



COUNCIL - 10TH OCTOBER 2017

SUBJECT: CAERPHILLY COUNTY BOROUGH COUNCIL RESPONSE TO THE ELECTORAL REFORM IN LOCAL GOVERNMENT CONSULTATION

REPORT BY: INTERIM CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To seek Council approval for the proposed Caerphilly County Borough Council response to the Welsh Government consultation document on Electoral Reform in Local Government in Wales.

2. SUMMARY

- 2.1 This report sets out a proposed Caerphilly County Borough Council response to the consultation document on Electoral Reform in Local Government in Wales. Welsh Government has an opportunity to review how Assembly and local government elections function in Wales as a result of the relevant provisions of the Wales Act 2017 on electoral and registration matters coming into force next year. The consultation document explores ways in which it may be possible to allow more people to participate in local government elections by, for example, extending the right to vote to 16 year olds, and making registration and voting easier.
- 2.2 Council are asked to endorse the proposed response to the consultation on electoral reform in local government in Wales attached at Appendix 1.

3. LINKS TO STRATEGY

- 3.1 The Wales Act 2017 received royal assent on 31st January 2017 and contains provisions which have the effect of transferring competence to the National Assembly to legislate in relation to the administration of elections to the Assembly itself and to local government.
- 3.2 Strategic Equality Plan SEO 5 – Inclusive Engagement and Participation.
- 3.3 Participation in elections, using the power that the electorate are entrusted with through voting, is essential for a healthy democratic system which has the potential to contribute to all of the Well-being Goals set out in the Well-being of Future Generations (Wales) Act 2015.

4. THE REPORT

- 4.1 Welsh Government issued a consultation document on Electoral Reform in Local Government in Wales on 18th July. As a result of provisions contained within the Wales Act 2017 coming into force next year Welsh Government is taking the opportunity to explore ways in which it may be possible to promote participation in local government elections. Welsh Government are conducting a separate review of the electoral system for the Assembly although some issues may well apply to both.

4.2 The consultation document states that participation in elections is essential if we are to have a healthy democratic system and in dealing with primarily the way in which people register and vote, recognises that legislative means alone will not address the low levels of turnout and the scale of uncontested seats seen at local elections. The consultation document seeks to modernise the local government electoral system and covers 6 main areas:

- Building the franchise
- Improving registration
- The voting system
- The voting process
- Standing for election
- Returning officers

4.3 **Building the franchise**

4.3.1 **Votes for 16 and 17 year olds** The consultation document on electoral reform restates proposals contained within the Welsh Government White Paper: 'Reforming Local Government: Resilient and Renewed' to reduce the voting age to 16. This proposal was supported by Council when considering its response at its meeting of 7th March 2017 and is supported in the draft consultation response at Appendix 1. Currently, those who are entitled to vote at Assembly elections are people who are registered and who are entitled to vote at local government elections. Extending the local government register to include 16 and 17year-olds would, without changes to the current legislation, apply automatically to voting at Assembly elections. It will be for the Assembly to determine if it wishes to remain affixed to the local government register.

4.3.2 **EU Citizens and citizens of other countries** It is unclear how the decision to leave the European Union will affect the automatic right of EU citizens to vote in Council and Assembly elections, but this will form part of the negotiations. The document highlights that the question of EU citizens arriving in the UK after UK withdrawal from the EU is different to those EU citizens who are already resident in the UK. Citizens of Commonwealth countries have a right to vote here, but citizens of other countries do not. The document concludes that there is a case to be made that if someone lives in Wales lawfully they should have the right to vote in local and Assembly elections and this is supported in the proposed response, subject to a residential qualification test of at least one year.

4.4 **Improving Registration**

4.4.1 **Data-sharing and Automatic Registration** The introduction of individual electoral registration to replace household registration has generally been welcomed, but has led to a fall in the numbers registered. Data-sharing has been introduced to counter this whereby Electoral Registration Officers can include someone on the register where other data confirms their belief that someone is resident at an address. In particular, data from the Department of Work and Pensions has been used to compare with the register. The consultation document seeks views on the use of other sources of data such as DVLA and HMRC and goes on to explore the possibility of wider powers for Electoral Registration Officers to gather data for the register and also the concept of automatic registration such that electors would only need to check that they were registered, rather than apply for registration. Changes in this area are supported.

