

LG 11

Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol

Bil Llywodraeth Leol (Cymru): Cyfnod 1

Ymateb gan: Grŵp Cyfarwyddwyr Adnoddau Dynol (Cymru)

HRD

Local Authority Human Resources Directors (Wales) Network
Grŵp Cyfarwyddwyr Adnoddau Dynol Llywodraeth Leol (Cymru)

Committee Clerk
Communities, Equality and Local
Government Committee
National Assembly for Wales
Cardiff Bay CF99 1NA

Date: 11th March 2015
E-mail: hardag@caerphilly.gov.uk
Telephone: 01443 864309
Address:
Caerphilly County Borough Council
Penallta House, Nelson Road
Tredomen
Ystrad Mynach
Hengoed
CF82 7WF

Dear Sir/Madam

Consultation on the Local Government (Wales) Bill

I am writing in response to the consultation as the Chair of the HR Directors (HRD) Network (Wales). The HRD Network (Wales) consists of the most senior HR Officers for the 22 Welsh Local Authorities. Our members have considerable practical experience of managing the wide range of workforce issues that are found in local councils, which are complex organisations deliver a plethora of different services through a diverse workforce with a varied range of skills and backgrounds.

It is the HR Heads and their teams in local government that will be at the sharpest end of any public service reform impacting upon staff and we are concerned to ensure that our knowledge, understanding and experience of workforce issues in local government are given due weight and utilised effectively at an all-Wales level. We are therefore pleased to be able to make this submission of evidence on the Bill.

Our evidence is wholly concerned with Section 35 of the Bill which proposes the temporary extension of the current function of the Independent Remuneration Panel (IRP) in relation to Heads of Paid Service in local government to changes in the salary of all local government 'chief officers' as defined under the Localism Act 2011. We would offer the following views:

1. Section 35 of the Bill as it is currently drafted will create significant operational problems for local government and indeed the IRP. This

provision will mean that councils will need to consult the IRP on any proposed change to the salary of any of its 'chief officers' *'which is not commensurate with a change to the salaries of the authority's other staff'*.

2. The policy intention behind this provision as explained within the White Paper *'Reforming Local Government –Power to the People'* is to drive down what the Welsh Government regards as 'the excessive cost' of management in local government and introduce 'greater consistency' by subjecting senior salaries to external scrutiny by an independent body.
3. We feel that there exists within Welsh Government a serious and prejudicial misconception about the size and costs of local government senior management teams (particularly when related to the rest of the devolved Welsh public sector including Welsh Government itself). This was evidenced by the wholly inaccurate account of these that was published in the current White Paper *Reforming Local Government: Power to the People*.
4. Unfortunately, it appears that Welsh Government is formulating policy based on these misconceptions and the evidence from a small minority of exceptional cases rather than on the basis of evidence from the majority of councils. Policy is also being formulated without any real understanding of the unintended consequences that may ensue. For these reasons we feel it is essential to explain the practical impact of the provision it is proposed to introduce via the Bill:

Number of Officers that Will be Affected

5. The policy intention may be to focus on senior salaries in local government. However, Section 35 of the Bill states that the definition of 'Chief Officer' to be used is that contained in section 43(2) the Localism Act 2011. This is as follows:

(2)In this Chapter "chief officer", in relation to a relevant authority, means each of the following—

- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
- (b) its monitoring officer designated under section 5(1) of that Act;
- (c) a statutory chief officer mentioned in section 2(6) of that Act;
- (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
- (e) a deputy chief officer mentioned in section 2(8) of that Act.

6. The definitions are drawn directly from the Local Government and Housing Act 1989 (which actually uses them to denote officers whose posts will be politically restricted so for quite a different purpose). It can be seen that 2(e) above, 'a deputy chief officer' is included in the definition of 'Chief Officer'.

7. The LG&HA goes on to define 'a deputy Chief Officer' as follows at 8) below:

'(8)In this section "deputy chief officer" means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.'

8. This means that for the purposes of the Localism Act an officer who reports directly to a 'Chief Officer' is also a Chief Officer for the purposes of the Act (unless the post's duties are purely secretarial or clerical in nature).

9. This is not in any way indicative of large 'senior teams'. Local government actually has relatively few Chief Officers in most councils in current times, generally 3 or 4 at most. However, Operational Heads of Services and other middle managers will often report directly to this much reduced cadre of chief Officers. This has become more and more the case in recent years due to the flatter structures put in place to save money. Therefore what we find is Chief Officers with many direct reports and wide spans of control. Their jobs have actually increased many fold in terms of complexity and responsibility.

10. There is some confusion as local government's definition of 'Chief Officer' is not the same as that in the Localism Act. Heads of Service wouldn't be considered or referred to as 'Chief Officers' within local government and generally wouldn't be part of a council's senior team directly under the CEO.

11. It can be seen then that the group encompassed by the definition of 'Chief Officers' under the Localism Act is quite large, and also that it does not correspond to an authority's Senior Management Team under the Chief Executive (it is much wider than this). The WLGA has surveyed authorities to see how many officers there are who either report to the Head of Paid Service or a statutory or non-statutory Chief Officer and the total is **566.5** at the current time.

