

Agenda – Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 2 – y Senedd	Sarah Beasley
Dyddiad: Dydd Iau, 4 Chwefror 2016	Clerc y Pwyllgor
Amser: 09.00	0300 200 6565
	SeneddCCLLL@Cynulliad.Cymru

1 Cyflwyniad, ymddiheuriadau a dirprwyon

2 Y Bil Llywodraeth Leol (Cymru) Drafft: sesiwn dystiolaeth 1 – SOLACE

(09.00 – 10.00)

(Tudalennau 1 – 39)

Alison Ward, Is-gadeirydd Solace Wales/Cymru

Break (10.00 – 10.15)

3 Y Bil Llywodraeth Leol (Cymru) Drafft: sesiwn dystiolaeth 2 – Swyddfa Archwilio Cymru

(10.15 – 11.15)

(Tudalennau 40 – 50)

Anthony Barrett

Alan Morris

Martin Peters

Break (11.15 – 11.20)

4 Y Bil Llywodraeth Leol (Cymru) Drafft: sesiwn dystiolaeth 3 – cynrychiolwyr o'r undebau llafur

(11.20 – 12.20)

(Tudalennau 51 – 68)



Dominic MacAskill, Rheolwr Rhanbarthol

5 Papurau i'w nodi

(Tudalennau 69 – 73)

6 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o weddill y cyfarfod

7 Y Bil Llywodraeth Leol (Cymru) Drafft: trafod y dystiolaeth

(12.20 – 12.30)

[Tystiolaeth a gyflwynwyd mewn ymateb i'r Ymgynghoriad](#)

8 Cyllideb ddrafft Llywodraeth Cymru ar gyfer 2016/17 – Trafod yr ohebiaeth a gafwyd gan Gomisiynydd y Gymraeg

(12.30 – 12.40)

(Tudalennau 74 – 84)

Mae cyfyngiadau ar y ddogfen hon

**National Assembly for Wales Communities, Equality and Local Government
Committee's scrutiny of the draft Local Government (Wales) Bill.**

Evidence of SOLACE Wales

1. SOLACE Wales welcomes the opportunity to give evidence to the Communities, Equality and Local Government Committee on the Local Government (Wales) Bill.
2. SOLACE Wales understands Welsh Government's wish to undertake a reform of local government in Wales from the current model of 22 authorities, particularly given the pressures on capacity in the smaller authorities as a result of austerity. However, we are not in favour of change for change's sake; and we only welcome such changes as will deliver better services, reduced cost and greater efficiency.
3. We do not believe that reorganisation into a fewer number of large authorities is in itself a silver bullet to tackle the current financial restrictions on public service, and we feel that it is imperative that the newly created councils are well led and citizen centric, with a strong organisational culture focusing on performance, innovation and staff engagement.
4. We are concerned that the already longstanding uncertainty on how these proposals will be taken forward has made it difficult to maintain morale in the current local authorities and to plan ahead effectively. Even if the timetable currently proposed in the Bill goes ahead exactly as planned, we are looking at another four years before the new local authorities come into being, and those issues will continue to be of concern particularly as staff take decisions to leave or retire.
5. In terms of the transitional arrangements outlined in the Bill, the period between the local elections in 2017 and the abolition of the old authorities in 2020 will need to be carefully managed to ensure that strong political and officer leadership and focus is maintained. Once the shadow authorities are established in 2019, it is inevitable that the focus will shift to them; but high quality, day to day services will still need to be delivered by the outgoing organisations until the last day. There will inevitably be a number of members who are elected in 2017 who will not be serving in the new authorities, there are also likely to be a number of officers who will see the transition as a point to retire or move on. Maintaining the morale and energy of the outgoing organisations will therefore be a key task.
6. We represent Chief Executives of Councils from across the Welsh local authorities, and it is therefore difficult for us to comment on the proposed map, and number of councils, as there are many different shades of opinion. We do, however, have concerns about the size of some of the new organisations in terms of their connectedness to citizens and communities, particularly with respect to democratic representation. The advantage of current collaborative arrangements is that, whilst

they take advantage of scale in service planning and delivery, they are rooted in being overseen by elected members who have a depth of understanding of local circumstances.

7. As we feel there is a danger of very large new councils being out of touch with communities, we are not against the establishment of community area committees.

However, we do have concerns about the potential plethora of bureaucracy and the cost of maintaining and supporting this. One small community could be overseen by a Community Council, a Community Area Committee, a Local Authority, a Public Service Board, a constituency Assembly Member, regional Assembly Members, a Member of Parliament and a Member of the European Parliament. A major reform of local government is an opportunity to start from a blank canvas and design governance that is streamlined, cost effective and fit for purpose. An alternative to creating area committees is to redesign the relationship between Community Councils and the new local authorities, with powers of delegation aligned with clear lines of accountability for delivery and cost effectiveness.

If there are to be community area committees, we would be in favour of delegation powers that relate to services delivered specifically to that geographical location; for example, greening and cleaning, parks, community safety. We think that there is potential in this way for not only elected representatives, but also staff delivering the services to be much more closely in touch with local communities and to have a stronger sense of direct accountability to them. We do not think it would be appropriate to delegate functions that relate to individuals, such as social services and education, nor services that have a regulatory aspect.

The strength of very locally based democracy is that it is very immediately and directly in touch with key local issues of concern; the danger is that it can become dominated by individuals with strong personalities focused on single issue agendas. For this reason we believe that community area committees should be made up only of elected representatives and those who have been nominated by established public bodies and voluntary sector organisations and who have some accountability back to those organisations.

8. We welcome a five year cycle for local elections; we believe that this gives elected members a proper period of time to immerse themselves in the working of the organisation and therefore enables them to lead and scrutinise effectively. It also allows time for key decision making to be undertaken on major issues without the constant presence of an election looming. Medium to long term forward planning on financial, service delivery and workforce issues has strengthened in Wales as a response to austerity; and it is important that councillors are able to continue thinking in these longer timelines as we move into the future, whether or not austerity continues to bite.
9. We welcome the provision in section 23 to give general power of competence to local authorities. The broad powers in section 23(2) are particularly appropriate as

councils will increasingly need to look at innovative models of service delivery and ways of raising revenue, including through the use of arms length commercial enterprises.

10. We feel that the provisions of the Bill relating to powers of competence for Community Councils are, in the main, best commented on by Community Councils themselves. However, we would make a general comment that, if the powers of Community Councils are to be expanded, it is important that there are appropriate safeguards and checks and balances to ensure that the calibre of the Community Council, and the support that it receives, is equal to exercising those powers.
11. We support the proposals to require Councils to consult on the annual budget. However, we feel that there should be a wide discretion in terms of how such consultation is carried out. The rapidly increasing use of new forms of social media is likely to mean that by the time the new authorities come into existence there will be ways of communicating with the public which have not yet been thought of.

Traditional means of engaging the public by holding public meetings in geographical locations are increasingly ineffective, often resulting in small numbers of people attending who are not representative of the majority of the population.

12. In terms of improvement requests, we can see the merit in providing a mechanism for an open debate between a council and a community on an issue of specific local importance. We do feel however that there need to be parameters around this dialogue, as there is a danger of it absorbing a very large amount of officer time in the Council. "Reasonable grounds" for not entering into a dialogue should include the fact that a similar request has been made previously or that the issue has become vexatious. We welcome the fact that the Bill does not heavily prescribe the duty upon local authorities.

If there are to be community area committees, there will probably be merit in most "improvement requests" being dealt with at that level within the resource envelope delegated to that committee.

In times of continuing austerity, there will be issues around fair distribution of limited resources; and the danger that those who put in improvement requests are treated more favourably in terms of resource allocation than those who don't must be guarded against. The reality is that local authorities will increasingly have to take away or reduce services that communities want and value; a published debate will only have value if it highlights not only the rights of communities and individuals to receive services but also their responsibilities as citizens to contribute.

13. We are in favour of transparent electronic broadcasting of all formal meetings of democratically elected bodies. Having said this, we believe that there must also be space for members and officers to discuss and test out ideas in an informal discussion before formal meetings take place in the public eye.

14. We note at S77 (2) the power for Ministers to make regulations allowing persons to make their own electronic recordings of council meetings and to publish them on social media. We would urge that Ministers give this very careful consideration before making such regulations. If an electronic broadcast is freely available to all, we question why this would be necessary; and the ability of individuals to cut and paste to distort and misrepresent the facts is a serious consideration.
15. With regard to the question of keeping written minutes, we question the necessity of this going forward if all meetings have a full electronic record.
16. We support all proposals to engage children and young people actively in democratic decision making.
17. We welcome the provisions in the draft Bill requiring members to attend meetings regularly, hold surgeries at least quarterly, respond promptly to correspondence, attend all compulsory training and make annual reports. We also welcome the requirement for Leaders to set and monitor objectives for the Cabinet. These are all standards that the public have a right to expect from those whom they elect.
18. In section 100 (1)(a) of the Bill it is stated that a candidate for Leader must in advance of a leadership election prepare and circulate to other members a written manifesto. Whilst we understand why the Bill may cite this as good practice, we would point out that in local government election years the time between the election itself and the Annual General Meeting is short and that, particularly if there is a complicated period of negotiation between parties forming a coalition, this may be difficult to achieve in practice.
19. We support the provision in section 101 (2) for Councils to be able to appoint Assistant Executive Members; this is welcomed as a good way for younger councillors to gain experience and to allow for succession planning.
20. In Chapter 6 section 103, we support the provision to change the senior statutory role in the council from Head of Paid Service to Chief Executive as this more clearly describes the nature of the role and recognises the status of the Chief Executive within the organisation.
21. In section 103(6) it is stated that “a county council must provide its Chief Executive with such staff, accommodation and other resources as are, in the Chief Executive’s opinion, sufficient to allow the Chief Executive’s duties under this section to be carried out”. Whilst it is of course desirable that councillors should listen to and respect the advice of their Chief Executive, and that Chief Executives should only make requests of the Council that are proportionate and reasonable, we believe that this wording needs more thought. It surely cannot be the intention of the Bill to make it a statutory requirement that elected members must provide whatever resources are required *in the opinion of the Chief Executive* to discharge its various functions. Members may disagree with the Chief Executive as to where resources

should be deployed according to political priorities, and the wording as it is drafted at present would override that.

22. Section 104, concerning the setting of objectives for Chief Executives, states at subparagraph (8) that Welsh Ministers may issue guidance, to which the Council must have regard. Is it the intention that Welsh Ministers should have the power to intervene in local arrangements between a Leader and a Chief Executive with regard to the way that the Chief Executive carries out their duties? If so, this seems to be a considerable incursion into the running of a local authority without the Bill putting any parameters around the Minister's reason for issuing such guidance – for example if the Council is failing to deliver on key performance or governance issues.
23. We welcome the decision referred to in the consultation document that issues concerning the appointment of Chief Executives and Chief Officers should be subject to further consideration and advice by the Public Services Staff Commission. Local Government reform will inevitably see the loss of a number of experienced and capable Chief Executives and senior managers, and Wales is not well placed to attract new talent from England or elsewhere. Therefore, whilst the wish for transparency and fairness in senior remuneration is understood, account must be taken as to the levels of remuneration that will recognise and reward the demands of the role and enable Wales to recruit and retain the best.
24. We feel that much has been done in recent years to undermine the value and respect that senior local government officers in Wales are held in. We accept that as senior public servants our pay should be open to scrutiny in terms of public value and transparency. However, the salaries of even the best remunerated of us do not compare favourably with our equivalents in the private sector (or of local authority Chief Executives in England or Chief Executives of Health Boards and other public bodies in Wales) and for that we run extremely complex organisations within a challenging political environment in the face of constant public scrutiny and criticism at a time that requires transformational leadership. When looking at the multiplier between the lowest and highest paid person in an organisation, it is considerably higher in most private sector organisations than in local government; and in Welsh local government in particular we are well below the maximum of 20:1 discussed in the Hutton Review of Fair Pay. The combination of increased levels of pension contributions and a lack of percentage increases on salary mean that many of us take home significantly less pay than we have done in previous years for carrying out an increasingly difficult role with fewer people to support us. It is already difficult to find a reasonable pool of high quality candidates for senior roles in Welsh local government or to recruit from outside Wales; this is likely to become an increasing problem as existing senior people leave or retire as a result of local government reform.
25. The Bill is not entirely clear on the question of which Returning Officer roles would be regarded as included as being integral to the role of Chief Executive. The reasoning behind this with regard to Local Government Elections is understood, although such elections do add considerably to the Chief Executive's workload; with

regard to other elections (Parliamentary, Welsh Assembly, European, Police Commissioner, referenda etc.) these are not financed by the local authority and do entail additional duties over and above the Chief Executive role.

26. We recognise and agree with the need for shadow authorities to appoint interim Returning Officers given the timescales.
27. With regard to the statutory protections afforded to certain senior officers of the Council, these are given to statutory officers for a specific reason, which is that they are required to “speak truth to power” for the safety, proper conduct and reputation of the organisation and those leading it, particularly in cases of potential corruption or illegality. We would strongly oppose, and advise extreme caution on, taking any action to remove these protections in Wales.

Votes in full council concerning the employment of individual officers would inevitably lead to protracted litigation in employment tribunals and courts for unfair dismissal, and could easily lead to reputationally damaging and costly claims of bullying, harassment and discrimination. It is hard to see the justification for carrying out such procedures in public, and easy to see how it could turn into a “witch hunt” playing to the public gallery.

28. We welcome the proposed greater flexibility to allow Councils to determine what matters can and cannot be delegated through simplification of the existing legislation. As stated above in the answer relating to community area committees, there is a danger in creating new councils with very large populations and geographical spread that the connection with local decision making will be lost. Decisions that relate specifically to a particular community and its activities are most properly taken at the most local level possible.

Key strategic policy decisions should remain the responsibility of the full Council, and it is suggested that the bullet point list in the consultation document should include the setting of the Council’s key priorities and objectives in its Corporate Plan.

29. There is much in Part 5 of the Bill that we strongly support. Many councils have found a combination of rigorous self assessment supplemented by peer review to be instrumental in focusing on and driving up performance.

The huge reduction in resources available to local authorities makes it vital to have clear and focused priorities based on clear political choices, and for the Corporate Plan to be closely aligned with the Medium Term Financial Plan and Workforce Plan.

30. Section 113 of the Bill requires a County Council to publish its first corporate plan no later than three months after the date of the first ordinary election of councillors. Experience suggests that this timescale is unrealistic. The corporate plan will set out the key strategic direction for the council for years to come. It requires careful thought and wide consultation both within political parties and cross party; in addition the Bill requires consultation with both the Local Health Board and the

Public Service Board. In our view a plan that attracts wide consensus and support is much more effective to the good governance of the organisation than one that has to be rushed into existence.