4.4.2 **Enabling a wider range of Council Officers to assist people to register** Welsh Government suggest that allowing access to the register to a wider range of council staff could enable registration whenever members of the public contact their council for whatever reason. It is recognised that there would be a need for a system by which Electoral Registration were automatically informed when an amendment were made to the register by other council staff.

- 4.4.3 **Relaxing rules on individual registration** Welsh Government state that there may be a case for relaxing the rules on individual registration, so that a household form is permissible in certain circumstances. It is proposed that this could have advantages where a number of people reside in accommodation with a single landlord, such as a university residence or care home. This is supported, subject to checks, in the proposed consultation response.
- 4.4.4 **Targeted registration campaigns** Drawing on evidence from targeted campaigns that have taken place in some areas aimed at working with universities and housing associations to reach those least likely to register otherwise Welsh Government seeks views on whether Electoral Registration Officers should have a duty to consider whether any groups in their area should be specifically targeted in registration campaigns. This is supported.
- 4.4.5 **Identifying people moving in and out of an area** Welsh Government highlights that social services departments or health bodies could be the first to be aware of people moving into, within, or out of an area and could provide people with registration forms and inform the Electoral Registration Officer of the move. Views are sought on whether agencies that are aware of people moving have a duty to inform the Electoral Registration Officers. It is suggested that universities, housing associations, care homes and even estate agents could be included in this process. In the attached response it is suggested that this proposal would need careful consideration to ensure that it does not create an undue administrative burden on Electoral Registration Officers or on other agencies.
- 4.4.6 **Developing an all-Wales electronic register** An all-Wales register would mean the use of common software on which to carry the register. Welsh Government notes that despite the inclusion of provisions in the Electoral Administration Act 2006 for the development of a Co-ordinated On-Line Record of Electors (CORE), no such scheme has been established. The development of a single electronic register might facilitate some of the reforms proposed in the consultation. Should electronic / remote voting be introduced it should be formatted so that the vote is recorded against the register whenever it was cast and from whatever location. Concern is expressed in the attached draft response that a Wales only electronic register would not bring any substantial benefits to administrators or electors alike, but would come at considerable cost to the tax-payer.

4.5 The Voting System

- 4.5.1 **Offering a choice: First Past the Post or Single Transferable Vote (STV)** The Local Government White Paper (Reforming Local Government: Resilient and Renewed) contained the proposal to allow individual local authorities to decide on their preference to stay with the first-past-the-post system or to move to election through a Single Transferable Vote system. The proposal would prevent a council, having changed to a different electoral system, from moving back until at least two elections had passed. In seeking views on the Caerphilly Council response to this consultation the minority opposition groups commented that there should be a change to STV for all elections which may encourage more voters to participate as there is less likelihood of them considering their vote to be wasted. When responding to the local government reform White Paper the Council resolved at its meeting of 7th March 2017 to support retention of the first-past-the-post system and this position is reiterated in the attached proposed response.
- 4.5.2 **Five year terms** It is the intention of Welsh Government to introduce statutory five year terms for local government, replacing the existing arrangements for four year terms. This would be in keeping with the five year terms for the UK Parliament and for the Assembly and would mean that the next ordinary date of elections to local government would be in May 2022. This change is supported in the proposed response.

4.6 The Voting Process

- 4.6.1 Within the consultation document Welsh Government reflect upon the fact that for most people, the experience of voting has not changed significantly during their lifetimes. It is

proposed that there is now the opportunity to consider reforms to voting methods which could be piloted at council by-elections, or at the ordinary council elections in 2022, or even introduced across Wales in 2022. Views are requested on the desirability of reforming the voting system to encourage greater participation. Why people may or not vote is an important consideration here because when people really think voting is important they turn up at “old fashioned” polling stations in numbers. There is also discussion around security and fraud concerns and views are sought on whether the following should be enabled at local elections:

- **All-postal voting** This would involve all electors in the relevant area receiving a ballot paper by post at the normal time for issuing postal votes. It is suggested this might need to operate without the current requirement for the personal identifiers currently required to support a postal vote application. Previous pilots of all-postal voting led to an increased turnout.
- **Electronic voting** This implies the installation of equipment at polling stations (and possibly other locations) to enable touch-screen voting.
- **Remote voting** This refers to a process of voting through access of the internet by an electronic device, using an individual recognition code.

