



Devolution, Democracy and Delivery

White Paper – Public Services Staff Commission

January 2015



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. We pleased to be able to make this response to the Public Services Staff Commission White Paper, and have the following comments to make in response to the specific consultation questions contained therein:

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

4. The Workforce Partnership Council has a key role to play in the social partnership approach within Wales. It has jointly developed a range of policies such as “Partnership and Managing Change” which have set national frameworks that have assisted with dealing with the severe reductions in the public finances. It will be crucial for the link between the WPC and the proposed Staff Commission to be codified and understood to avoid duplication and misunderstanding. For example it should be clear on what basis the Workforce Partnership Council (WPC) is being asked for its views when the matter in question is workforce issues relating to local government reorganisation. Members of the WPC will undoubtedly have valuable experience and ideas on these issues to further the debate in Wales. However, it will be important to recognise that the WPC is not the employer’s voice of local government and therefore views expressed should be understood in that context. It is crucial not to downplay the importance of the national UK wide frameworks around collective bargaining, terms and conditions and pensions which drive localised employment frameworks for the 22 council as

sovereign bodies. This is carried out at the national level through the LGA and in Wales through WLGA in its representative and employers organisation role

5. In terms of the devolved social partnership these principles are already well embedded in the majority of local councils who seek to work closely with their unions on an ongoing basis. The fact that this does not always lead to agreement locally is not evidence of a lack of will or application. Human resource issues are often essentially contested and at times are exceptionally difficult, leading to difficult outcomes. This is particularly the case with the current debates which question whether to “manage or resist austerity”. The scale of cuts are such that inevitably employer/union debates on this issue often come down to difficult choices such as whether changes to terms and conditions or compulsory redundancies offer a way of managing cuts.

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

6. The list would appear to be fairly comprehensive in its coverage of the relevant public sector organisations within the devolved Welsh Public Sector. However, we feel it needs to be clearer what the role of the Staff Commission will be, how it will function and what it will focus on beside matters relating to local government mergers / reorganisation. Until there is more of an agenda in this regard its role in relation to the bodies listed is unclear. We agree with trade unions colleagues that a body focusing solely on local government would not fully encapsulate the recommendations of the Williams Report which go well beyond the issue of mergers. Equally in terms of issues emerging from the WPC and particularly the focus on workforce planning this must occur across the public sector.
7. We also note that Welsh Government is not listed as a body to be covered, and would suggest it should also be covered by the remit of the Staff Commission as far as practicable, albeit accepting that there may be some non-devolved Civil Service staffing issues on which it cannot impact.

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

8. Paragraph 50 makes reference to Members of the non-statutory Staff Commission being appointed by Welsh Ministers. WLGA would state that our preference would be for these to be open public appointments in line with Nolan Principles bearing in mind the important role that this body will carry out.
9. If however an appointment process is utilised it should not be a “given” for the initial membership of the non-statutory Staff Commission to automatically be put in place for the statutory Staff Commission (as the White Paper implies, talking of ‘continuity’). This is not to dismiss the experience of those people who served on the non-Statutory Staff Commission indeed this could have real value moving forward. But equally a public appointment process at this point would cast the net wider for potential candidates across the UK and could draw in valuable experience from other local government reorganisation exercises. WLGA members feel this will be the best way in which to ensure that people with the right skills and experience are secured in an open and transparent manner. This point also seeks to recognise the Wales TUC suggestion that there could be a single statutory Public Services Staff Commissioner who is publically appointed. The WLGA has not however had the opportunity to debate the Wales TUC suggestion with its membership and therefore does not have a formal position at this time.
10. In terms of the experience and skills around workforce issues needed by the members of the Staff Commission we believe that it needs to be borne in mind that the immediate focus will be local government and therefore an understanding of the complex nature of local government and its workforce within their number will be of paramount, but not exclusive importance.
11. At paragraph 52 the White Paper makes a number of references to the Staff Commission ‘actively consulting with relevant parties, *especially the Workforce Partnership Council*’. As stated, a firm relationship between the Staff Commission and