31. We very much support provisions that require regulators to work and plan together and to carry out combined assessments, the burden of regulation on local authorities is very heavy and in many cases disproportionate to the benefits that it confers.
32. We feel that the creation of local public accounts committees would add unnecessary bureaucracy, complexity and expense to an already crowded landscape without delivering significant benefits that would drive public service improvement.
33. Public Service Boards do appear to be an appropriate place for the examination of key strategic policy choices. The only caveat to this is that PSBs will be made up of the senior executives of the local public service organisations, and there is therefore a danger that their deliberations will result in a reinforcing of existing attitudes and views, rather than an element of challenge and enquiry. It would certainly be beneficial for PSBs to be able to commission external expertise and for them to be able to introduce independent critical friends to challenge their thinking. It does not seem necessary for them to have powers to summon officers to give evidence, given that they can do so through their seniority within the constituent organisations.
34. Experience suggests that there not as many legislative barriers to the scaling of shared services across not only local authorities but public services generally as may be supposed. There are state aid considerations in terms of commercial trading but these can be accommodated with the appropriate legal advice. The general powers of competence proposed in the Bill should help to iron out any existing wrinkles around legal powers.

Creating an arms length wholly local authority owned company allows for strategic partnerships with private sector providers that do not fall foul of procurement legislation and therefore provides greater flexibility within appropriate legal parameters. This can be done under existing legislation.

35. We have considerable concerns about the proposals in the Bill to issue guidance, to which public bodies must have regard, with respect to workforce matters. The definition of workforce matters in section 173 combined with the ability to issue guidance to particular public body effectively means that a Minister and his or her officials can take on the responsibilities of a Chief Executive in relation to the staff with an organisation. It is of particular concern that there no parameters built into this power, so that there is no need for a local authority to be failing in some respect for these powers to be exercised.

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Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

Dyddiad: 25 Ionawr 2016
Ein cyf: HVT2479/fgb
Tudalen: 1 o 11

Dear Christine

BIL DRAFFT LLYWODRAETH LEOL (CYMRU)

Diolch yn fawr am y cyfle i roi sylwadau ar Fil Drafft Llywodraeth Leol (Cymru).

Rwy'n amgáu atodiad sy'n cynnwys sylwadau manwl, ond gall fod yn ddefnyddiol imi roi crynodeb o'r prif bwyntiau yma.

Yn gyffredinol, nid yw unrhyw rai o ganfyddiadau fy ngwaith o ran llywodraeth leol yn awgrymu bod unrhyw rai o'r darpariaethau arfaethedig sy'n ymwneud â chreu'r siroedd newydd yn afresymol neu'n anymarferol. Er hynny, yn yr un modd, ni allaf fynegi barn ynghylch a oes i unrhyw rai o'r patrymau arfaethedig ar gyfer llywodraeth leol unrhyw rinweddau neu anfanteision arbennig o gryf.

Mae'n ymddangos bod darpariaethau cyllid llywodraeth leol (adran 16 o'r Bil drafft ac Atodlen 3 iddo) yn rhesymol o ran galluogi'r strwythurau newydd i weithredu. Nid yw'r darpariaethau, fodd bynnag, yn newid y systemau presennol yn sylweddol. O ddarllen dogfen ymgynghori Llywodraeth Cymru, rwy'n deall bod Llywodraeth Cymru'n bwriadu ymgynghori ar gynigion ar gyfer newid sylweddol, ac rwy'n edrych ymlaen at yr ymgynghoriad hwnnw. Rwyf hefyd yn edrych ymlaen at yr ymgynghoriad ar y newidiadau o ran cyfrifyddu ac archwilio y mae Llywodraeth Cymru, fel y deallaf i, yn bwriadu eu cynnwys yn y Bil i'w gyflwyno.

Rwy'n croesawu'r bwriad i ddisodli'r ddyletswydd i wneud trefniadau gwella (sy'n ofynnol o dan Fesur Llywodraeth Leol (Cymru) 2009) drwy gyflwyno'r ddyletswydd arfaethedig o dan Ran 5 o'r Bil drafft i wneud trefniadau llywodraethu da. Fodd bynnag, mae rhywfaint o gynnwys arall Rhan 5 yn peri pryder imi. Rwy'n pryderu'n benodol am adran 143 sy'n darparu i Weinidogion Cymru wneud rheoliadau i gydlynu fy ngwaith â gwaith Estyn ac AGGCC. Gan ddefnyddio'r pwerau hyn, bydd modd i Weinidogion Cymru bennu amserlenni ar gyfer cyflawni gwaith archwilio a mynnu bod gwybodaeth yn cael ei rhannu. Mae'n amlwg bod hyn yn gwrthdaro ag annibyniaeth yr archwilydd (sy'n cael ei diogelu ar hyn o bryd gan adran 8 o Ddeddf Archwilio Cyhoeddus (Cymru) 2013).

Mae annibyniaeth yr archwilydd yn egwyddor sylfaenol sy'n cael ei chydabod gan gyrff cyhoeddus, gan gynnwys y Bwrdd Arferion Archwilio a'r Fforwm Archwilio Cyhoeddus. Mae'n hollbwysig i gynnal cywirdeb a hygredd adroddiadau archwilio sydd, yn eu tro, yn bwysig i gynnal hygredd y cyrff sy'n cael eu harchwilio. Yn wir, rwy'n nodi bod Llywodraeth Cymru wedi dweud yn ei Memorandwm Esboniadol ar Fil Archwilio Cyhoeddus (Cymru) fel yr oedd bryd hynny ei bod "yn hynod ymwybodol o'r angen i gynnal a gwarchod annibyniaeth a gwrthrychedd ACC."

Mae gennyf bryderon tebyg ynghylch adran 132 sy'n peri iddi fod yn ofynnol i'r Archwilydd Cyffredinol ddarparu i adolygwyr a benodir gan Lywodraeth Cymru "ba bynnag gyfleusterau a chymorth" y mae eu hangen ar yr adolygwyr. Rwyf hefyd yn credu bod Rhan 5 yn arwain at nifer fawr o adolygiadau, gan gynnwys gofyniad aneffeithlon i gyflawni asesiadau cyfun.

O ran Rhan 1 yr Asesiad Effaith Rheoleiddiol (strwythur daearyddol llywodraeth leol), ar y cyfan, ac o'u cymryd gyda'i gilydd, nid yw'n ymddangos bod yr amcangyfrifon o'r costau a'r arbedion yn afresymol. Fodd bynnag, ni ellir bod yn sicr oherwydd nad yw sail llawer o'r ffigurau'n eglur. Mae rhai o'r amcangyfrifon unigol yn ymddangos braidd yn optimistaidd, fel y cyfanswm isaf o £3.5 miliwn ar gyfer cysoni cyflogau (tabl 15 ar dudalen 70). Fodd bynnag, nid yw'n ymddangos bod cymaint o optimistiaeth fel ei bod yn tansilio'r darlun cyflawn, sef y dylai'r costau "dal yn ôl" ymhen tua phedair blynedd, o gymryd amcangyfrifon uchaf y costau ac amcangyfrifon isaf yr arbedion.

Mae llif arian cyffredinol y sector cyhoeddus yn bwysig, ac mae'n ymddangos y bydd 2019-20 yn flwyddyn dyngedfennol i lywodraeth leol o ran gofynion ariannu. Yn y flwyddyn honno, bydd angen i'r awdurdodau gael hyd i ryw £60 miliwn i £100 miliwn i ariannu diswyddiadau, pecynnau ymddeoliadau cynnar a chostau eraill.

Nid yw'n ymddangos bod Rhan 2 o'r Asesiad Effaith Rheoleiddiol (diwygiadau cyfansoddiadol, llywodraethu, cynghorau cymuned a materion y gweithlu) yn gyflawn oherwydd, er enghraifft, nad oes costau wedi'u pennu ar gyfer hunanasesiadau. Nid yw'r ffaith bod gwybodaeth o'r fath wedi'i hepgor, fodd bynnag, yn debygol o effeithio'n sylweddol ar batrwm cyffredinol y costau a'r arbedion sy'n codi o ddarpariaethau'r Bil, ond bydd iddynt oblygiadau o ran adnoddau lleol.

Rwy'n fodlon darparu eglurhad pellach.

Yours sincerely



HUW VAUGHAN THOMAS
ARCHWILYDD CYFFREDINOL CYMRU

Atodiad

Sylwadau ar rannau unigol o Fil Drafft Llywodraeth Leol (Cymru)

Rhan 1, Ardaloedd Llywodraeth Leol a Chynghorau Sir

- Yn gyffredinol, nid yw unrhyw rai o ganfyddiadau fy ngwaith o ran llywodraeth leol yn awgrymu bod unrhyw rai o'r darpariaethau arfaethedig yn afresymol neu'n anymarferol. Er hynny, yn yr un modd, ni allaf fynegi barn ynghylch a oes i unrhyw rai o'r patrymau arfaethedig ar gyfer llywodraeth leol unrhyw rinweddau neu anfanteision arbennig o gryf.
- Mae'n ymddangos bod darpariaethau cyllid llywodraeth leol (adran 16 o'r Bil drafft ac Atodlen 3 iddo) yn rhesymol o ran galluogi'r strwythurau newydd i weithredu. Nid yw'r darpariaethau, fodd bynnag, yn newid y drefn gyffredinol bresennol o ran cyllid llywodraeth leol yn sylweddol, ac rwy'n nodi bod Llywodraeth Cymru'n bwriadu ymgynghori ar gynigion, gan gynnwys deddfwriaeth bellach, i fynd i'r afael â'r dulliau o ddosbarthu, codi, rheoli a chyfrifyddu cyllid llywodraeth leol. Rwy'n croesawu bwriad Llywodraeth Cymru ac rwy'n edrych ymlaen at yr ymgynghoriad.
- Er nad ydynt wedi'u cynnwys yn y Bil drafft, rwyf hefyd yn nodi bod dogfen ymgynghori Llywodraeth Cymru (tudalen 13) yn dweud y bydd y Bil a gyflwynir yn cynnwys darpariaethau diweddar a modern a fydd yn nodi sut y dylai cyrff llywodraeth leol gyfrif am yr arian y maent yn ei wario a sut y bydd eu cyfrifon yn cael eu harchwilio. Rwy'n edrych ymlaen at yr ymgynghoriad ar y cynigion hyn hefyd.
- O ddarllen tudalen 13 o'r ddogfen ymgynghori, rwyf hefyd yn nodi bod Llywodraeth Cymru'n dweud y bydd yn gwneud rheoliadau mewn perthynas ag ariannu'r awdurdodau cysgodol ac, os bydd angen, archwilio'u cyfrifon. Rwy'n credu ei bod yn briodol gwneud rheoliadau mewn perthynas â chyllid a chyfrifyddu'r awdurdodau cysgodol, ac rwyf hefyd yn credu y byddai'n ddefnyddiol pe bai Llywodraeth Cymru'n ymgynghori ar reoliadau o'r fath cyn iddynt gael eu gosod i sicrhau bod modd mynd i'r afael ag unrhyw broblemau nas rhagwelwyd. Dylai gwariant yr awdurdodau cysgodol gael ei archwilio'n briodol.
- O ddarllen tudalen 16 o'r ddogfen ymgynghori, rwy'n nodi bod Llywodraeth Cymru'n cynnig y bydd y Bil a gyflwynir yn cynnwys darpariaeth a fydd yn caniatáu i Lywodraeth Cymru wneud rheoliadau ynghylch osgoi talu Ardrethi Annomestig. Mae Llywodraeth Cymru'n gofyn yn ei dogfen ymgynghori am awgrymiadau ynghylch sut y gallai deddfwriaeth helpu i leihau'r nifer sy'n osgoi talu. Er nad yw'n uniongyrchol berthnasol i'r Bil drafft ei hun, o bosibl, gall fod yn fuddiol i'r Pwyllgor gael gwybod fy mod yn bwriadu dweud ei bod yn ymddangos yn synhwyrol gwneud

darpariaeth sy'n peri iddi fod yn ofynnol i'r rheini sy'n talu Ardrethi Annomestig roi gwybod i'r awdurdodau pan fydd eu hamgylchiadau'n newid. Gall hefyd fod yn werth ystyried darpariaeth a fydd yn rhoi hawl i awdurdodau gael mynediad i safleoedd i chwilio am dystiolaeth o weithgarwch, er enghraifft, drwy ddarllen mesuryddion cyfleustodau.

Rhan 2, Pŵer Cymhwysedd Cyffredinol

6. Rwy'n credu bod y ddarpariaeth ar gyfer pŵer cymhwysedd cyffredinol awdurdod lleol ym Mhennod 1 o Ran 2 o'r Bil drafft yn briodol. Rwy'n nodi bod rhywfaint o ddryswch mewn o leiaf un awdurdod yng Nghymru ynghylch a yw'r cymhwysedd a ddarperir gan Ddeddf Lleoliaeth 2010 yn berthnasol, a dylai'r ddarpariaeth hon yn neddfwriaeth Cymru helpu i atal dryswch o'r fath yn y dyfodol.
7. O ran darpariaeth y Bil drafft ar gyfer defnyddio barn archwilydd i bennu cymhwysedd cyngor cymuned (adran 31), er bod barn o'r fath yn berthnasol i allu cyrff o ran llywodraethu a rheolaeth ariannol, dylwn nodi nad diben gwaith archwilio yw rhoi sicrwydd ynghylch a yw cyngor yn bodloni gofynion cymhwysedd. Nid yw'r darpariaethau archwilio presennol yn adran 17 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004 yn peri iddi fod yn ofynnol i archwiliadau roi sylw i gymhwysedd cyffredinol. Os bwriedir i'r trefniadau archwilio fod yn hollol briodol i bennu a oes gan gyngor gymhwysedd, bydd angen diwygio cwmpas gwaith archwilio. Mewn llawer o achosion, os nad y rhan fwyaf ohonynt, bydd hyn yn peri i ffioedd archwilio cynghorau cymuned gynyddu (neu bydd angen eu hariannu drwy fodd arall). Yn hytrach na pheri i hwn fod yn ofyniad cyffredinol ar gyfer pob archwiliad, gallai fod yn fwy effeithiol o ran cost pe bai darpariaeth yn cael ei gwneud i beri iddi fod yn ofynnol i gynghorau cymuned gael gafael ar adroddiadau penodol ynghylch eu ffitrwydd o ran gofynion cymhwysedd. Byddai modd darparu adroddiadau o'r fath ar sail cytundeb o dan adran 19 o Ddeddf Archwilio Cyhoeddus (Cymru) 2013.
8. Rwy'n nodi bod adran 35 o'r Bil drafft yn peri iddi fod yn ofynnol i gynghorau cymuned roi sylw i unrhyw ganllawiau a gyhoeddir gan Weinidogion Cymru ynghylch y modd y dylid arfer y swyddogaethau o ran y pŵer cymhwysedd cyffredinol. Rwy'n credu bod hyn yn briodol a byddwn yn ychwanegu fy mod yn credu y bydd canllawiau o'r fath yn bwysig iawn, oherwydd nad yw cynghorau cymuned yn debygol o fod yn gyfarwydd â chydabod y terfynau cymhwysedd a bennir, er enghraifft, gan reolau Cymorth Gwladol Ewrop.