Subject to safeguards, enabling the above is supported in the draft response.

- 4.6.2 **Electronic Counting.** This is not necessarily linked to electronic voting and is used in Scottish local elections. The equipment used is expensive, but there should be savings on staff time. It is proposed in the attached response that this is supported if it can be shown to be cost effective.
- 4.6.3 **Mobile Polling Stations.** This conceives some polling stations operating like mobile libraries visiting areas in addition to “normal” polling stations. It is stated that this might be useful in hard-to-reach areas, but an electronic register would need to be in place to operate successfully and this is also the view expressed in the draft response.
- 4.6.4 **Voting at places other than polling places.** This proposal would suggest enabling voting at places like supermarkets, local libraries, leisure centres and bus and railway stations – public places local people might visit during the course of a normal day. If these were to be in addition to “normal” polling stations, so not confined to a particular polling district, again an electronic register would be required so that an elector, once having voted, had their name marked against the register to avoid the possibility of multiple voting. The potential difficulties of introducing this without an electronic register are highlighted in the attached draft response.
- 4.6.5 **Voting on different days and on more than one day.** Whilst Election Day in the UK is traditionally a Thursday Local Authorities are not bound to hold elections on a Thursday. Most other European countries hold elections on a Sunday. The consultation document suggests that moving to a register whereby votes could be marked electronically would increase the possibility of stretching the electoral process over a number of days. Voting on more than one day could help to overcome circumstances such as occurred in parts of London at the time of the European referendum, where flooding led to serious transport disruption. There would be increased costs associated with polling over several days and the count would need to be completed after all votes had been cast. The proposed consultation response highlights the additional costs of polling over additional days.
- 4.6.6 **Simpler postal voting procedures** The Welsh Government consultation asks for views on whether consideration should be given to simplifying postal voting procedures, and, if so, how. Simplification is supported in the proposed response, but it is pointed out that any attempt to simplify the current procedures and literature could have a detrimental effect on both fraud and voter secrecy.

- 4.6.7 **Presenting ID at a polling station** Presenting some form of personal identity document when attending a polling station might help address concerns regarding electoral fraud. This would not lead to a higher turnout, but is more likely to lead to people being turned away who would not return. Wales has been relatively free of any allegations of significant electoral fraud. Welsh Government are seeking views on whether electors should be required to produce identification and whether the advantages of this outweigh the risk of deterring voters. A requirement to present ID is not supported in the proposed response due to concerns that voters would be turned away.
- 4.7 **Standing for election**
- 4.7.1 **Removing need to publish candidate's postal address** Mindful of recent occasions where politicians' accessibility has been abused it is suggested that there is no longer a necessity for the returning officer to publish the candidate's home address on election literature. The role that a postal address plays could be replaced with an email address or a link to a social media account. There is no intention in this proposal to prevent a candidate from showing their connection to a locality. This is not supported in the draft response.
- 4.7.2 **On-line publication of a candidate's statement** It is proposed that each candidate should be required to provide a personal statement providing information about their beliefs or policies, for example, for inclusion on a website provided by the authority to whom they are seeking election. This is supported in the attached draft response.
- 4.7.3 **Prohibition of Assembly Member standing as council candidate** Welsh Government's view is that this is not appropriate, given the full-time role an Assembly Member fulfils and this view is supported in the attached draft response.
- 4.7.4 **Requirement to declare party affiliation** This is Welsh Government policy and consideration could be given to making it illegal to stand at Council elections without declaring membership of a political party, if that is the case. This is supported in the attached draft response.
- 4.7.5 **Allowing council staff to stand for their own council** Local Authority employees can stand for election unless they hold a politically restricted post, but cannot stand for election to their own employing Authority. Welsh Government recognise the need for checks and balances to ensure the integrity and impartiality of advice offered by officers to elected members, but suggest that these restrictions may be preventing a wide range of suitable candidates from diverse backgrounds from coming forward. Views are being sought as to whether any officers should be entitled to stand for election to their own Authority. In some cases Council employees have resigned and been re-employed if unsuccessful. Alternative approaches are suggested such as requiring a person to resign their employment only if they are elected (as in Scotland), or a period of secondment, or relying on the code of conduct regime to ensure that an interest is declared on any matter in which the member has a pecuniary or other interest. It is proposed that this is not supported as lifting such a restriction is unlikely to have a significant impact in encouraging more candidates to stand but creates the potential for conflict of interest and would have a disproportionate impact on good governance.
- 4.7.6 Views are also sought on whether there is still justification for councils to keep a list of those other than senior officers who should be politically restricted which is not supported in draft response as it is considered that the political freedom that other citizens have should be extended to Local Authority officers.
- 4.7.7 **Ending right to personal fee for returning officer** Welsh Government are considering legislating to end the current arrangements which enable Returning Officers to reclaim an amount for their services and expenses incurred in the running of an election. Local authorities will be able, if they wish, to consider whether to recognise the compulsory Returning Officer role within the salary of the chief executive. Should they wish to increase the salary for this purpose, they would need to consult the Independent Remuneration Panel for Wales for a view. Ending the right to a personal fee is supported in the draft response.