the Workforce Partnership Council on workforce matters that have devolved public sector wide applicability would be advantageous. However, the suggestion that the Workforce Partnership Council would be an appropriate body to be consulted on workforce matters relating specifically to local government reform is not supported. Ultimately there are 22 sovereign bodies with clear employment roles and responsibilities that are set in properly negotiated frameworks with localised agreement. There must be a direct relationship to the councils as was the case with the Staff Commission in the 1990s. The WLGA as the employer's body can assist this, so too can agreed national frameworks. Nonetheless despite potential logistical issues there can be no substitute for local determination and agreement on a vast range of HR issues.

12. The Workforce Partnership Council is a forum for social partnership which has to date effectively operated at a strategic level and concentrated on partnership frameworks and agreements. Nonetheless it is not a representative body and on occasions when national agreements have been struck these have had to be signed off through the Wales TUC, or WLGA Leaders, NHS confederation etc. for precisely this reason. To adopt such an approach on LGR, other than for strategic policies that could be subject to national debate, would be bureaucratic and cut across the role of local employers not least since the majority of the WPC members are not from local government. It is accepted that Members of the Workforce Partnership council will make a real contribution on local government workforce issues from their own experiences in different parts of the public sector, and this could add significant value. However, solutions need to be acceptable to local government and it is local government views that should be paramount in this regard.

13. In this context councils have their own joint trades union / employer forum within local government – the Joint Council for Wales (JCW) and we would see that as a representative body for consultation on matters of local government reorganisation. Equally all councils have democratic representation through the WLGA and we would wish to see our National Employers' role reflected as a key body for consultation on matters of local government reform.

14. At paragraph 53 the White Paper lays out how the non-statutory Staff Commission will work through consensus which is to be welcomed so long as the consensus is sought between appropriate and relevant stakeholders. In terms of the 'practicalities of implementing any proposed approaches' as is mentioned within this paragraph we cannot over emphasize how getting this right will be crucially important and the extent to which the difficulties should not be under-estimated.

15. Paragraph 110 of "The Reforming Local Government White Paper" stated that the Welsh Government:

- a. *'do not believe reducing the number of Local Authorities through mergers will create as many staffing and workforce issues as has been the case when Local Government has been reorganised'.*

16. WLGA cannot agree with this statement. It is difficult to see any workforce issues that will be avoided by mergers as opposed to full reorganisation. Indeed in comparison to the 1990's reorganisation there is a far more complex HR environment in place today. This includes the single status agreement, national frameworks for job evaluation, equal pay and the accumulated weight of over 20 years of employment legislation. In addition the context of ongoing austerity in which the mergers will undoubtedly take place will make all of this far more difficult. Indeed the Reforming Local Government White paper acknowledges some of this added complexity in an earlier paragraph 37, where it says:

- a. *'This White Paper sets out the necessary steps towards the merging of Local Authorities into larger, more sustainable organisations. However, merging Authorities will only meet these aims if accompanied by a wider package of Local Government reform, because simply combining together the Authorities we have now into larger bodies which carry on doing the same things in the same way will not deliver better services or better outcomes.'*

17. This is the crux of the matter. Earlier local government reorganisations have sought to ensure that new structures provided jobs for all transferring staff, and similar jobs to those that they were doing beforehand. This was the main role of the Staff Commission in the 1990's. This cannot be the case for local authority mergers. There will need to be a transformation agenda alongside the mergers programme— new ways of working and very different structures with new kinds of roles requiring different skill sets. This will inevitably mean greater change and upheaval for staff and therefore increasingly complicated workforce issues. Additionally the financial position will mean that unlike earlier reorganisations, where the majority of staff who wanted a job in the new authority were assured of one. It is highly unlikely that similar guarantees can be provided for any forthcoming round of mergers, unless it is the intent of Welsh Government to examine similar sorts of “protections” given to the NHS workforce following the creation of the current health boards in 2009.