Rhan 3, Hybu Mynediad i Lywodraeth Leol

9. Yn gyffredinol, rwy'n croesawu'r cynigion yn Rhan 3 i hybu cyfranogiad y cyhoedd. Mae llawer o'r gofynion yn gyson ag egwyddorion llywodraethu da, a gallent helpu i gyfrannu at fframwaith i asesu cydymffurfiaeth â'r ddyletswydd llywodraethu da (Rhan 5 o'r Bil drafft).

10. Rwy'n croesawu'n enwedig y ddyletswydd i gyhoeddi canllaw i'r cyfansoddiad i hwyluso tryloywder a llywodraethu da (adran 79).
11. Serch hynny, rwy'n credu y gallai'r darpariaethau ar gyfer ceisiadau gwella (Pennod 4 o Ran 3) arwain at weithdrefnau a allai fod yn feichus o safbwynt gweinyddol. I'r perwyl hwnnw, gallai fod yn ddefnyddiol pe bai Llywodraeth Cymru'n ystyried dull o leihau beichiau o'r fath, er enghraifft, drwy nodi mewn canllawiau ystod realistig o enghreifftiau o seiliau rhesymol dros wrthod ceisiadau.

Rhan 4, Swyddogaethau Cyngorau Sir a'u Haelodau

12. Yn gyffredinol, mae'n ymddangos bod darpariaethau Rhan 4 yn rhesymol.

Rhan 5, Cyngorau Sir: Llywodraethu yn Well

13. Rwy'n croesawu'r bwriad i ddisodli'r ddyletswydd i wneud trefniadau gwella o dan Fesur Llywodraeth Leol (Cymru) 2009 drwy gyflwyno'r ddyletswydd arfaethedig o dan adran 111 o'r Bil drafft i wneud trefniadau llywodraethu da. Yn fy marn i, roedd llawer o'r cyngorau'n ystyried y ddyletswydd gwella fel baich ychwanegol yn hytrach na rhan annatod o'u gwaith. Dylai'r ddyletswydd arfaethedig newydd o ran llywodraethu da fynd i wraidd yr hyn sy'n sicrhau bod sefydliadau'n llwyddo i gyflawni'u blaenoriaethau, a dylai annog cyngorau i bwysu a mesur eu holl drefniadau mewn ffordd gritigol, a gwella tryloywder a democratiaeth ar yr un pryd.
14. Rwyf hefyd yn croesawu'r ffocws ar ddarbodaeth, effeithlonrwydd ac effeithiolrwydd yn adran 111 a'r modd y mae hyn yn cydweddu â'm dyletswyddau o dan Ddeddf Archwilio Cyhoeddus (Cymru) 2004 i sicrhau fy mod yn fodlon bod trefniadau priodol ar waith i sicrhau darbodaeth, effeithlonrwydd ac effeithiolrwydd.
15. Fodd bynnag, rwy'n credu bod pryderon o ran llawer o gynnwys arall Rhan 5 o'r Bil:
 - a) Yr amcanion llesiant heb fod yn gytûn â blaenoriaethau cynlluniau corfforaethol;
 - b) Nifer fawr o asesiadau ac adolygiadau;
 - c) Defnyddio cymheiriaid i roi diagnosis pellach yn hytrach na helpu i wella;
 - d) Cyfyngiadau o ran yr adnoddau ar gyfer adolygiadau gan gymheiriaid;
 - e) Gwahaniaethau rhwng y gwaith sy'n ofynnol o dan ddarpariaethau asesu'r Bil drafft a'r brasluniau o'r disgwyliadau yn y ddogfen ymgynghori;
 - f) Cyfundrefn enwi ddryslyd;
 - g) Aneffeithlonrwydd y gofyniad o ran asesiadau cyfun;
 - h) Gwrthdaro ag annibyniaeth yr archwilydd.

Yr amcanion llesiant heb fod yn gytûn â blaenoriaethau cynlluniau corfforaethol

16. Mae adran 112 yn ymwneud â pharatoi cynlluniau corfforaethol yr awdurdodau. Mae'r adran yn cydnabod y dylid cynnwys yr amcanion llesiant yn y cynlluniau corfforaethol. Fodd bynnag, mae'r modd y mae'r adran wedi'i drafftio ar hyn o bryd yn awgrymu bod yr amcanion llesiant (sy'n ofynnol o dan Ddeddf Llesiant Cenedlaethau'r Dyfodol (Cymru)) yn ychwanegiad ar wahân i'r "datganiad o flaenoriaethau". Os bwriedir i'r amcanion llesiant fod yn rhan ganolog o flaenoriaethau cyngor, mae angen diwygio'r adran hon i sicrhau bod hynny'n eglur.

Nifer fawr o asesiadau ac adolygiadau

17. Mae Rhan 5 yn arwain at nifer fawr o ofynion asesu ac adolygu:
- a) hunanasesiadau o dan adran 116;
 - b) asesiadau gan gymheiriaid o dan adran 118;
 - c) asesiadau cyfun o dan adran 124;
 - d) adolygiadau llywodraethu a drefnir gan Lywodraeth Cymru o dan adran 128.
- Er ei bod yn bosibl y gallai'r asesiadau cyfun o dan adran 124 a'r adolygiadau llywodraethu a drefnir gan Lywodraeth Cymru o dan adran 128 fanteisio ar yr hyn a ganlyn, mae'r uchod yn ychwanegol at:
- e) ystyriaeth bresennol yr Archwilydd Cyffredinol o'r trefniadau llywodraethu fel rhan o'i ystyriaeth o'r trefniadau i sicrhau darbodaeth, effeithlonrwydd ac effeithiolrwydd o dan Ddeddf Archwilio Cyhoeddus (Cymru) 2004
 - f) y ddyletswydd o dan adran 15 o Ddeddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 i gyflawni ymchwiliadau i asesu i ba raddau y mae corff wedi gweithredu yn unol â'r egwyddor datblygu cynaliadwy (sydd hefyd yn fater llywodraethu sylfaenol).
18. Gyda'i gilydd, mae'r gofynion i asesu ac adolygu materion llywodraethu'n pentyrru. Yn fy marn i, er mwyn i unrhyw asesiadau arfaethedig newydd fod yn fuddiol, dylent ychwanegu gwerth at waith arall yn hytrach na'i ddatblygu. Rwyf hefyd yn credu bod angen trefniadau sy'n gydlynol ac sy'n helpu i arwain at welliant. O ganolbwyntio gormod ar ddiagnosis yn hytrach na gwella, ni fydd yn fuddiol.

Defnyddio cymheiriaid i roi diagnosis pellach yn hytrach na helpu i wella

19. Mae'r asesiad gan gymheiriaid yn enghraifft dda o ddefnyddio adnodd i roi diagnosis pellach yn hytrach na helpu i wella. Mae'n debygol o fod yn fwy buddiol defnyddio cymheiriaid i helpu awdurdod i wella pan fo problemau wedi'u nodi mewn asesiadau eraill yn hytrach na'u defnyddio i gyflawni asesiad pellach. Felly, rwy'n awgrymu y dylid diwygio'r ddarpariaeth ar gyfer adolygiadau gan gymheiriaid er

mwyn darparu cymorth i wella yn hytrach na chyflawni asesiad pellach o'r trefniadau llywodraethu.

Cyfyngiadau o ran yr adnoddau ar gyfer adolygiadau gan gymheiriaid

20. Pryder arall o ran yr asesiadau gan gymheiriaid (yn enwedig y dull a amlinellir yn y ddogfen ymgynghori) yw'r ffaith bod y gronfa o gymheiriaid posibl sy'n bodloni'r gofynion a nodir yn fach iawn ar hyn o bryd. Bydd angen gwneud cryn ymdrech i ddatblygu cronfa o'r fath ac i feithrin gallu yn y sector, yn ogystal â sicrhau ansawdd adolygwyr posibl.
21. Mae'r enghraifft a roddir yn y ddogfen ymgynghori'n dweud y bydd proses yr asesiadau gan gymheiriaid yn cymryd nifer o fisoedd ac ymgysylltu parhaus, ond yna mae'n cyfeirio ati fel "[p]roses 'byr a chyflym'" (tudalen 50). Mae'n ymddangos bod y ddau ddatganiad yn gwrth-ddweud ei gilydd. Rwyf hefyd yn pryderu nad yw'r broses a ddisgrifir yn realistig o ran pa mor gyflym y bwriedir ei chyflawni. I sicrhau bod y dystiolaeth yn gadarn a bod ansawdd y canfyddiadau'n cael ei gadarnhau'n ddigonol, mae'n debygol y bydd angen dull mwy pwylllog.

Gwahaniaethau rhwng y gwaith sy'n ofynnol o dan ddarpariaethau'r asesiadau cyfun yn y Bil drafft a'r disgwyliadau a nodir yn y Memorandwm Esboniadol

22. Nid yw darpariaeth yr asesiadau cyfun yn adran 124 o'r Bil drafft a'r broses a ddisgrifir yn y Memorandwm Esboniadol yn cydweddu â'i gilydd. Mae'r disgrifiad yn y Memorandwm Esboniadol yn mynd ymhellach nag asesu cydymffurfiaeth â dyletswydd llywodraethu da adran 111. Er ei bod yn wir y gall yr Archwilydd Cyffredinol, Estyn ac AGGCC bennu risgiau rhag llywodraethu da drwy rannu gwybodaeth am ein gwaith, i'r graddau y mae'r meysydd ymchwilio a'r canfyddiadau'n caniatáu hynny, nid yw hyn yr un fath â rhoi asesiad o gydymffurfiaeth corff â'r dyletswyddau statudol. Mae'r broses a ddisgrifir yn y Memorandwm Esboniadol yn fwy addas ar gyfer dyletswydd i rannu gwybodaeth wrth arfer swyddogaethau'r gwahanol gyrff adolygu nag ydyw ar gyfer dyletswyddau i asesu ac i adrodd ar y cyd.

Cyfundrefn enwi ddryslyd

23. Mae adran 123 yn diffinio'r Archwilydd Cyffredinol fel "rheoleiddiwr perthnasol" a swyddogaethau'r Archwilydd Cyffredinol o ran llywodraeth leol fel "swyddogaethau perthnasol". (Y "rheoleiddwyr perthnasol" eraill a ddiffinnir gan yr adran yw Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru (Estyn) a Gweinidogion Cymru pan fyddant yn arfer swyddogaethau arolygu gwasanaethau cymdeithasol (AGGCC).) Mae'n gamarweiniol labelu'r Archwilydd Cyffredinol fel "rheoleiddiwr" oherwydd nad rheoleiddio yw archwilio. Mae hyn yn arwain at ddrysych o ran swyddogaethau ac annibyniaeth yr Archwilydd Cyffredinol. Rwy'n

credu y byddai modd mynd i'r afael â hyn yn rhwydd drwy wneud newid bach i'r gyfundrefn enwi, er enghraifft, drwy ddefnyddio'r term "corff adolygu perthnasol".

Aneffeithlonrwydd y gofyniad o ran asesiadau cyfun

24. Mae adran 124 yn darparu ar gyfer "asesiadau cyfun" o drefniadau llywodraethu cynghorau sir. Bwrriedir i asesiadau cyfun o'r fath asesu cydymffurfiaeth â'r dyletswyddau llywodraethu o dan adran 111. Fodd bynnag, mae'n debygol y bydd cyflawni asesiad o'r fath ar y cyd, ac adrodd arno ar y cyd, yn gymhleth heb fod angen, o ystyried swyddogaethau neilltuol anorfod ac annibyniaeth y cyrff o dan sylw. Er mwyn i sawl parti, tu mewn i'r cynghorau a'r cyrff adolygu perthnasol, gadarnhau adroddiadau a chytuno arnynt yn derfynol, bydd o reidrwydd yn cymryd mwy o amser. O gofio bod pwysu a mesur trefniadau llywodraethu eisoes yn rhan annatod ac angenrheidiol o swyddogaethau archwilio'r Archwilydd Cyffredinol, byddai'n fwy effeithlon peri iddi fod yn ofynnol i'r Archwilydd Cyffredinol asesu'r modd y mae'r ddyletswydd i wneud trefniadau llywodraethu da'n cael ei chyflawni, gan beri iddi fod yn ofynnol i'r cyrff adolygu perthnasol eraill ddarparu gwybodaeth berthnasol a pheri iddi fod yn ofynnol i'r Archwilydd Cyffredinol roi sylw dyledus i wybodaeth o'r fath.

Gwrthdaro ag annibyniaeth yr archwilydd

25. Nid yw sawl agwedd ar Ran 5 yn cydweddu ag annibyniaeth yr archwilydd, sef un o egwyddorion sylfaenol archwilio sy'n hollbwysig i hygyrdded cyffredinol yr adroddiadau am y modd y mae adnoddau cyhoeddus yn cael eu gwarchod, ar lefel llywodraeth leol ac ar lefel Llywodraeth Cymru. Mae'r broblem fwyaf yn codi yn adran 143 sy'n rhoi pŵer i Weinidogion Cymru wneud rheoliadau i gydlynu gwaith yr Archwilydd Cyffredinol â gwaith Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru (Estyn) a gwaith Gweinidogion Cymru o ran eu swyddogaethau i arolygu gwasanaethau cymdeithasol (AGGCC). Drwy ddefnyddio'r pwerau hyn, bydd modd i Weinidogion Cymru bennu'r amserlenni ar gyfer gwaith archwilio a mynnu bod gwybodaeth yn cael ei rhannu.
26. Rwy'n deall y gall fod bwriad i'r ddarpariaeth i ganiatáu i Weinidogion Cymru wneud rheoliadau helpu i gyflawni rhan gyntaf yr adran, sef y dylai Estyn, AGGCC a'r Archwilydd Cyffredinol roi sylw i'r angen i gydlynu'u gwaith. Mae'r rhan gyntaf honno o'r adran yn rhesymol, ond nid yw'r ddarpariaeth ar gyfer rheoliadau'n briodol. Ar wahân i'r ffaith y byddai'n niweidio annibyniaeth yr archwilydd a, thrwy hynny, hygyrdded ariannol y Gweinidogion, nid yw'r ddarpariaeth ar gyfer rheoliadau'n angenrheidiol gan fod camau eisoes yn cael eu cymryd i gydlynu gwaith drwy gyfrwng grŵp cydlynu gwirfoddol Arolygu Cymru.
27. Mae problem debyg yn codi yn adran 132 sy'n rhoi rheidrwydd ar yr Archwilydd Cyffredinol, yn ogystal ag Estyn ac eraill, i ddarparu i "adolygwyr" a benodir gan

Llywodraeth Cymru (o dan adran 128) “ba bynnag gyfleusterau a chymorth” sydd eu hangen ar yr adolygwyr. Mae perygl y bydd y rhwymedigaethau o dan adran 132 yn dargyfeirio adnoddau oddi wrth waith archwilio annibynnol.

