**Report No.** **04/12**

 Standards Committee

REPORT OF MONITORING OFFICER

**SUBJECT: PROMOTING LOCAL DEMOCRACY WHITE PAPER**

**BACKGROUND**

1.1 Welsh Government issued a White Paper entitled Promoting Local Democracy on 17th May 2012 requiring responses to certain questions raised therein by 3rd August 2012.

1.2 An electronic link to both English and Welsh language versions of the White Paper are set out below:

http://wales.gov.uk/docs/dsjlg/consultation/120517promlocdemocracyen.pdf

<http://wales.gov.uk/docs/dsjlg/consultation/120517promlocdemocracycy.pdf>

1.3 The Authority’s officers prepared a response to the consultation and a copy of the same is attached with this report. Some of the queries raised and responses prepared are of relevance to the work of the Standards Committee. It should be noted that the Authority’s response is limited to areas that apply or potentially apply to this Authority in accordance with normal practice.

1.4 This report is provided for information purposes only as the deadline for responding has now expired.

Resource implications – Nil

**RECOMMENDATION**

**To note the contents of the report.**

*(For further information, please contact John Parsons, Monitoring Officer)*

Promoting Local Democracy

Consultation Response Form

Please return this form to reach the Welsh Government no later than **3** **August 2012**

The email address for responses or queries is: LGDTMailbox@wales.gsi.gov.uk

Postal responses should be sent to:

Scrutiny, Democracy and Participation Team

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

Telephone contact for enquiries: 029 2082 3094

Alternatively, responses can be submitted via an online response form available at:

English:

Welsh:

Your name: Mr John Parsons

Organisation (if applicable): Pembroke shire Coast National Park Authority

Email address: johnp@pembrokeshirecoast.org.uk

Telephone number: 0845 3457275

Your address: Llanion Park, Pembroke Dock, Pembrokeshire, SA72 6DY

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| Question 1:Do you agree with the Commission being renamed as the Local Democracy and Boundary Commission for Wales? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This more accurately reflects its role. It builds upon the comments contained in Paragraph 4.*  |

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| Question 2:Do you agree with the Commission’s quorum being increased to three, with the appointment of a Chair, Deputy Chair and two other members becoming the norm? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *The present quorum arrangements are unsatisfactory, taking into account the extent, the nature, the effect of the Commission’s work and the increased proposed powers of the Commission.* |

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| Question 3: What are you views on the appointment of a reserve member? |
| *Provided the reserve member has had full access to all records, minutes etc. and was in a position to make a fully informed decision, having been properly briefed , the reserve member should be able to be an effective substitute.*  |

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| Question 4:Do you agree that the provisions set out at section 7.3 of the Welsh Government’s Welsh language scheme are appropriate with regard to appointing members to the Commission? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This reflects current practice elsewhere and is consistent with policy in other areas of Welsh public life.*  |

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| Question 5: What are your views on the Commission having the power to appoint persons to provide expert advice, together with the power to pay any such persons? |
| *This is a useful power which could prove useful in limited circumstances. However I believe the Welsh Minister should retain this power of appointment. It does not prevent consultation as to the need, role etc. of any such appointment taking place between the Welsh Minister and the Commission but this relates to expert advice which the Welsh Ministers may have easier access to through their wide network and database.*  |

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| Question 6:Do you agree that theCommission should consider consequential changes to electoral arrangements (the numbers and distribution of councillors) when recommending changes to local government areas? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *These follow on and without this power there is an “artificiality” about introducing what will only be changes with practical limitations. This enables a proper implementation of changes as recommended by the Commission after proper consultation.* |

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| Question 7:Do you agree that the Commission should inform the Home Secretary of any recommendations which affect the boundaries of a police area? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *It will prevent proliferation of different boundaries and aid in a drive to boundary harmonization.*  |

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| Question 8:Once notified of a forthcoming electoral review, should a principal council be required to ensure that its communities have been recently reviewed to the satisfaction of the Commission? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *In our view it will aid the whole democratic process. However there should be a realistic approach taken to the length of the period that can be described as “ recently reviewed”.3 years is a reasonable balance.* |

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| Question 9:If a principal council does not follow the guidance, should the Commission be empowered to carry out the review and charge the principal council for doing so? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will enable the review process to proceed without delay.* |

