited or constrained to Local Government restructuring, as this body will be crucial in further monitoring and influencing staffing matters and assisting the WPC whilst the wider public sector is restructured. It would also represent a commitment by the Welsh Government to investing into the future of the one Public Services Wales vision.

Q How could the statutory Staff Commission best support the embedding of the social partnership approach?

55. Social partnership requires a real commitment from public service staff and the Welsh Government. The Staff Commissioner would best support the social partnership by having a clearly defined and agreed relationship with the WPC.

56. UNISON Cymru Wales are grateful for the opportunity to assist the Welsh Government with its reorganisation of Local Government and we are happy to provide further assistance if required.