28. Os yw Llywodraeth Cymru yn bwriadu creu ei threfniadau ei hun i adolygu trefniadau llywodraethu llywodraeth leol, rwy'n deall y bydd am sicrhau bod y trefniadau hynny'n cydlynu â gwaith cyrff adolygu eraill, fel yr Archwilydd Cyffredinol, a sicrhau nad ydynt yn arwain at ddyblygu diangen. Fodd bynnag, mae'n ymddangos yn fwy priodol ceisio cydlynu'r gwaith drwy ddefnyddio trefniadau presennol Arolygu Cymru (heb unrhyw gost ychwanegol sylweddol) yn hytrach na darparu ar gyfer hawlio adnoddau annibynnol y mae'r Cynulliad Cenedlaethol wedi pleidleisio i'w darparu at ddibenion eraill.
29. Mae cynnwys yr Archwilydd Cyffredinol mewn dyletswydd yn adran 144 i roi sylw i ganllawiau Gweinidogion Cymru o ran swyddogaethau o dan Ran 5 hefyd yn gwrthdaro ag annibyniaeth gyffredinol yr archwilydd.

Rhan 6, Cynghorau Cymuned

30. Yn gyffredinol, nid yw'n ymddangos bod darpariaethau Rhan 6 yn afresymol, ond mae rhai problemau'n codi o ran eu rhoi ar waith yn ymarferol.
31. Fel y dywedir yn y ddogfen ymgynghori, rwyf innau (neu mewn rhai achosion, archwilwyr penodedig) wedi paratoi adroddiadau dros y blynyddoedd diwethaf sy'n tynnu sylw at yr angen i wella rheolaeth ariannol a llywodraethu ar draws y sector. I wella gallu'r sector, mae'n ymddangos yn debygol y bydd angen creu cynghorau cymuned mwy ar y cyfan, gan mai wrth archwilio'r cynghorau llai yr ydym wedi dod ar draws y problemau mwyaf. Yn gyffredinol, mae cynghorau mwy mewn gwell sefyllfa i dalu mwy o dâl i ddenu staff amser llawn a chymwysedig. Mae'r ystyriaeth hon a'r ffaith nad oes gan lawer o gymunedau gynghorau cymuned yn peri iddi fod yn briodol adolygu'r holl gymunedau.
32. Rwy'n cefnogi'r ddarpariaeth o ran hyfforddi cynghorwyr cymuned. Yn aml, nid yw cynghorwyr cymuned yn deall eu cyfrifoldebau (gweler, er enghraifft, adroddiad er budd y cyhoedd yr archwilydd penodedig am Gyngor Cymuned Mawr, Ionawr 2015), yn enwedig o ran y fframwaith cyfreithiol gweddol gymhleth, cyllid a llywodraethu. Felly, mae'n ymddangos bod hyfforddiant yn syniad da.
33. Rwy'n cefnogi cynnig Llywodraeth Cymru a nodir yn ei dogfen ymgynghori (ond nid yn y Bil drafft) y dylai fod yn ofynnol i gynghorau cymuned ystyried anghenion hyfforddiant eu haelodau a'u cyflogeion a chynllunio ar eu cyfer. Rwy'n credu ei bod yn bwysig bod cynghorau cymuned yn ysgwyddo perchnogaeth dros eu hanghenion hyfforddiant oherwydd dylai hynny wella a chynnal eu gallu annibynnol a'i gwneud yn fwy tebygol y bydd yr aelodau'n cyflawni hyfforddiant. Fodd bynnag,

ar hyn o bryd, rwy'n amau a fyddai llawer o'r cynghorau mewn sefyllfa dda i bennu eu hanghenion a'u bylchau hyfforddiant, felly rwy'n credu y gall fod gan gynghorau sir rôl, y darperir ar ei chyfer yn adran 167, o ran ystyried anghenion hyfforddiant cynghorwyr cymuned. Ymhellach, dylai canllawiau Llywodraeth Cymru, y darperir ar eu cyfer gan adran 167(2), helpu i sicrhau bod safonau cyson ar waith ledled Cymru.

34. Heb os, bydd problemau ymarferol yn codi o ran sicrhau bod hyfforddiant gorfodol yn cael ei gwblhau. Nid wyf yn sicr y bydd y weithdrefn hysbysu yn adran 170 yn effeithiol oherwydd, fel y nodir yn y ddogfen ymgynghori, gall niweidio'r berthynas rhwng y clerc a'r cyngor gan fod y clerc yn gweithio i'r cyngor. Fodd bynnag, mae'n synhwyrol ei gwneud yn ofynnol i glerc cod gadw cofnod o'r anghenion hyfforddiant a'r rheini sydd wedi cael hyfforddiant a byddai hynny, er enghraifft, yn hwyluso adolygiad archwilio ynghylch hyfforddiant ar draws y cynghorau cymuned pe bai hynny'n briodol o ystyried yr adnoddau a'r blaenoriaethau.

Rhan 7, Materion y Gweithlu

35. Yn gyffredinol, mae'n ymddangos bod darpariaethau Rhan 7 yn rhesymol.

Rhan 8, Cyffredinol

36. Os bydd y Bil i'w gyflwyno'n cynnwys darpariaethau sy'n caniatáu i Weinidogion Cymru wneud rheoliadau ar gyfer asesiadau cyfun ac ar gyfer pennu'r amserlen ar gyfer arfer swyddogaethau corff adolygu a rhannu gwybodaeth o adolygiadau (adrannau 127 a 143 y drafft presennol nad ydynt yn briodol, fel y nodwyd uchod), yna dylid cyfeirio atynt yn adran 182(3). Byddai hynny o leiaf yn sicrhau bod rheoliadau o'r fath yn destun penderfyniad gan y Cynulliad Cenedlaethol.

Yr Asesiad Effaith Rheoleiddiol, Rhan 1 (strwythur daearyddol llywodraeth leol)

37. Ar y cyfan, ac o'u cymryd gyda'i gilydd, nid yw'n ymddangos bod yr amcangyfrifon o'r costau a'r arbedion yn afresymol, er na ellir bod yn sicr oherwydd nad yw sail llawer o'r ffigurau'n eglur (gweler, er enghraifft, yr amcangyfrifon o'r arbedion o gyfuno gofod swyddfa ar dudalen 63 o'r Asesiad Effaith Rheoleiddiol, Rhan 1). Er bod y costau a'r arbedion cyffredinol yn ymddangos braidd yn optimistaidd i mi, nid yw'n ymddangos bod cymaint o optimistaeth fel ei bod yn tansilio'r darlun cyflawn, sef y dylai'r costau "dalun yn ôl" ymhen tua phedair blynedd, o gymryd amcangyfrifon uchaf y costau ac amcangyfrifon isaf yr arbedion.
38. Mae rhai o'r amcangyfrifon unigol yn ymddangos braidd yn optimistaidd, fel y cyfanswm isaf o £3.5 miliwn ar gyfer cysoni cyflogau (tabl 15 ar dudalen 70 o'r Asesiad Effaith Rheoleiddiol, Rhan 1). Mae'n ymddangos bod yr amcangyfrif hwn

yn seiliedig ar symud staff yr awdurdodau newydd i gyfartaleddau wedi'u pwysoli sy'n seiliedig ar gyflogau'r awdurdodau presennol.

39. Nid yw costau'r pwyllgorau pontio wedi'u cynnwys yn asesiad y Bil drafft a gall fod rhywfaint o gyfiawnhad dros hynny gan eu bod wedi'u trafod yn yr asesiad ar gyfer Deddf Llywodraeth Leol (Cymru) 2015 (rhyw £2 filiwn 2016-20). Fodd bynnag, i gael darlun cyflawn o gostau'r ad-drefnu, mae angen cadw llygad ar y gost hon, er nad yw'n debygol o wneud gwahaniaeth sylweddol i batrwm cyffredinol y costau a'r arbedion.
40. Nid yw'n ymddangos i mi fod ffurf yr Asesiad Effaith Rheoleiddiol yn hwylus i'r darlennydd. Ni cheir crynodeb amlwg wedi'i labelu'n eglur o gost gros y Bil. Rhaid troi i dudalen 72 i weld "yr opsiwn a ffefrir" ac yna troi'n ôl i dudalennau 69 a 70 i gael crynodebau o'r arbedion a'r costau amcangyfrifedig. Nid yw'n ymddangos bod yr Asesiad wedi'i deilwra mewn ffordd sy'n ateb gofynion Rheolau Statudol y Cynulliad.
41. O ystyried y tabl sy'n crynhoi'r costau ar dudalen 70, un peth amlwg yw'r ffaith y bydd 2019-20 yn flwyddyn dyngedfennol i lywodraeth leol o ran gofynion ariannu. Yn y flwyddyn honno, bydd angen i'r awdurdodau (a'u cronfeydd pensiynau) gael hyd i ryw £60 miliwn i £100 miliwn i ariannu diswyddiadau, pecynnau ymddeoliadau cynnar a chostau eraill. Nid yw'r modd y mae Llywodraeth Cymru wedi ystyried y gofyniad hwn yn amlwg o ddarllen y deunydd ymgynghori.

Asesiad Effaith Rheoleiddiol, Rhan 2 (diwygiadau cyfansoddiadol, llywodraethu, cynghorau cymuned a materion y gweithlu)

42. Nid wyf mewn sefyllfa i roi barn bendant ar y costau a ddangosir yn Rhan 2 o'r Asesiad Effaith Rheoleiddiol, a hynny oherwydd nad yw'n amlwg yn union beth sydd wrth wraidd y ffigurau hyn. Serch hynny, mae'n ymddangos bod arwyddion nad yw'r costau'n gyflawn. Er enghraifft, mae tudalennau 86 i 88 o'r Asesiad Effaith Rheoleiddiol, Rhan 2, yn trafod hunanasesiadau ac asesiadau gan gymheiriaid, ond dim ond costau'r asesiadau gan gymheiriaid sy'n cael eu pennu (£45,000 i £50,000 y flwyddyn, sy'n ymddangos yn isel, hyd yn oed ar sail un asesiad ym mhob cylch etholiadol). Felly, mae'n ymddangos bod cost yr hunanasesiadau wedi'i hepgor.

Reforming Local Government: Power to Local People

UNISON Cymru Wales Submission

(To be considered alongside our completed White Paper Consultation Survey)

Introduction

UNISON Wales welcomes the publication of the Welsh Government's Consultation on Devolution, Democracy and Delivery: Reforming Local Government: Power to Local People White paper.

UNISON is Wales' largest public service union organising over 90,000 public service workers; 50,000 of these working in Local Government. The members we organise are triple stakeholders in Local Government: as employees of our councils; as providers of the services that our councils deliver; and as citizens who use and rely on these services.

UNISON is therefore uniquely placed to advise Welsh Government on how Local Government can be reformed to ensure that it can provide strong, democratic and sustainable quality services into the future.

UNISON Wales has contributed submissions (written and oral) to consultations on the Williams Commission; the July 2014 White Paper and the Public Services Staff Commission White Paper in January 2015. This submission should be considered in the context of these earlier positive engagements.

Principles

UNISON is committed to maintaining the 'Welsh Way' that is embodied in a positive approach to public services: finding public sector solutions to public sector problems.

UNISON is committed to maintaining and developing strong partnership working between Welsh Government, Public sector employers, communities and the trade unions.

UNISON is committed to maintaining and enhancing the reputation of Welsh Public Services in the face of a UK Government driven austerity agenda which threatens to undermine public perception of their worth and threatens to push service delivery to be based on reducing cost rather than providing quality services.

UNISON is clear that Local Government services are best delivered by democratically accountable councils who directly employ the people providing the services. The March 2012 report from the Association of Public Service Excellence (APSE) entitled 'Shared services and collaborative working in a

Welsh context: Applying theory to practice' looked extensively at different governance models for local government and found that there is little support for models of local government specifically that 'hollow out' local councils.

UNISON reaffirms its position of being against all forms of outsourcing and strongly believes that Local Government Services should be delivered by a directly employed council workforce.

1. Power to Local People

Local Government has a crucial role to play in reducing inequality to help create a fairer Wales. Inclusion and cooperation are the foundations on which the Welsh Government can renew and invigorate the Welsh public service delivery system.

That is why Welsh Government, alongside putting a very positive reform agenda for Local Government, needs to articulate a clear economic and political alternative to the failed policies of austerity which are draconically cutting funding to valued services threatening, in some cases, their very existence. In addition, UNISON believes that the Welsh Government should continue to press strongly for the Westminster Government to revise the Barnett Funding Formula to ensure fair funding for Wales going forward.

Reform cannot be implemented and the improvement of public services cannot be conducted whilst the Welsh Government is cutting funding to Local Government.

UNISON hopes that the Welsh Government led reform agenda can assist by articulating a positive vision for the future of public services generally, but Local Government Services specifically, as an essential requirement for maintaining and promoting the health and wellbeing of the people of Wales.

2. Balancing the Responsibilities of the Welsh Government and Local Government

Working together

UNISON would support the principle laid down at the beginning of this section: that service providers, and relevant others like voluntary organisations and community groups, should work together if services are to meet people's needs.

However, when it comes to service delivery, the devil is often in the detail, and specifically, the form of this working together can make crucial differences to service delivery. For example, if a local voluntary organisation knows a particular community well, or has expertise in a particular type of service; their knowledge and expertise should be harnessed by the Council. There should be genuine partnership working. If, however, 'working together' means that there should be

more outsourcing to such organisations, UNISON would not support this move. The experience of UNISON's members is that outsourcing is always carried on the basis of which potential provider can do things most cheaply – not which one can do them best. Too often, 'working together' means paying staff less, and this is not the way to ensure high quality joined-up public services.

The proposals talk about shared services for 'behind the scenes' services. When it comes to purely transactional services, this may be a sensible way to proceed, but in UNISON's view public services are best provided in-house, by employees who are paid appropriately and trained well. UNISON recognises that support service functions may well be usefully pooled in a regional public sector collaborative body, and this service (HR advice, payroll advice, grant funding access, etc.) could be accessed by third sector organisations so benefiting both parties.

The evidence from the last 35 years of privatisation, outsourcing and marketisation makes grim reading, with numerous instances of service deterioration, profiteering and a race to the bottom on pay and terms and conditions of the workforce. As such, any new approach must put services and their users above the bottom line, take out the profit motive, save on transaction costs and ensure stability of provision:

Keeping services in-house should be the default position for all public services.

New regulations must make better use of the new EU Public Procurement Directive, with authorities able to choose in-house models of provision, with trade union recognition, national and local collective bargaining and social criteria applied to contracts. These are known as 'fair wage' clauses and are common in Europe and American cities and cover much more than just the living wage.

Before services go out to contract there needs to be a mandatory 'public interest case' made which sets out the reasons and business case as to why the contracting authority wishes to outsource the service. This should be a public consultation with an onus on the contracting authority to make the case that outsourcing is in the public interest. If the case is not answered then there should be no outsourcing and if the case is answered then 'in-house' bids should be automatically included in the tender process.