18. The complexity of the staffing issues cannot be underestimated. A key issue may be the potential difficulty in retaining staff who are unsure of their position in the run-up to any merger. Employees in this position, and particularly highly skilled employees may find jobs elsewhere, which could have a negative impact on service delivery. With all new senior jobs over £100K salary needing to be advertised widely across the UK, the management teams needed to steer a merger to a successful conclusion may find themselves depleted as the senior managers look elsewhere for job security. All this could be destabilising for councils going through a merger process.

19. Paragraph 54 details how Ministers will act on receipt of advice from the non-statutory Staff Commission. It is to be hoped that local government will be consulted on any relevant guidance that Ministers may wish to issue as a result of the advice, in order that any practical issues can be flagged up and unnecessary difficulties avoided in advance.

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

20. There are concerns on timing. WLGA fully accept the need for preparatory work on mergers in terms of moving forward. In practical terms much will depend on the Welsh Government response to the voluntary merger proposals that have been submitted by six councils and the legislative timescales are needed to support this. To be able to “provide authoritative advice and guidance on workforce matters to Welsh Ministers” as envisaged by the Reforming Local Government White Paper” will also require careful planning to ensure that any proposed voluntary merger by councils whose business case has been supported by Welsh Government has a body in place that can support them on workforce planning into the new authorities. Clearly a longer time frame would have allowed to phase in time for a public appointments process if that is supported.

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

21. No.

Q. Are the skills and experience identified in paragraph 57 correct?

Q. Are there skills and experience which the non-statutory Staff Commission requires which is not included on the list?

22. Before turning to the issue of the skills/experience mix required of the Staff Commission members we would wish to state that we think that 5 may not be sufficient for the scale of the task required when combining local government reorganisation with a much larger agenda on public services reform and the wider recommendations of the Williams Report. Additionally, the Staff Commission will need to be a properly resourced and a fully functioning working body rather than one which relies upon the Secretariat to drive it with Commission Members only working a couple of days per month.

23. In terms of the secretariat WLGA would seek clarity on how they will be appointed and the supporting structures of appointments or secondments. If it is the latter approach WLGA believe that there should be good representation from local government on the

secretariat to ensure that issues around mergers/reorganisation are approached from a standpoint of understanding the complex nature of local government and the local government workforce.

24. With regard to the questions relating to paragraph 57, we are pleased that there is an understanding that the 'skills, experience and capability mix of the Commission members will be extremely important'. However, while we agree the intention behind this list most of the 'skills and experience' listed are set out in "headline" form and require more detail in terms of either explaining the requirements of the role to potential Commission members or in assessing suitability for it as against a person specification. In particular:

HR

25. This needs to be properly defined to indicate the specific aspects of Human Resources Management where knowledge and experience would be beneficial. We would suggest knowledge and experience of change management included large scale re-structures and the operation of TUPE or TUPE-like processes for example. There is clearly no requirement for HR skills such as dealing with discipline and grievance or managing absence.

Leadership of Organisational Change

26. This is not stated effectively as either a skill or experience. It would be better if what was required was a 'demonstration of a track record of successful leadership of organisational change at a senior level in a large organisation'.

Finance and accountancy

27. These are appropriate as skills but would be best if they included experience at senior levels in local government.

Employee relations

28. This is very broad heading. It would be better expressed as knowledge, understanding and experience of employee engagement practices, tools and techniques, and these would in any case be a key part of managing change effectively.

Knowledge of local government

29. This is fully supported although returning to a key theme of this response with a Public Services Staff Commission that will be dealing with reform across the piece (albeit with a focus on local government reorganisation), wider knowledge of other parts of the public sector will be essential (e.g the health and social care interface)

Organisational Development

30. This is a wide discipline which does not have just one definition. Much of organisational development (OD) work would focus on a level of detail at an individual organisation level that we would imagine that the Staff Commission would not be intended to intervene at nor would have the time to do so. The April 2014 CIPD factsheet uses the following definition of OD as a:

'planned and systematic approach to enabling sustained organisational performance through the involvement of its people'

31. There is considerable debate about the nature of OD and the term is sometimes used interchangeably with other disciplines such as organisational design, learning and development and organisational effectiveness. It would be far better to be clear about the exact disciplines and skills where knowledge and experience is required. Organisational design would be key we would suggest.