Issues that Will Need to be Referred

12. As the Bill is currently written, once it is law councils will have to refer the following salary issues in relation to any of the 566.5 officers to the IRP for a decision:

- Nationally negotiated contractual cost of living awards for those on CO terms and conditions (including any heads of service on CO terms and conditions) if these are different to the rest of the workforce (as happened this year - they got less).
- Changes connected to restructuring for posts from relevant head of service upwards (where these involve Heads of Service reporting to COs)
- Re-grading applications for posts from relevant head of service upwards
- Any posts for advertisement for replacement officers including relevant heads of service where the salary is changing
- Honoraria payments (even in line with stated policy) for relevant heads of service upwards
- Market forces payments (even if in line with stated policy) for relevant heads of service upwards
- Implementation of JE exercises for Heads of Service upwards

This may not be an exhaustive list.

13. The impact of this would be that councils will be unable to make many day to day decisions about operational pay, grading and organisational design matters for a sizeable group of officers, and the IRP will find itself swamped with referrals. Additionally a good portion of the referrals will be far more complex in nature than those relating to the salary of Chief Executives' and will necessitate a detailed understanding of a council's existing structures and proposed changes.

14. We note that the Welsh Government's regulatory impact assessment on the Bill details at paragraph 147 the need for 'expanded capacity' for the IRP in relation to the Bill's provisions. This is identified as one additional member. We consider that this will be insufficient given the size of the cadre of local government officers that will need to have any salary changes referred to the IRP. We also consider that the impact assessment should encompass the considerable cost to local

government of the preparation of potentially high numbers of submissions to the IRP under this provision.

15. We further believe that the impact assessment does not recognise the range of additional detailed knowledge and skills which members of the IRP will need to have in order to make informed and accurate decisions on a range of complex organisational design and remuneration matters.

Equal Pay and Other Discrimination and Legal Issues

16. A further issue relates to the fact that in dealing with individual chief officer posts or groups of posts referred to it, the recommendations of the IRP may impact on other posts in the authority.
17. For example with Heads of Service or Directors there will be a number of related posts at that level, and a pay structure for that Group, in relation to other groups, will have been developed and agreed within the authority. If, for example, one post falls vacant and it is proposed to change the post and salary prior to advertisement, or it is otherwise subject to a proposed salary change and the IRP makes a recommendation for a lower salary, then this may well be out of kilter with the other salaries in the related posts.
18. In these circumstances it will be difficult for the council to treat this one post differently and implement a lower (or indeed higher) salary. There may also be an incumbent chief officer and imposing a salary cut would create a breach of contract issue in such cases. If it is a new post then there could be an equal pay issue if, for example a woman is recruited to a new post with a lower salary than the rest of the related posts at that grade within the authority, or an ethnic minority or disabled person is.

Potential Impact on Recruitment and Retention of Local Government Chief Officers in Wales

19. A further issue is the potential impact on the recruitment of Chief Officers to local government in Wales. We already have a situation in Wales (since July 2014) whereby the 2014 amendments to the Standing Orders (Wales) (Regulations) 2006 introduced a requirement to externally advertise all Chief Officer vacancies with a salary of £100K or over.
20. This means that existing local government Chief Officers in Wales at that level have less employment protection than their counterparts in England, or any other part of the public Sector. This is because this requirement means that if they are 'at risk' of redundancy they cannot be offered any existing vacancies that would otherwise be 'suitable

alternative employment'. These must be advertised externally and if an external candidate is successful they must be made redundant at the expense of the tax payer.

21. A further impetus to drive down senior local government salaries in Wales is hardly going to assist in making Welsh local government an attractive place to work or help in attracting good candidates from a wide field across the UK.
22. In the run up to local government re-organisation councils are going to need strong senior teams to steer the changes through. However, the 2014 Standing Order amendment referred to already makes it likely that senior local government officers will be looking elsewhere for employment at that time (as they will not have any vacancies in the new authorities ring-fenced to them and will be in open competition with external candidates). A compressed salary structure relative to England and / or other parts of the public sector is likely to make it difficult to recruit effective replacements.
23. We fully appreciate that S.35 of the Local government (Wales) Bill is intended to increase transparency, accountability and consistency in matters of local government senior pay. We have no difficulty with these principles save for the proviso that with regard to consistency it must be assured that it is always apples and apples that are being compared. However, it is our strongly held view that the Section 35 provisions are very much a sledgehammer to crack a nut, in that they are wholly disproportionate to the real size of the problem they are aiming to resolve. Further in terms of the difficulties and problems that would ensue as a result of their becoming law, the end can in no way be considered to justify the means.

I very much hope these views will be given full consideration in the consultation and due weight attached in terms of the collective response. We are of course more than willing to assist the Welsh Government should there be a wish to consider alternative and more workable arrangements for regulating senior pay than the current proposals.

Yours faithfully



Gareth Hardacre
Chair, HRD Network (Wales)