Procurement failure

Recent trends in public sector procurement in local government place reliance on bidders to work out the detail of service design and delivery and calculate the costs – variously referred to as 'outcomes-based commissioning', 'enabling', 'thin client', 'intelligent client' and 'light client'. Andy Mudd from the Association of Public Service Excellence (APSE) has highlighted how the risks and complexity of working out the

necessary 'inputs' are increasingly being left to the bidders.¹ In theory this is supposed to ensure that failure risks are transferred to the bidders and client side costs are reduced to a minimum. It is supposed to free providers from detailed input specifications so that they can identify for themselves the most cost-effective way of delivering the required end result. On the other hand contracting authorities are supposed to no longer need to employ their own experts and can therefore reduce the cost of both letting and managing contracts.

However, the assumption that the more decisions about how to deliver a contract are left up to the contractor, the more likely they are to be able to optimise cost and deliver savings, is flawed. Recent examples West Coast Main Line (Department for Transport), G4S (LOCOG) and allegations of fraud by the Ministry of Justice against SERCO and G4S cast serious doubt on the likelihood that this form of commissioning can deliver best value or transfer risk. Risk transfer is frequently illusory. And it relies on the assumption that bidders will always make commercially sensible judgements that will not over-expose them to demand and other risks.

Multiple failures amongst local government contractors, such as Connaught, Southern Cross, Transform Sandwell, Impact (Rochdale and Mouchel) and Southwest One, demonstrate how the commercial failings of contractors rebounds very quickly and expensively, on public bodies.

The Institute for Government has concluded that private contractors are prone to 'gaming', that is responding in undesirable ways to the reward structures commissioners have created. It also found: *"reluctance to force underperforming public, private and voluntary sector providers out of these markets in service provision – partly as a result of a lack of confidence that government can manage transitions between different service providers without causing excessive disruptions to service users."*²

The costs of procurement

The costs associated with complex procurement are very significant. UNISON is concerned that they often involve substantial expenditure on 'consultants' rather than using the expertise of councils' own staff, unions and service users. For example three district councils in Lincolnshire spent almost a quarter of a million pounds on consultants advising on the privatisation of 'back office' services. A report commissioned by UNISON for approximately 1% of the cost exposed

¹ <http://watford.moderngov.co.uk/documents/s3979/Appendix%206.1.pdf>

² <http://www.instituteforgovernment.org.uk/publications/making-public-service-markets-work>

the weaknesses in the consultants' report and enabled the local authorities to pursue a better course of action.

Value for money through in-sourcing

Contract failings have led a growing number of local authorities to take the decision to bring privatised services back in-house.

A study³ for UNISON carried out by APSE found that out of 140 survey respondents, 57% had either brought a service back in-house, were in the process of in-sourcing or were considering doing so. A need to improve efficiency and reduce service costs was the most frequent key reason for in-sourcing with almost 60% of respondents citing it. After cost, 44% of respondents said a need to improve service quality was critical to the decision to in-source. The research found that councils of all sizes, locations and political complexions were represented among those deciding to in-source. In-sourcing was regarded as a means of delivering efficiency savings in the face of mounting budgetary pressure.

Austerity cuts have served to shine a spotlight on long term contracts which up tie large amounts of council spending – forcing cuts to be focused elsewhere. One of the issues identified with the Somerset Council South West One contract was that council funding cuts had fundamentally undermined the rationale for the contract. Cabinet Member for resources, David Huxtable, said: *"It was a very complex contract and lots of the savings were predicated on an ever-increasing amount of money being put into public services and we know in the last four years that has gone into reverse."*⁴

A more recent example of in-sourcing on a large scale looks set to take place following the termination of Sandwell Council's partnership with BT. The Sandwell case raises questions as to what extent other councils are able to learn from such experiences before entering into similar contracts with BT and other large players in the local government market.

Cut-price procurement and the effect on quality: the damage in social care

It is clear that in some areas of local authority expenditure the twin pressures of rising demand for services and funding cuts have created a drive by councils to secure cost-cutting at the expense of service quality. Nowhere is this more prominent than in social care. UNISON has been at the forefront of campaigning to highlight the alarming decline in the quality of care that users receive.

³ UNISON: In-sourcing update: The value of returning local authority services in-house in an era of budget constraints - <https://www.unison.org.uk/upload/sharepoint/On%20line%20Catalogue/20122.pdf>

⁴ *ibid*

UNISON research based on Freedom of Information (FOI) data from councils in England, Wales and Scotland found that 81% of councils commission from homecare providers where they do not guarantee providers specific hours from one week to the next. This enables councils to drive down the costs they incur as a result of fluctuations in care need. But it fuels the use of zero hour's contracts for homecare workers.

An increase in the outsourcing of homecare services at ever lower costs has meant that an estimated 150-200,000 care workers are routinely paid less than the National Minimum Wage largely because they are not paid for their travel time. Providers claim that this is because councils' commissioning models are based on contact time only and do not cover the full costs of care.

The consequences of this cut-price approach by councils in the homecare sector were encapsulated in the recent UK Government-commissioned Cavendish Review which stated that:

*"It will not be possible to build a sustainable, caring, integrated health and social care system on the backs of domiciliary care workers who have to travel long distances on zero hours contracts, to reach people who have to see multiple different faces each week... The advent of zero hour's contracts, fee cuts and no payment for travel time is making it financially prohibitive for some domiciliary care workers to struggle on. Attrition rates are already dangerously high: and they will only increase when carers feel that they can no longer even give good care."*⁵

These developments in homecare have led UNISON to establish our *Time to Care* campaign which asks councils to sign up to an 'ethical care charter' to commission homecare in line with a core set of baseline standards including non-use of 15-minute visits, ensuring payment of travel time, non-use of zero hours contracts and proper training and support for staff to raise concerns about care standards.⁶

A growing number of councils are recognising that the quality and reliability of privatised homecare has become unacceptable. In this and in other sectors of care such as learning disability and independent living, UNISON has identified a trend of councils attempting to establish social care companies as an alternative means of service delivery. In a number of instances these companies have struggled to maintain quality and deliver cost reductions, and have been either forced into liquidation or wound up.

The EU Public Procurement Regulations

⁵ <https://www.gov.uk/government/publications/review-of-healthcare-assistants-and-support-workers-in-nhs-and-social-care>

⁶ <https://www.unison.org.uk/at-work/local-government/key-issues/homecare/the-facts/>

Under the new European Union Public Procurement Regulations, it is possible to use procurement to promote social value, including environmental, labour and employment standards (including tackling blacklisting), ensure the payment of a living wage to outsourced workers, enshrine equal pay, and develop training and apprenticeships.

Unfortunately, the UK Government has rushed through new Public Contracts Regulations, which among other problems, fail to make it a mandatory requirement for public contracts to be awarded on the basis of 'best price/quality ratio'. The failure of the government to not make it a mandatory requirement for public and social services to be awarded on the basis of 'best price/quality ratio' leaves the door firmly open to the continuation of damaging price-only competition fuelling the race to the bottom. This represents a lost opportunity to send a clear signal of much needed shift in UK public procurement to encourage public bodies to implement the Living Wage; fair employment practices; improve financial transparency; apply FOI to private contractors; adopt CSR, prevent serious breaches of employment law including blacklisting, non payment of employment tribunals, health and safety breaches and breaches of environmental and tax obligations.

Regulation 77 of the new UK Regulations covers the issue of new forms of delivery, for example commissioning services to mutuals or co-operatives. But this Regulation allows the contracting authority to reserve a contract for a wide variety of hybrid and private sector organisations. This means that a commercial enterprise could enter the public procurement market by creating a 'special purpose vehicle'. The only bids that would not be able to tender for a public contract would be an existing in-house provider which has the effect of making the regulations appear to be anti-public sector. So the supposed promotion of mutuals and co-operatives is, fairly transparently, another way for the UK Government to privatise public services.

While these new Regulations do cover Wales, there is nothing to stop the Welsh Government doing more, doing things better, than the minimum that is mandated by the UK Government. In UNISON's view it is up to the Welsh Government to send a strong message that it wants to do more than the UK Government has mandated, ensure that quality is built into procurement processes (rather than just cost), and ensure that service delivery by mutuals and co-operatives is not used as a backdoor to privatisation, and UNISON is calling on the Welsh Government to do exactly this, issuing Councils with guidelines to this effect.

Procurement from mutuals, co-operatives and the community and voluntary sector

Moreover, UNISON would question the current trend to favour mutuals and co-ops. Our fear is that outsourcing to mutuals and co-ops will lead us down a similar path to that experienced in the community and voluntary sector.

UNISON represents more than 60,000 members working in the community and voluntary sector – a large proportion of who work in services commissioned by local government.

UNISON is seeing a rise in consortia bidding for contracts instead of just individual charities. However, these are large and expensive exercises to engage in, and often a large private contractor will be the principle bidder while work flowing to the charities will be sub-contracted. This has led to the phenomenon of the profitable work being creamed off by the contractor and charities left to deliver services at bargain basement prices, which are sometimes loss making. It also means charities having to squeeze down even further on the pay and terms and conditions of staff, and increasingly using zero-hour contracts.

Contracts with voluntary sector providers sometimes do not include 'full cost recovery' and there is insufficient allowance for the costs of back office support services – with an often tacit assumption that these can be borne by the organisation's fund-raising activities. In some cases, commissioners have cut the price of a contract mid-contract, causing huge disruption. The private sector would walk away, but charities tend to work in just one area and commissioners can take advantage of the reputational damage they would suffer if they did this.

Generally, funding is getting so tight that additional services that charities provided from any surplus are being cut back or abolished, which has a knock-on effect on local communities. If the Welsh Government is serious about working together with community and voluntary organisations to provide better public services, then grant funding for community and voluntary organisations needs to be revisited as a viable alternative to procurement.

Whatever the level of funding, UNISON's experience is that, often, the unique benefits of working with the Community & Voluntary sector are crowded out by the very system which hands the work over to the sector. For example, one organisation in the North East of England, which worked with young homeless people, has described to us how, upon reaching the end of a financial year, it had some surplus resources left over, and so decided to invest them in a piece of research on how their services could be improved. The research produced useful findings, and so the organisation presented them to the commissioning authority – the Council. The Council agreed that the findings were helpful, but said that to implement them would entail a brand new contract. They therefore terminated the organisation's contract, re-tendered the service based on the findings of the research, and awarded the work to a different organisation. Such behaviour by commissioners acts as a real disincentive for the voluntary sector to engage in any innovation – the innovation which is one of the reasons used by the public sector for outsourcing to the voluntary sector.

In UNISON's view, if a local voluntary organisation, mutual, co-op, or charity knows a particular community well, or has expertise in a particular type of service; their knowledge and expertise should be harnessed by the Council – not exploited.

Local Authority Areas

UNISON can only support a restructuring of Local Government in Wales if the Welsh Government provides additional resources to local authorities to enable the initial additional costs, associated with mergers, to be met. These additional resources could be recouped from the savings that the restructuring delivers on the basis of an 'Invest to Save' strategy which has been utilised in other areas of the public sector in Wales. Should the Welsh Government insist on restructuring costs being met from existing Local Government resources then there would be a direct dramatic negative impact on the amount and quality of services that the new councils would be able to provide and would be accompanied by mass redundancies which UNISON would vigorously oppose.

In addition, UNISON is supportive of the organisations boundaries being coterminous with the existing Health Board boundaries. Such an organisational alignment will assist in the necessary process of integrating health and social care services.

UNISON also believes that further empirical evidence needs to be produced, to support the merger process identifying the optimum scale for any new council to ensure that effectiveness and efficiency is maximised, before a merger of councils is agreed.

Staff

UNISON welcomes the commitment of the Welsh Government to establish a Public Services Staff Commission and the Minister's recognition that the Commission will utilise the Workforce Partnership Council as its primary reference point in developing and delivering its work programme.

UNISON agrees that there should be equality of terms and conditions of services, and would want the proposed Public Services Staff Commission to ensure that this applies to outsourced staff with the same force as it does to publicly employed staff. To this end the Commission needs to be committed to implementing, in partnership with the recognised trade unions, an all Wales Job Evaluation scheme which will ensure consistency of pay and terms and conditions for all workers across Local Government services. Such a scheme should apply to all Local Government employees, including Chief Officers and Chief Executives, which would ensure that pay at the top is kept more in proportion with the rest of the workforce.

The remit of the Commission also 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.

The Commission 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. This would be assisted if the Welsh Government strengthened the Code of Practice on Workforce Matters (the 'Two-Tier Code') and supported the creation of new, and the strengthening of existing, collective bargaining arrangements.

UNISON believes the Commission should not supplant existing bargaining and negotiating mechanisms. The Commission 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 Local Government reorganisation.

The Commission 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.

Equality should be at the heart of the Commission's consideration and part of this will be to ensure that restructured public services can deliver equality proofed single status pay structures.

Other important issues for the Commission 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.

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

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 e.g. the opportunity of career progression, pathways and development should be enhanced.

Review of the body of Local Government Legislation

The move to give Councils more freedom to do what's best for their local communities needs to be balanced by the need for universal

Wales-wide standards of public service provision. While it is right that some areas of public service delivery decision-making are best made locally, there must also be clear standards, to avoid the so-called postcode lottery. For example, UNISON supports the need for a strong statutory duty on all Councils to provide youth services. Councils should not be able to opt out of providing youth services, and we are concerned that section 2.11 could allow them to do just that.

3. Renewing Democracy

Performance Management for all employees

Section 3.13 of the White Paper looking at the 'Role and Responsibilities of the Chief Executive' highlights the legal requirements in relation to the 'head of paid service' and specifically five duties that the Welsh Government intend to place upon the Chief Executive including 'put(ing) in place a performance management system for all employees of the Local Authority'.

If this proposal, in any way, relates to the introduction of performance related pay then UNISON has serious concerns and would be opposed to it. However, if this relates to the need for all employees to receive regular supportive personal development and career advice and support then this would be welcomed, if progressed through the usual National Joint Council bargaining channels.

Council elections

On the basis that it provides for more democracy, elections should take place every four years, as at present, not every five years. UNISON believes that these should be full elections and doesn't support elections being split into thirds, as this will dilute the democratic process and add significantly to the cost of elections.

The role and responsibilities of the Leader

UNISON strongly supports the emphasis on ensuring that there is real diversity of backgrounds among those Councillors selected for Cabinets, and it is right that a duty is placed on Leaders to achieve this.

The roles and responsibilities of Cabinet Members

Similarly, we welcome any moves which open the door to Cabinet (or 'Deputy Cabinet') roles to a wider range of Councillors. It is vital that Cabinet positions are held by Councillors who reflect their local communities and this includes involving those with other jobs and who have caring responsibilities.

Diversity among Councillors

We also support the proposals around diversity among Councillors.

Remuneration of Councillors

The proposals around transparency of salaries for Councillors make sense. However, when pay levels are publicised, they should be

accompanied by clear descriptions of the size and importance of the roles involved. There is often a presumption in the press and media, and among right-wing politicians, that senior pay (for Councillors and staff) is too high, whereas actually in most cases pay for these roles has remained stagnant in recent years, at the same time that the responsibilities and complexities of the roles have increased.

Electoral qualification

We strongly agree that a Councillor should not be able to serve as an Assembly Member or Community Councillor at the same time.