32. We would also wish to propose that OD is not separate from Human Resource Management and should be considered as a key part of the profession.

Trade Union Organisation

33. It is not clear what is meant by this term. In terms of greater precision we would suggest that experience of consultation and negotiation with trades unions at senior levels (preferably but not necessarily) in the public sector would be of greater benefit.

34. In terms of necessary skills which we think are missing from the list we would suggest the following:

Communication

35. Experience from the last reorganisation in 1996 firmly suggests that the written communications from the Staff Commission were not clear and were often overly academic. This led to a lot of time wasted in trying to interpret them with trades unions and employers often having different views of what was meant. We suggest that every effort is made this time round to ensure that all communication is in clear plain English and Welsh so that the meaning is not ambiguous or in doubt.

36. There will also be a need for both the Commission members and the Secretariat to have the capability and the credibility to be able to engage effectively with a wide range of stakeholders and build ownership and understanding of their work so that there is a genuine partnership and proper ownership across all stakeholders.

Procurement

37. There is likely to be a benefit in the Staff Commission (whether statutory or non-statutory) being able to procure services for the whole of local government to use (and later potentially the whole devolved Welsh Public Sector), in order to ensure good quality and save on costs. A key area would be recruitment support services for senior posts such as running assessment centres including psychometric testing.

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

38. We are in broad agreement with the processes outlined. However we would make the following points:

39. Paragraph 61 refers to the non-Statutory Staff Commission having extensive dialogue with employees including even possibly individual employees, local staff representatives and employers. While we accept this, it is vital that the body keeps focus particularly with the broad sentiment of the statement set out in paragraph 66 that *‘the non-statutory Staff Commission will be at its most useful when it is examining and advising on matters of principle’*. The role envisaged for the Staff Commission is significant and as the consultation paper recognises ensuring “that the work programme remains current, flexible and adaptable” will be a major task.
40. As the employers’ organisation in Wales it is vital that the WLGA is formally recognised as a consultee as the representative body for local government in Wales. We would also wish to see the HR Directors Network (Wales) recognised as a key professional group of senior officers with whom the non-statutory (and we would hope later the Statutory Staff Commission) would consult. The members of the network have extensive experience of the full range of relevant local government staffing matters (in both private and public sector settings) including experiences in some cases of the last reorganisation.
41. These suggestions serves to highlight again the need for local government to feel it can properly interface with the Staff Commission as a body in terms of both the individual members and the secretariat.
42. Finally with regard to this question we welcome the commitment to regular bulletins being circulated by the non-statutory Staff Commission, and would request that these shared across all local government networks .

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

43. While we do not consider that the proposed links are inappropriate, we think that they could add unnecessary complexity. It would seem far more straightforward for the

non-statutory Staff Commission to take on responsibilities around changes to CEO and CO pay (and be resourced to do this) rather than having to liaise with another body for this purpose. The IRP was intended originally to deal with the issue of Member allowances and could concentrate on that issue (having only very recently been asked to take on the referral of changes to local government CEO pay).

44. We note that paragraph 65 states that the working relationship between the IRP and the non-statutory Staff Commission will be important to the facilitation of the recruitment and retention of a high calibre of senior officers. This is noted but ultimately this is matter for local democratic choice and a key role for elected members in determining their own senior management structures. We also note that the emphasis here is on the regulation of local government senior pay. The recent work by the Auditor General for Wales on senior salaries however shows that issues of top pay are not confined to local government. As the Staff Commission is intended to be have a *public sector wide* remit this focus must be properly reflected in its work programme to include public sector wide pay arrangements.