- 4.7.8 **Simplifying fees and charges system** The existing system of paying for elections to the Assembly involves a complex process by which accounts are submitted and checked. Views are sought on moving to a system of calculating Assembly election costs on an agreed formula based on the size of the electorate as it is considered that this would represent an overall saving on public funds. This is supported.
- 4.8 **Prisoner Voting**
- 4.8.1 The UK Government has not addressed the ruling of the European Court of Human Rights that a blanket ban against prisoner voting contravenes the European Convention on Human Rights. Welsh Government does not make any firm policy proposals at this stage while legal issues continue to be explored and sets out a number of options for extending voting rights to the approximately 3200 prisoners resident in Wales. In order to gauge public opinion views are sought on whether Welsh Prisoners should be allowed to vote in Welsh local elections and if so, should it be limited to those sentenced to less than 12 months, 4 years, or any sentence length. Questions are also included on the method of voting by prisoners and regarding which address prisoners should be registered to vote at.
- 4.8.2 In seeking views on the Caerphilly Council response to this consultation a comment was received from the minority opposition group that all prisoners should be allowed to vote regardless of length of sentence. The Parliamentary Joint Select Committee which considered the draft Voting Eligibility (Prisoners) Bill in 2013 recommended that prisoners serving sentences of 12 months or less should be entitled to vote in all UK parliamentary, local and European elections. In doing so the Select Committee set out a number of conclusions on points of basic principle. These included that there is a legitimate expectation that those convicted of the most heinous crimes should, as part of their punishment, be stripped of the right to vote and that gaining the right to vote (towards the end of a sentence) might assist prisoner rehabilitation by providing an incentive to re-engage with society. Support is offered, therefore, in the draft consultation response for extending the right to vote to prisoners serving a sentence of one year or less.
- 4.9 The proposed Caerphilly county borough council response to the Electoral Reform consultation questions is attached at Appendix 1.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 Part of Welsh Government's rationale for consulting on electoral reform in Local Government in Wales is to make our democratic processes more accessible now and for future generations.

6. EQUALITIES IMPLICATIONS

- 6.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential for unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications arising directly from the proposed response to the consultation document.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications arising directly from the proposed response to the consultation document.

9. CONSULTATIONS

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

10. RECOMMENDATIONS

- 10.1 That Council endorse the proposed response to the consultation on electoral reform in local government in Wales attached at Appendix 1.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To enable officers to submit a response to the Welsh Government's consultation

Author: Rob Hartshorn, Head of Public Protection
Consultees: Cllr Dave Poole, Leader of the Council
Cllr Colin Mann, Leader of the Plaid Cymru group.
Cllr Kevin Etheridge, Leader of the Independent group
Chris Burns, Interim Chief Executive
Nicole Scammell, Acting Director, Corporate Services
Dave Street, Corporate Director, Social Services
Christina HARRY, Corporate Director, Communities
Dave Beecham, Electoral Services Manager
Kath Peters, Corporate Policy Manager
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)

Background Papers:

Welsh Government Consultation Document: 'Electoral Reform in Local Government in Wales'
Report to Council 7th March 2017
Caerphilly County Borough Council response to the Welsh Government White Paper: 'Reforming Local Government: Resilient and Renewed'.
Report of the Parliamentary Joint Select Committee on the draft Voting Eligibility (Prisoners) Bill, 2013.

Appendices:

Appendix 1 Draft Caerphilly County Borough Council response to the Welsh Government Consultation Document: 'Electoral Reform in Local Government in Wales'