Term limits for Chief Executives

We do not support term limits for Chief Executives; we prefer a system whereby a Chief Executive's performance is assessed against their objectives.

The cost of senior management

UNISON is in favour of a national framework for Chief Executives' pay across the public sector, and this should be based on the principles of collective bargaining, with employers and trade unions negotiating pay just as they do for other groups of staff. The use of an independent advisory body is a sensible idea. Aside from negotiation, the other key elements in determining senior pay should be transparency, and also objectivity. Pay should be based on the demands of the job, not used as a political response to anti-public sector pressure.

Senior appointments to the new Authorities

UNISON does not agree with the proposal to give an external body power over senior staff appointments. Councils must be able to appoint their own Chief Executives. Any other approach would fly in the face of the desire expressed elsewhere to localise decision-making where possible.

4. Connecting with Communities

Councillor-led community governance

Some of the principles behind the proposed Area Boards are good ones and such bodies could play a really positive role in bringing interested groups together in the best interests of communities. However, there are concerns about the democratic structures within such bodies. If they take on responsibilities for decision-making, commissioning, or service design, there would need to be much stronger safeguards and reassurances about the democracy underpinning them. In these circumstances, Area Boards would remove service delivery from local decision-making and accountability, and make outsourcing more likely. UNISON's views on outsourcing have been clear earlier in this submission.

If the Area Boards only have a scrutiny role, UNISON would be slightly less concerned. However, crucial to any system of scrutiny will be the

standards against which the Council is being scrutinised. If Area Boards are introduced, it is vital that service delivery is scrutinised by them against the twin benchmarks of universal standards determined by the democratically elected Welsh Government, and the objectives for communities set by the council that was elected by those communities. To this end, it is vital that the Welsh Government follows the recommendations made by UNISON in the section on the EU Public Procurement Regulations above, so that the system of scrutiny by Area Boards is not used to force Councils to outsource services.

Moreover, we would like to hear more about how Area Boards and Community Councils would work together – it seems that there is the potential for over-lapping interests and responsibilities.

Governance and standards

UNISON is concerned about the suggestion that Councils should acquire extra rights and responsibilities depending on their passing competency tests. Clearly, there must be safeguards to protect citizens from Councils which are failing. But in general, either a power should be devolved or it shouldn't – and that is a political decision. It does not seem right for Councils which pass a 'competency' test to have more devolution.

5. Power to Local Communities

Transferring Council property to the community

UNISON has concerns about this set of proposals as we oppose the privatisation of public assets. There is value in Council property being owned by the Council, as it is the body which represents every member of the community. We should not assume that a community group is more representative. Certainly, we need to know:

a) What happens if property is transferred to a community group about which concerns later emerge – e.g. about how representative it is? What if the organisation goes bust? Can the Council get the property back?

b) Is this the 'thin end of the wedge' – is this really privatisation of property and the services that are carried out within that property? The proposals talk about safeguards, but we would want to see the details. Are staff terms and conditions involved? If so will they be protected?

c) Will workforce be given the opportunity to put together a case for retention of the asset as a public asset? In effect will 'in-house' bids be accepted and encouraged?

6. Corporate Governance and Improvement

Managing improvement through Self-assessment and Peer Review

UNISON is very concerned about the quality of the auditing of local authorities' decisions, particularly those concerning procurement. External audit of council procurement decisions and expenditure is weak, and there is an absence of effective mechanisms to review external audit inadequacies. While there are many examples of 'procurement failures', there do not appear to be any examples where external audit has prevented a procurement failure. External audit only appears to identify a problem 'after the event' and even then a 'light touch' approach appears to be the modus operandi.

The presence of independent members on Audit Committees could work, but we would want to know how they would be appointed, and who they would be accountable to. Election and accountability are two of the cornerstones of any democratic system. In England, with the disbanding of the Audit Commission, external audit for councils now rests in the hands of 'self-regulating' accountancy firms – many of the same firms which have been criticised by the Public Accounts Committee for their activities in helping corporate clients dodge taxes. Furthermore, many of these companies have 'arms' which also bid for council contracts and it is not clear how impermeable the walls between them are. If the independent members of Audit Committees being proposed by the Welsh Government are taken from similar sources, then the same problems are likely to occur.

The proposal to instigate a 'peer review' system may be helpful, providing the entire process is based on the goals the elected Council has set itself – along with the duties laid down by the Welsh Government. These should be the standards against which peer reviewers measure progress and success.

Workforce Planning

UNISON, along with the Wales TUC, has long argued for workforce planning to be undertaken across the public services, as this is essential in order to mitigate some of the negative impacts of the UK Government's austerity programme.

UNISON welcomes the inclusion of 'workforce plans' as one of the nine things that the Corporate plan of new local authorities will have to produce.

However, UNISON believes that workforce planning should go beyond individual public sector organisations and should be undertaken on an all-Wales, cross-public sector basis. Workforce planning is currently much further developed in the NHS than it is in any other part of the public sector in Wales. We have worked with the public sector employers through the Workforce Partnership Council over a number of years in an attempt to bring together the piecemeal workforce planning, where it exists, across Wales.

The Welsh Government must ensure that local authorities harmonise the collection of workforce data and use it across local authority and public sector boundaries, not that this new requirement ends up with workforce planning on an individual authority basis, albeit on the basis of a smaller number of local authorities.

7. Performance in Local Government

Procurement Expenditure

A strategic and ethical approach to procurement across local government is an essential component of the wider task of ensuring the delivery of good services that support decent employment.

UNISON is in favour of expanding the use of community benefits across the Welsh public sector as well as establishing a more strategic Wales level approach to expenditure. The creation of the National Procurement Service is welcome progress in this regard. However, a more strategic and urgent approach needs to be adopted as part of the reforms to Local Government; one that ensures that procurement is treated as high level priority which delivers decent employment. This should be based on International Labour Organisation (ILO) standards as defined by the UN Sustainability Goal covering decent employment and agreed in partnership with trade unions.

The recognition of trade unions is essential to upholding decent employment which must no longer be treated as a secondary consideration. Recognition ought to be a condition of contract across local government.

A National Procurement Service could set out these general principles including a clear statement on companies involved in tax avoidance/evasion whereby public bodies should have regard to the tax status of companies bidding for contracts.

Digital Councils and Complaints

These proposals seem sensible, but in both cases, the dignity and well-being of the staff should be borne in mind at all times. Sensible, negotiated policies and procedures for digital working and complaints will need to be in place, and agreed by the recognised trade unions.

Reforming Local Government Finance

UNISON is committed to ensuring that Local Government finance is placed on a strong and sustainable footing and therefore would support any review that would assist in this aim.

UNISON believes that council tax needs to be reviewed to ensure it provides a sustainable and progressive way of funding Local Government. Council Tax provides local authorities with much needed revenue, which is why council tax freezes are so damaging for public services. However, local government needs a fairer system of local taxation which reflects local residents' ability to pay. Although property reflects ability to pay to some degree, there are other financial assets such as income that could be utilized as a means of paying for public services.

Such a system would have to work on an all-Wales basis and would require powers of limited variation and mechanisms for redistribution in favour of areas with a much lower tax base. The system would require regular revaluations, but local councils should also gain the power to set different council tax rates for second homes and empty properties.

UNISON believes that such a system would help bring devolution to the local community, so that local areas can be involved in policy formation and the decision making process. By making decisions locally, public service users and service providers will be better able to understand the needs of each other and there would be more democratically inclusive and responsive councils. These councils would be better placed to win public support for raising the funds necessary to implement policies that are the product of engagement, where a greater sense of 'ownership' of those policies is felt by local people.

In particular UNISON is calling for:

1. Tough measures to tackle tax evasion and uncollected taxes
2. Greater freedoms for councils to borrow
3. Introduction of empty property and brownfield land taxes
4. Powers for local authorities to introduce small local taxes such as tourism or environmental taxes
5. More flexibility for Councils to spend money on public services as they judge appropriate to local needs (within the broad parameters set by the Welsh Government through service standards)
6. Funding that ensure fair and equal pay for workers underpinned by continuing training and development.

In addition to creating a more sustainable income stream for Local Government, UNISON would also like to see councils being more able to do longer term financial planning with Welsh Government providing 3 year funding settlements. Longer term financial planning, with full impact assessments of any proposed reductions in services or funding,

so that the longer term social and economic impact of any funding changes can be accounted for, and mitigated against.

However, the key element of any funding system is the level of central funding, and this needs serious attention. While UNISON accepts that the cuts in local government services in Wales have largely emanated from the UK Government, this does not lessen the extent or impact of the problems caused for service users or staff. UNISON has collected huge amounts of evidence of the impact of cuts in local government funding on vital local services. To give a small number of examples from across the UK:

- a. Trading standards prosecutions have fallen by a third
- b. More than a half of Councils have stopped providing some environmental health services
- c. Food hygiene complaints have risen while inspections have fallen
- d. Nearly 300 children's centres have closed
- e. 41,000 youth services places for young people were lost between 2012 and 2014
- f. One-fifth of library budgets have disappeared
- g. Between 2010/11 and 2013/14, there was an increase of 829% in the number of street lights that were turned off or dimmed purely to save money
- h. Approaching half a million jobs have been cut from local government.

These are a fraction of the examples available, but they begin to illustrate the breadth of the problems caused for vulnerable people by the cuts. While the cuts have taken longer to 'kick in' in Wales as a result of the Welsh Government offering some protection during the early years of this UK Government, the same pattern is now occurring in Wales as well.

Investment in local government also needs to be carried out in a much more long-term manner. Throughout the whole process of the austerity programme, there does not appear to have been any critical thought given to the impact of such major structural changes will affect the country in the future. The scale of the cuts means that expertise, networks and services which have built up over many years will be eroded away and much of the damage is irreversible. At the same time, the more general economic recession has massively increased demand for the very local government services that have been cut.

UNISON is calling for an urgent re-investment in local government services, to reverse the closures and reductions in services.

Financing Local Government restructuring

As detailed earlier in this submission, the cost of Local Government reorganisation should be provided centrally and under no circumstances should it be taken out of existing decreasing council

budgets.

Merging Local Government Pension Scheme Funds in Wales

UNISON previously submitted a consultation response to the *Welsh Local Government Pension Funds - Working Together Commission* which outlined how the merging of the 8 Local Government Pension Scheme funds in Wales would not only save money, streamline efficiency but create simpler delivery arrangements.

In our consultation we outlined evidence from three separate reports; APG, an independent report by Stonefish Consulting and a UNISON commissioned report.

Research by the Dutch public sector fund manager, APG, suggested that a merged Welsh fund could have saved £25 million per annum if between 2001 and 2009 a merged funding system had existed.

Furthermore, there is abundant evidence to suggest that fund merges are more cost and administrative effective. Research commissioned by UNISON and Stonefish Consulting suggested that a new single model for both Administration and Fund allocation would save £30 million per annum, purely based on merged and more efficient administration charges. Evidence from the Netherlands has already shown that larger funds consistently achieve higher investments.

Therefore, it follows that a larger Welsh pension fund would produce higher investments and better returns.

Such a fund could stimulate development, employment and purchasing power within the economy by investment in major infrastructure projects, helping to protect and enhance jobs and wages.

April 2015

4 Chewfror 2016 – Papurau i'w nodi

Rhif papur:	Mater	Gan	Cam gweithredu
Papurau cyhoeddus i'w nodi			
4	Bil Llywodraeth Leol (Cymru) Drafft	Y Gweinidog Gwasanaethau Cyhoeddus	Gwybodaeth ychwanegol yn dilyn y cyfarfod ar 13 Ionawr 2016



Ein cyf/Our ref: MA-P/LA/0296/16

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

27 January 2016

Dear Christine,

During my Committee appearance on 13th January I agreed to provide further information on a number of matters.

Funding for the Fire and Rescue Services

I have made the following changes to the budgets payable directly to Fire and Rescue Authorities (FRAs):

- Resilience revenue grants will fall by some £200,000. In recent years, this grant has not been fully spent and these reductions should therefore be achieved without affecting existing levels of front line capability.
- Community fire safety revenue grants will also fall by some £200,000. Preventing fires is clearly vital, but preventative work is increasingly, and rightly, part of FRAs' core role. As such it should be delivered and funded accordingly, using FRAs' core resources, not from special grants.

The balance of the £700,000 reduction in this budget line will be met from reducing funding to a number of other recipients such as the Wales Audit Office work.

Flood prevention and management

While the incidence of flooding is clearly related to significant adverse weather and tidal incidents, there a long-term decline in the number of floods to which FRAs respond, just as there has been for the number of fires.

FRA's fund all their responsive services, including firefighting and flood response, from their core resources. These core resources are financed by Local Authority contributions which are set annually by each FRA. It follows that the level of funding for responsive services is a matter for FRA's to determine according to local priorities and in consultation with Local Authorities. It is not a matter for Welsh Government as we do not control the funding decisions which FRA's choose to make.

FRA's have no legal duty to respond to flooding. In practice they have responded for many years and continue to maintain a comprehensive capability in this area. I am considering whether to formalise that position by creating a duty to respond to flooding, and will consult on that in due course.

Per Capita Funding

I agreed to provide a list of each Local Authority's per capita funding, which the following Aggregate External Finance (AEF) table illustrates.

WELSH LOCAL GOVERNMENT SETTLEMENT 2016-17

Provisional

Table 1c: Aggregate External Finance (AEF) per capita, by Unitary Authority, 2016-17

Unitary authority	Provisional AEF (£000s)	Provisional AEF per capita (£)*	Rank
Isle of Anglesey	91,925	1,310	12
Gwynedd	166,990	1,356	9
Conwy	149,429	1,287	13
Denbighshire	139,602	1,454	6
Flintshire	184,743	1,196	19
Wrexham	169,761	1,200	18
Powys	168,488	1,252	17
Ceredigion	96,570	1,269	14
Pembrokeshire	156,932	1,263	15
Carmarthenshire	251,685	1,333	10
Swansea	307,754	1,255	16
Neath Port Talbot	205,567	1,457	4
Bridgend	187,508	1,311	11
The Vale Of Glamorgan	150,443	1,167	20
Rhondda Cynon Taf	353,769	1,500	2
Merthyr Tydfil	89,188	1,485	3
Caerphilly	263,293	1,455	5
Blaenau Gwent	109,252	1,576	1
Torfaen	129,296	1,405	7
Monmouthshire	91,439	994	22
Newport	209,133	1,388	8
Cardiff	426,285	1,162	21
Total Unitary Authorities	4,099,052	1,309	

* Based upon 2011-based, 2016 population projections

Welsh language task and finish group Terms of Reference

Finally, I agreed to provide you with a copy of Rhodri Glyn Thomas's Terms of Reference for the Welsh Language task and finish group, which are in the public domain and can be found at the following link:

<http://gov.wales/docs//cabinetstatements/2015/151210toren.pdf>

Yours sincerely,



Leighton Andrews AC / AM

Y Gweinidog Gwasanaethau Cyhoeddus
Minister for Public Services



Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-04-16 Papur 5 / Paper 5

Y Gwir Anrhydeddus Carwyn Jones AC
Prif Weinidog Cymru
Llywodraeth Cymru
Tŷ Hywel
Bae Caerdydd
CF99 1NA

27/01/2016

Annwyl Prif Weinidog,

Cyllideb Comisiynydd y Gymraeg 2016-17

Diolch am eich llythyr dyddiedig 21/01/2016 sy'n rhoi cadarnhad mai £3,051,000 sydd wedi ei ddyrannu ar gyfer y sefydliad yng nghyllideb ddrafft Llywodraeth Cymru ar gyfer 2016-17. Roedd yr Amcangyfrif a gyflwynais i Weinidogion Cymru ym mis Hydref 2015 yn nodi yr angen am gyllideb sefydliadol o £3,744,000. Mae'r arian fydd ar gael £543,000 yn llai na'r gwariant o £3,744,000 a nodwyd yn Amcangyfrif 2016-17. Rydych wedi cadarnhau y gallwn ddisgwyl derbyn taliad un tro o £150,000 cyn diwedd mis Ionawr 2016 i liniaru effaith y toriad arfaethedig i gyllideb y flwyddyn nesaf.