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

45. Key issues that require further examination include:

Staff Skills Development

46. Staff skills will need to be developed in order that they can support the merger process effectively, so this will mean management of change and also crucially effective management of staff through the change. We have referred earlier to the need for a transformation agenda to run alongside the mergers to ensure that the new organisations are designed and structured around new service delivery models. The skills to do this, and the skills to operate in different ways are likely to need developing at all levels within the local government workforce.

Pay Protection

47. The list covers harmonisation of terms and conditions but makes no reference to protection arrangements in connection with this where an employee may be on less favourable terms and conditions as a result.

48. There is also nothing stated about redeployment where the role an employee is undertaking is not reflected in the new structure and they are offered redeployment to another role which is paid at a lower rate. Pay protection would also be a consideration in this kind of situation.

Employee Liaison Arrangements

49. We would see a role for the Staff Commission in ensuring that merging organisations and other public sector bodies had in place good structures for consulting with employees both through the recognised trades unions and directly (taking into account that not all employees will be trades union members).

Alternative Service Delivery Models (ASDM)

50. We would suggest that it would be beneficial for the Staff Commission to have some expertise and develop a view of the workforce issues around moving to ASDMs whether private, public or third sector. This might be a better heading than 'impact on staff recently transferred to private sector contractors'.

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

51. We have no strong views on this matter. The standing of the Commission in our view will be best enhanced by its taking a well-informed and impartial view on workforce matters in local government and other parts of the Welsh Public Sector where relevant. This would need to take account of the reality of the current and continuing financial situation and the need to balance fairness and protection for staff appropriately with our primary purpose of effective delivery of services to the people of Wales.

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

52. We do not believe that the Staff Commission should be able to issue guidance in its own right, because:

- i) It is not a democratically elected body. Communication in this respect should be between Ministers and elected Leaders
- ii) It would not be appropriate to have two bodies issuing statutory guidance on workforce matters as this could lead to confusion.

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

53. Paragraph 72 of the white Paper refers to the need for the statutory Staff Commission to have a power 'to require existing Local Authorities to supply it with relevant information on proposed mergers'. It goes on to detail information on numbers and types of professional qualifications amongst other things. We would not question the value of such information or that the Staff Commission may need it. However, a power "to require" may be of little benefit if the information is simply not available or not available in a form that enables it to be effectively collated for the purposes it is needed.

54. The WLGA Employment Team has been working with the Local Government Data Unit over a number of years to develop a consistent workforce benchmarking data collection exercise on an annual basis. With the recent withdrawal of the funding that supports this at a national level there will need to be examination from where such data can be sourced. It will also be important for the Staff commission to recognise the cost in time resources that are attached to large data gathering exercises.

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

55. As we have stated we do not agree with the suggestion that the Staff Commission would issue statutory guidance in its own right.

What other powers may be required?

56. No further proposals

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

57. It will be important that the Staff commission is subject to monitoring. There will need to be a process of regular reviews with relevant stakeholders to test effectiveness and added value and to decide on corrective action to address any areas identified that need to be re-examined.

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

Q. If not why not and what would its function be upon the completion of the Reform Programme?

58. In our view that the Staff Commission as proposed should be time limited although in terms of precision it is too early to answer this question with any certainty. The experience of those who went through the last reorganisation was that there were many residual workforce matters that persisted for several years following it. Also we do not know what other elements of public service reform may be brought forward in addition to local government reorganisation and what impact those may have on the public sector landscape in years to come. It may be changed out of all recognition and the Staff Commission could well have a continuing role as a key body for workforce matters supporting the development of a more unified public sector across Wales.

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

59. As stated it is our contention that the Social Partnership approach is already embedded within much of local government and across the rest of the Welsh Public Sector. The WPC has sector specific groups which also support the process. In Wales we have already put in place key agreements as to how we will approach the Management of Change in Partnership and no doubt the Staff Commission will promote those.

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