Yn sgil derbyn eich llythyr rwyf wedi bod yn ceisio canfod arbedion ar gyfer y flwyddyn nesaf ac ystyried y rhagolygon ansicr ar gyfer y blynyddoedd dilynol. Ochr yn ochr â hynny rwyf hefyd wedi edrych yn ôl dros batrwm cyllido sy'n tystio lleihad cronus i sefydliad Comisiynydd y Gymraeg ers tair blynedd. O ganlyniad ystyriaf fod yn gyfrifoldeb arnaf ysgrifennu atoch ymhellach ac yn ffurfiol i leisio fy nghonsyrn difrifol.

Yn gyntaf hoffwn godi pryder am y lleihad cronus i cyllideb Comisiynydd y Gymraeg ers ei sefydlu. Y flwyddyn 2016 – 17 fydd y pumed blwyddyn ers i Gomisiynydd y Gymraeg ddod i fodolaeth ar 1 Ebrill 2012. Dyranwyd cyllideb o £4,100,000 ar gyfer y ddwy flynedd gyntaf. Derbyniwyd toriad o £410,000 (10%) yn 2014-15 a thoriad pellach o £300,000 (8%) yng nghyllideb 2015-16. Esboniwyd bod y toriad hwn yn rhan o doriadau ehangach yng nghyllideb yr adran addysg a sgiliau a bod yn ofynnol i'r sefydliad dderbyn toriad. Mae hyn wedi bod yn doriad o 23% mewn termau real ers i'r Comisiynydd gael ei

Comisiynydd y Gymraeg
Siambrau'r Farchnad
5-7 Heol Eglwys Fair
Caerdydd CF10 1AT

Welsh Language Commissioner
Market Chambers
5-7 St Mary Street
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0845 6033 221
post@comisiynyddygyymraeg.org
Croesewir gohebiaeth yn y Gymraeg a'r Saesneg

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Correspondence welcomed in Welsh and English



sefydlu, mae chwyddiant yn effeithio'r Comisiynydd yn yr un modd â sefydliadau eraill. Pe byddai Comisiynydd y Gymraeg yn derbyn toriad pellach o 10% i'r gyllideb ar gyfer 2016-17, bydd lefel ariannu wedi gostwng i tua £3,050,000 i'w gymharu â £4,100,000 ar gyfer 2013-14. Bydd hyn yn doriad o dros 25% mewn termau ariannol. Wrth ystyried effaith chwyddiant (RPI) ar gostau'r sefydliad mae'r effaith yn doriad o 32% mewn termau real i'w gymharu â'r flwyddyn sefydlwyd y Comisiynydd. Mae'r patrwm torri yn fwy eithafol na'r hyn a welir yn achos sefydliadau sy'n gwneud gwaith tebyg i Gomisiynydd y Gymraeg a'r toriad a gafodd y Llywodraeth ei hun i'w chyllideb derfynol dros gyfnod tebyg. e.e.

	2013 - 2014	2014 - 2015	2015-2016	2016 - 2017
Llywodraeth Cymru	14,885,270,000	15,321,778,000	15,343,967,000 (14,041,391,000) ¹	14,392,712,000
	-	2.9%	0.1%	2.5% ²
Comisiynydd y Gymraeg	4,100,000	3,690,000	3,390,000	3,051,000
		-10.0%	-8.1%	-10%

Yn eich tystiolaeth i'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol ar 13 Ionawr eleni pan holwyd chi gan John Griffiths AC am doriadau i'm cyllideb fe wnaethoch gyfiawnhau'r penderfyniad ar sail cysondeb gyda thoriadau i Gomisiynwyr eraill:

"It's consistent, of course, with the financial settlement that has been provided for other commissioners as well"

Mae'r rhesymeg dros dorri ar sail cymariaethau cyllidol sefydliadol yn unig yn sigledig gan nad oes yna cymhariaeth yn ein swyddogaethau a gan *nad* yw y Comisiynwyr eraill yn reoleiddwyr sy'n gosod a gorfodi dyletswyddau statudol. Mae cyfrifoldebau statudol ar y Comisiynydd trwy Mesur y Gymraeg yn sylweddol wahanol.

¹ Y gwaelodlin yng nghyllideb drafft Llywodraeth Cymru 2016-17

² Cynnydd yn erbyn gwaelodlin cyllideb drafft Llywodraeth Cymru 2016 - 2017



	2013 - 2014	2014 - 2015	2015-2016	2016 - 2017
Comisiynydd Pobl Hŷn	1,730,000	1,750,000	1,715,000	1,545,000
		+1%	-2%	-10%
Comisiynydd Plant Cymru	1,715,000	1,715,000	?	?
		0.1%	?	?
Comisiynydd y Gymraeg	4,100,000	3,690,000	3,390,000	3,051,000
		-10.0%	-8.1%	-10%

Nid yw patrwm cyllido Comisiynydd y Gymraeg wedi bod yn dilyn trywydd y gofynion deddfwriaethol esblygol. Buasai cyllido ar sail anghenion y gwaith i'w weld yn drywydd cwbl resymegol. Er enghraifft, tua 3% yw'r toriad sydd wedi ei roi i Estyn, sefydliad sydd i'w weld yn derbyn cyllid ar sail gofynion y gwaith arfaethedig, yn y gyllideb ddrafft.

Mae lefelau cyllido'r dyfodol a chyfnod heriol y 2 flynedd nesaf yn benodol yn bryder gwirioneddol. Eglurais mewn papur a gyflwynwyd i chi ar 10 Rhagfyr 2015 mai rhwng Ebrill 2016 a diwedd Mawrth 2018 fydd y cyfnod mwyaf heriol y bydd Llywodraeth Cymru a Chomisiynydd y Gymraeg yn ei wynebu wrth sefydlu'r drefn safonau. Nodais yn fy mhapur bod disgwyl i mi gynnal ymchwiliadau safonau i ragor o'r sectorau a enwir yn Atodlen 8 y Mesur a'i fod yn waith cyfreithiol manwl nad oes modd ei symleiddio wrth ddilyn gofynion y Mesur y Gymraeg 2011. Hoffwn hefyd eich atgoffa o'r cynnig a basiwyd yn unfrydol gan Gynulliad Cenedlaethol Cymru ar Hydref 20, 2015 yn:

"nodi bod Llywodraeth Cymru wedi ymrwymo yn ei strategaeth iaith 'laith fyw: iaith byw' i wneud 'safonau a fydd yn galluogi'r Comisiynydd i osod dyletswyddau ar gwmnïau'r sector preifat sy'n rhan o gwmpas Mesur y Gymraeg, gan gynnwys cwmnïau telathrebu, gweithredwyr bysiau a threnau, a chwmnïau cyfleustodau'."

Fy nghonsyrn mawr dros y cyfnod nesaf yw nad oes modd torri corneli wrth weinyddu prosesau statudol yn unol a Mesur y Gymraeg 2011. Mae risg o gamweinyddu'n uchel os nad oes digon o adnoddau ar gael i weithredu'r drefn yn iawn o fewn gofynion statudol y Mesur. Rhaid cael yr adnoddau priodol i sicrhau gweithrediad priodol o'r gofynion statudol clir sydd yn disgyn amaf fel Comisiynydd y Gymraeg. Roedd y gofynion cyllidol a nodais yn fy Amcangyfrif, ac yn y papur pellach a rennais gyda chi yn Rhagfyr 2015 yn



rhai realistig a resymol ar sail gweithredu gofynion y Mesur.

Fel y gwyddoch hefyd, mae fy swyddogaethau yn y Mesur yn eang ac mae lluo o ofynion a dyletswyddau eraill arnaf fel Comisiynydd, tu hwnt i osod safonau'r Gymraeg bydd gofynion cynyddol arnaf i'w gorfodi. Y tu hwnt i'r drefn Safonau mae gofynion statudol eraill: eleni er enghraifft, byddaf yn cyhoeddi fy Adroddiad 5 Mlynedd cyntaf ar sefyllfa'r Gymraeg ac fe fyddaf yn parhau i weithredu swyddogaethau ymchwil, rhoi cyngor a gwneud argymhellion ar wahanol faterion yn unol â fy swyddogaethau o dan adran 4 y Mesur. Mae gwneud y gwaith pwysig yma hefyd yn gynyddol anodd gyda thoriadau cyson i'm cyllideb.

Er mwyn caniatáu i mi weithredu yn gyfreithiol briodol fel Comisiynydd y Gymraeg ac i sicrhau llwyddiant gweithredol i Fesur y Gymraeg 2011 rwy'n gofyn i chi fel Prif Weinidog, gyda chyfrifoldeb arbennig dros y Gymraeg a chyfrifoldeb cyffredinol am weithrediad deddfwriaeth, i ail ystyried cwrs cyllidol Comisiynydd y Gymraeg. Nid yw'r taliad lliniarol o £150,000 yn ddigon i bontio'r diffyg yn fy nghyllideb dros gyfnod estynedig a gofynnaf i chi ystyried o ddifrif peidio gwneud toriad pellach o 10% i gyllideb Comisiynydd y Gymraeg a thrwy hynny osgoi sgil effeithiau negyddol ar weithrediad Mesur y Gymraeg 2011. Pe na byddech yn gweld eich bod yn medru neu yn barod i ddal yn ôl ar y toriad bydd cyllideb o £3,051,000 yn gadael y sefydliad mewn sefyllfa fregus ac fe fyddwn yn gofyn i chi fan lleiaf godi'r swm lliniarol yn agosach at y £543,000 a nodwyd fel swm angenrheidiol yn fy Amcangyfrif.

Yr eiddoch yn ddifrifol,

Meri Huws
Comisiynydd y Gymraeg

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol
Communities, Equality and Local Government Committee
CELG(4)-04-16 Papur 6 / Paper 6

Y Gwir Anrhydeddus Carwyn Jones AC
Y Prif Weinidog

22 Ionawr 2016

Annwyl Brif Weinidog

Cynigion cyllideb ddrafft Llywodraeth Cymru, 2016-17

Diolch ichi am ddod i gyfarfod y Pwyllgor ar 13 Ionawr 2016 i ateb cwestiynau am gynigion cyllideb ddrafft Llywodraeth Cymru ar gyfer 2016-17, yn benodol ynglŷn â'r Gymraeg.

Hoffai'r Pwyllgor dynnu eich sylw at y materion a nodir isod, ac edrychwn ymlaen at gael eich ymateb maes o law.

1. Gwariant a Blaenoriaethu

Mae cyllid ar gyfer y Gymraeg wedi'i ostwng eto yng nghyllideb ddrafft y Llywodraeth, o £27.2 miliwn yn 2015-16 i £25.6 miliwn yn 2016-17. Fel y gwyddoch, mae hyn yn ostyngiad o 5.9% (neu 7.5% mewn termau real).

Mae'r gostyngiad hwn yn fwy amlwg yng nghyd-destun cynnydd cyffredinol mewn cyllid refeniw ar gyfer adrannau Llywodraeth Cymru yn 2016-17; cynnydd o £121 miliwn o'i gymharu â llinell sylfaen 2015-16¹.

Mae gan Lywodraeth Cymru gyfrifoldeb clir i gynnal bywiogrwydd y Gymraeg ac annog twf ynddi. Mae'n anodd gweld sut y gellir cyflawni hyn pan mae'r Llywodraeth yn parhau i dynnu cefnogaeth ariannol hanfodol oddi ar y maes hwn. Fel y gwnaethom drafod yn ystod ein cyfarfod diweddar, os bydd y Llywodraeth yn parhau i flaenoriaethu meysydd polisi eraill dros y Gymraeg wrth wneud penderfyniadau ynghylch y gyllideb, bydd y gwaith o ddatblygu cymdeithas

¹ Neu gynnydd o £94.3 miliwn o'i gymharu â'r gyllideb atodol gyntaf ar gyfer 2015-16



naturiol ddwyieithog yn cael ei effeithio'n andwyol. Dylai gwariant ar yr iaith adlewyrchu'r uchelgais yn y Rhaglen Lywodraethu ar gyfer iaith sy'n ffynnu. Nid ydym o'r farn bod hyn wedi'i gyflawni yn y gyllideb ddrafft.

Ar y cyfan, mae cyllid penodol ar gyfer rhaglenni ynghylch y Gymraeg yn cynrychioli llai na 0.18% o gyfanswm y cyllid² a ddyrennir i adrannau Llywodraeth Cymru yn 2016–17. Roeddem yn synnu, felly, at ddyfnder y toriad, o ystyried bod hwn yn faes gwariant cymharol isel. Rydym hefyd yn pryderu y bydd y toriad cymharol ddwfn hwn yn debygol o gael effaith anghymesur o fawr ar ddyfodol yr iaith.

Rydym yn nodi eich penderfyniad i ddyrannu £1.2 miliwn i liniaru effaith gostyngiadau ar gyllid i'r iaith Gymraeg.

- i. A allwch egluro a fydd hyn yn cael ei gynnwys yn y llinell sylfaen ar gyfer cyllideb ddrafft y flwyddyn nesaf?

Yn fwy cyffredinol, hoffwn gael rhagor o wybodaeth am rhai o'r ffigurau a ddarparwyd yn eich papur am y gyllideb ar gyfer y Gymraeg a'r ffigurau a ddarparwyd gan y Gweinidog Addysg a Sgiliau yn ei [bapur](#) i'r Pwyllgor Plant, Pobl Ifanc ac Addysg. Yn eich papur, rydych yn datgan mai'r llinell wariant yn y gyllideb ar gyfer y Gymraeg yng nghyllideb ddrafft 2016–17 fydd £3,913,000; mae'r Gweinidog yn datgan mai £3,964,000 fydd y llinell wariant hon. Rydych hefyd yn datgan mai'r llinell wariant yn y gyllideb ar gyfer Comisiynydd y Gymraeg fydd £3,051,000; mae'r Gweinidog yn datgan mai £3,000,000 fydd y llinell wariant hon.

- ii. A allwch egluro pa un o'r dyraniadau hyn sy'n gywir?

Canolfannau Cymraeg

Rydym yn nodi penderfyniad y Llywodraeth i ostwng y cyllid ar gyfer rhaglenni fel Cymraeg i Oedolion er mwyn canolbwyntio ar fesurau eraill i gryfhau'r iaith yn y gymuned, yn enwedig sefydlu deg canolfan iaith.

Yn ystod ein cyfarfod, dywedoch wrthym fod trefniadau yn eu lle i'r canolfannau rannu arfer da, a'ch bod yn disgwyl i bob canolfan adrodd yn flynyddol ar ei gynnydd. Rydych wedi cytuno i rannu copi o'r adroddiadau hyn gyda ni, ac rydym yn edrych ymlaen at eu cael.

² Terfynnau Gwariant Adrannol referniw a chyfalaf



Cyn hynny, mae gennym ddiddordeb penodol yn y materion a ganlyn:

- iii. y canlyniadau penodol y mae Llywodraeth Cymru yn eu disgwyl gan y canolfannau hyn er mwyn cadarnhau a oedd y penderfyniad i ailflaenoriaethu cyllid yn fuddiol i'r iaith.

2. Asesiadau Effaith

Rydym yn parhau i bryderu ynghylch yr angen i asesu effaith penderfyniadau cyllidebol ar y Gymraeg yn well ar draws portffolios y Gweinidogion. Gwnaethom godi'r mater hwn gyda chi y llynedd ac, yn eich tystiolaeth ysgrifenedig ddiweddar, dywedoch wrthym fod camau wedi eu cymryd wrth baratoi'r gyllideb ddrafft [2016–17] i sicrhau bod y Gymraeg yn cael ei hystyried yn briodol. Hefyd, dywedoch wrthym fod y Llywodraeth, wrth ostwng y gyllideb gyffredinol ar gyfer y Gymraeg, wedi ceisio sicrhau nad yw toriadau, lle y maent wedi'u gwneud, yn cael effaith ar yr hyn sy'n cael ei wneud ar lawr gwlad. Rydym hefyd yn nodi bod canllawiau wedi'u rhoi i bob adran ynghylch defnyddio asesiadau effaith ar yr iaith wrth baratoi eu cyllidebau drafft.

Roeddem, felly, yn siomedig nad oes gwybodaeth yn dal i fod wedi'i darparu am y gwaith a wnaed ar draws adrannau i asesu effaith penderfyniadau cyllido ar yr iaith, canlyniadau'r asesiadau hynny neu sut y maent wedi dylanwadu ar y penderfyniadau cyllido gwahanol. Nid yw'r wybodaeth hon wedi'i chynnwys yn yr Asesiad Effaith Integredig Strategol ychwaith, sydd dim ond yn cyfeirio at y dyraniad ychwanegol o £1.2 miliwn ar gyfer yr iaith a'r effaith gadarnhaol arni sy'n deillio o'r cynnydd cyffredinol mewn cyllid i ysgolion.

Yn ogystal â hyn, roedd eich datganiad ei bod hi'n anodd darparu asesiad cyffredinol o effaith y toriadau yn y gyllideb, er bod gennych asesiadau unigol o'r effaith ar yr iaith o ran polisïau a rhaglenni unigol, yn destun cryn bryder inni.

- i. Rydym yn gofyn am ymrwymiad gennych y bydd asesiadau effaith integredig strategol yn y dyfodol yn cynnwys y wybodaeth a amlinellwyd uchod, yn ogystal ag asesiad o effaith gronnol penderfyniadau cyllido ar y Gymraeg.
- ii. Rydym hefyd yn gofyn am ymrwymiad gennych i gyhoeddi'r holl ddogfennau perthnasol er mwyn hwyluso'r gwaith o graffu arnynt.



3. Bwrw Mlaen

Yn dilyn ein gwaith craffu ar y gyllideb ddrafft y llynedd, gwnaethom ysgrifennu atoch ynghylch yr angen i weld gwybodaeth fanylach am y dystiolaeth a ddefnyddiwyd wrth ail-flaenoriaethu cyllid o raglenni fel Cymraeg i Oedolion. Rydym hefyd yn gofyn am fwy o wybodaeth am y canlyniadau penodol yr ydych yn eu disgwyl drwy'r ail-flaenoriaethu hwn a'r strategaeth Bwrw Mlaen.

Rydym yn nodi bod Prifysgol Bangor wedi'i chomisiynu gan y Llywodraeth i ymchwilio i'r defnydd o'r Gymraeg fel iaith gymunedol ac mai'r bwriad oedd i'r gwaith hwn gyfrannu at eich dealltwriaeth o lwyddiant rhoi Bwrw Mlaen ar waith. Roeddem yn siomedig nad oeddech hefyd wedi gofyn i'r Brifysgol werthuso effeithiolrwydd rhaglenni a gyllidir gan Lywodraeth Cymru i hwyluso defnydd o'r Gymraeg neu asesu gwerth am arian y rhaglenni hyn.

Rydym yn nodi o'ch tystiolaeth yr oedd Bwrw Mlaen yn gynllun penodol ar gyfer amser penodol a gynlluniwyd i sicrhau bod cyllid ar gael ar gyfer y 10 o ganolfannau iaith sydd wedi'u lleoli'n strategol ledled Cymru. Fodd bynnag, gan fod y llinell wariant yn y gyllideb ar y Gymraeg (sy'n cyllido Bwrw Mlaen) yn wynebu gostyngiad o 25.6% o ran arian parod yn y gyllideb ddrafft:

- i. pa gamau ydych yn eu cymryd i werthuso effaith y gostyngiad hwn, yn enwedig gan nad oedd gwaith ymchwil Prifysgol Bangor yn ystyried gwerth am arian neu effeithiolrwydd rhaglenni a gyllidir gan Lywodraeth Cymru yn y maes hwn?
- ii. a ydych yn bwriadu comisiynu gwaith ymchwil ar wahân ar y mater hwn?

4. Cyllideb Comisiynydd y Gymraeg

Fel rhan o gyllideb ddrafft Llywodraeth Cymru ar gyfer 2016–17, mae Comisiynydd y Gymraeg yn wynebu gostyngiad o £339,000 yn ei chyllideb, neu 10% yn nhermau arian parod. Er bod hyn yn arwyddocaol ynddo'i hun, mae hyd yn oed yn fwy pwysig yng nghyd-destun y gostyngiad mewn blynyddoedd blaenorol; 8% yn 2015–16 a 10% yn 2014–15.

Pan ddaeth y Comisiynydd gerbron y Pwyllgor ddiwedd y llynedd, dywedodd wrthym, ar ôl colli bron i chwarter ei hincwm dros y pedair blynedd diwethaf: “mae toriad arall yn ystod y blynyddoedd nesaf ac yn y flwyddyn nesaf yn mynd i fod, buaswn i'n ei ddweud, yn drychinebus o ran gweithrediad Mesur y Gymraeg.”



Dywedodd wrthym y bydd y ddwy flynedd nesaf yn “anhygoel o bwysig” o ran gweithrediad y Mesur a’r safonau a fydd yn cael eu cyflwyno drwyddo, yn enwedig gan y bydd tua 250 o gyrff yn dod yn rhan o’r system newydd yn ystod y cyfnod hwnnw.

Rydym yn nodi bod £150,000 ychwanegol wedi’i ddyrannu i swyddfa’r Comisiynydd yn rhan o flwyddyn ariannol 2015–16, ac mai bwriad hyn yw lliniaru’r gostyngiadau i gyllideb 2016–17. Serch hynny, mae’r gostyngiadau cyffredinol yng nghyllid swyddfa’r Comisiynydd dros yr ychydig flynyddoedd diwethaf yn ei gwneud hi’n anodd gweld sut na fydd y gwaith o gyflawni gwaith pwysig ei swyddfa o ran safonau yn cael ei rwystro.

Fel rhan o’ch tystiolaeth, dywedoch wrthym eich bod yn rhagweld y bydd y £150,000 ychwanegol yn cael ei ddefnyddio yn ystod blwyddyn ariannol 2015–16, oherwydd y bwriad oedd iddo gynorthwyo’r gwaith ychwanegol a oedd i’w wneud ar y safonau. Gwnaethom drafod y mater hwn yn fyr yn ystod y cyfarfod. A allwch gadarnhau:

- i. a oes unrhyw hyblygrwydd yma, o ystyried datganiad y Comisiynydd i ni am bwysigrwydd y *ddwy* flynedd nesaf wrth weithredu’r Mesur?
- ii. a oes gennych unrhyw gynlluniau i wneud dyraniad ychwanegol tebyg i’r Comisiynydd at y diben hwn yn 2016–17?

5. Addysg

Y Strategaeth Addysg Cyfrwng Cymraeg

Yn dilyn y gwaith o graffu ar gyllideb y llynedd, gwnaethom ysgrifennu atoch i fynegi ein pryderon ynghylch effaith gostyngiadau mewn cyllid ar gyflawni strategaeth addysg cyfrwng Cymraeg Llywodraeth Cymru.

Rydym yn nodi bod cyllid ar gyfer y llinell wariant ar y Gymraeg mewn addysg yn cynyddu ychydig gan £82,000 yn y gyllideb ddrafft ar gyfer 2016–17, ond bod y cynnydd hwn wedi’i gyflawni drwy drosglwyddo £825,000 o linell wariant y Gymraeg. Effaith hyn yw gostyngiad o £743,000. Yn ei thystiolaeth i’r Pwyllgor Cyllid (7 Ionawr 2016), dywedodd y Gweinidog Cyllid mai diben y trosglwyddiad hwn yw datblygu dull mwy strategol o ran caffael iaith ar gyfer grŵp oedran 0–4 oed. Dywedoch wrthym fod y trosglwyddiad yn fater o wahaniaeth gweinyddol,



fwy neu lai, a bod y Llywodraeth am sicrhau bod arian yn cael ei ddyrannu i feysydd lle y gellir ei wario yn y modd mwyaf effeithiol.

A allwch ddarparu gwybodaeth am y materion a ganlyn:

- i. sail resymegol trosglwyddo rhwng llinellau gwariant ar y gyllideb ac unrhyw gynlluniau neu fentrau yr effeithir arnynt yn andwyol oherwydd hyn
- ii. y canlyniadau penodol yr ydych yn eu disgwyl o ganlyniad i'r trosglwyddiad i'r llinell wariant ar Gymraeg mewn addysg.
- iii. effaith y gostyngiad o £743,000 yn y llinell wariant ar Gymraeg mewn addysg yn sgil y trosglwyddiad.

Twf

Rydych wedi disgrifio prosiect Twf fel rhaglen gwariant ataliol allweddol a: “p[h]rif ymyriad Llywodraeth Cymru ym maes trosglwyddo iaith o fewn y teulu, y mae arbenigwyr yn ystyried ei fod yn un o ddau faes pwysicaf cynllunio ieithyddol”.

Roeddem yn synnu, felly, i weld bod penderfyniad wedi'i wneud i ostwng y dyraniad o'r gyllideb ar gyfer prosiect Twf yn 2016–17 gan £0.2 miliwn. Rydym yn nodi'ch tystiolaeth bod y prosiect yn cael ei ail-gontractio ddiwedd mis Mawrth, ac y bydd hyn yn cynnig cyfle i wneud arbedion effeithlonrwydd o ran gweithrediadau cefn swyddfa heb effeithio'n andwyol ar ddarparu gwasanaethau.

- iv. Pa drefniadau sydd wedi'u gwneud i fesur effaith y gostyngiad yn y gyllideb yn y maes hwn, o ystyried eich datganiad na fydd gostyngiad o'r fath yn arwain at gwtogi ar lefel y gwasanaeth?

Y Coleg Cymraeg Cenedlaethol

Rydym yn croesawu'r gwaith a wnaethpwyd gan y Coleg Cymraeg Cenedlaethol (CCC) i ehangu'r ystod o bynciau addysg uwch y gellir eu hastudio drwy gyfrwng y Gymraeg. Rydym yn pryderu, fodd bynnag, am effaith y gostyngiad o £20 miliwn yn y cyllid sydd ar gael i CCAUC ei ddyrannu i sefydliadau addysg uwch, a'r effaith bosibl ar y CCC a'i allu i barhau â'r gwaith hwn.

Yn ystod ein cyfarfod, clywsom gan eich swyddog y bydd Llywodraeth Cymru yn rhoi arweiniad cryf i CCAUC drwy'r llythyr cylch gwaith, gan annog CCAUC i barhau i flaenoriaethu cyllid ar gyfer y CCC. Fodd bynnag, clywsom hefyd mai penderfyniad i CCAUC fyddai hynny yn y pen draw.



- v. Hoffwn gael sicrwydd gennych y bydd yr arweiniad hwn yn cynnwys datganiad cryf na ddylai penderfyniadau cyllido a wneir gan CCAUC yn y dyfodol gael effaith anghymesur ar y Gymraeg.

Dechrau'n Deg

Yn ystod ein cyfarfod, gwnaethom drafod yn fyr pa mor ddigonol yw'r ddarpariaeth o ran cynllun Dechrau'n Deg drwy gyfrwng y Gymraeg i fwydo i mewn i ysgolion cyfrwng Cymraeg. Mae'n ymddangos i fod yn fwy tebygol y bydd plant sy'n cael mynediad at gynlluniau Dechrau'n Deg drwy gyfrwng Cymraeg yn parhau â'u haddysg drwy gyfrwng y Gymraeg, a thrwy hynny gyfrannu at nod Llywodraeth Cymru o sicrhau iaith ffyniannus a chymdeithas naturiol ddwyieithog.

Gyda hynny mewn golwg, byddem yn ddiolchgar i gael manylion am y camau penodol a gymerir gan Lywodraeth Cymru i werthuso—

- vi. a oes digon o leoedd Dechrau'n Deg drwy gyfrwng Cymraeg i ateb y galw, ac
- vii. a yw'r ddarpariaeth Dechrau'n Deg drwy gyfrwng y Gymraeg yn ddigonol ar hyn o bryd i alluogi Llywodraeth i gyflawni ei hamcanion ei hun ar gyfer addysg cyfrwng Cymraeg mewn grwpiau oedran hŷn.

6. Cyngor Llyfrau Cymru

Yn ystod y cyfarfod, gwnaethom drafod ein pryderon ynghylch effaith y gostyngiadau arfaethedig o 10.6% yng nghyllideb Cyngor Llyfrau Cymru ar y Gymraeg. Rydym yn croesawu'r [cyhoeddiad](#) gan y Dirprwy Weinidog Diwylliant, Chwaraeon a Thwristiaeth yn ddiweddar na fydd cyllid ar gyfer y Cyngor yn cael ei ostwng yn y gyllideb ddrafft.

Yn gywir



Christine Chapman AC

Cadeirydd

Copi at: **Jocelyn Davies AC**, Cadeirydd y Pwyllgor Cyllid; **Ann Jones AC**, Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg