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| Question 10: What are your views on the Commission being empowered to issue guidance to the principal council on the timing and process of community reviews together with the principles to be followed? |
| *This will aid the drive to more understanding and accountability of the process of boundary reviews and community reviews.*  |

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| Question 11:Should the Commission be granted order-making powers in relation to community reviews carried out by principal councils? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This should result in a speedier process.*  |

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| Question 12: What are your views on the Commission operating a continual cycle of electoral reviews, commencing in 2014, with a timetable for a ten year cycle of reviews being produced? |
| *This achieves a more effective review. But adequate resources need to be devoted to the Commission to be able to achieve this.*  |

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| Question 13:When fixing boundaries should local community ties have equal importance to achieving a target ratio of electors to councillors? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *There are dangers of too rigid an approach based on target ratios, which .can lead to results which do not fairly reflect local conditions. There needs to be a built in flexibility to ensure due consideration is given to “ community ties” as a significant factor in the Commission’s approach*  |

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| Question 14:Should the Commission be able to propose electoral divisions which straddle community boundaries? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *See previous response but this power should only be used as a last resort .Priority should be given to both numbers and community ties*  |

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| Question 15:Should the Commission be able to propose changes to community boundaries as part of an electoral review? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *See previous response.*  |

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| Question 16:Should the Commission identify and publish, as part of its consultation prior to an electoral review, the number of councillors it considers appropriate for each principal council? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will enhance the opportunity for members of the public or public bodies to contribute, either orally or by written submissions more effectively to the electoral review., if these figures the Commission considers appropriate ,are published in advance*  |

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| Question 17:Should Welsh Ministers be required to consult with theCommission before Minister directions are issued? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer As the Commission has an increased workload, it is essential that the *aim / objectives etc of the policy intent of such directions to be understood and shared.*  |

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| Question 18:Should the Commission and principal authorities be empowered to require the council for the local government area under review to provide them with information relevant to the review? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will enable a fuller assessment to be undertaken, provided the information requests are not too onerous/disproportionate.*  |

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| Question 19:Do you agree with the Commission being able to provide draft proposals or orders in electronic format only? |
| Yes | [ ]  | No | 🗸 |
| Please expand on your answer *This could exclude those without internet access or whose internet access is consistently provided in a less than satisfactory manner. This proposal does not recognize the variable nature of internet access availability and support across all parts of Wales. IT is acceptable for public authorities however.* |

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| Question 20:Do you agree that the Commission, or principal council, should describe within their proposals, the steps they took to consult and how they responded to the representations received? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will enable the Commission or Principal Council to be more open and accountable.*  |

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| Question 21:Should an organisation that conducted a review of any kind which resulted in a change to local authority areas be placed under a duty to inform Ordnance Survey, and any other persons or organisations which may be prescribed, once the changes have been made? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *If the changes have happened then relevant bodies, persons and organizations should be involved.*  |

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| Question 22:Do you agree with the proposal to remove the regulatory power within section 60(6) of the 1972 Act to prescribe the procedure for reviews? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *As it is not used, no point in retaining this.*  |

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| Question 23:Should Welsh Ministers have the power to make other public bodies whose membership includes elected councillors (e.g. fire and rescue authorities, local health boards), subject to review by the Commission? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *Yes – the need for a properly constituted body with full accountability will enhance any changes made. In relation to NPA’s it would be beneficial to have a view on the elected Members of the NPA and how the principle of political balance is applied, and on membership appointments and changes*.  |

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| Question 24:Should the Panel be ableto prescribe a numeric limit on the posts or duties which may receive a particular payment without having to specify it as a proportion of the authority? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *The present system could lead to inflexibility. This can lead to “artificiality” which in turn undermines public confidence.*  |

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| Question 25:Should Welsh Ministers be enabled to add other public bodies to the remit of the Panel? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *To enable directions etc. to be made more timely, more efficiently, more consistently .*  |

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| Question 26:Should the Panel have the discretion to choose any date for the coming into force of their determinations, with the additional option of backdating any of their determinations for a period of up to three months prior to the publication of a report? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *If there is evidence that this is unnecessarily restrictive, then the proposed changes brings in some flexibility but does not prejudice efficiency.*  |

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| Question 27: Do you agree with the publication date for the Panel’s annual report being altered to 28 February of each year rather than 31 December? |
| Yes | [ ]  | No | 🗸 |
| Please expand on your answer *This will have a significant prejudicial effect on the wider running of the budgetary process. By delaying until 28th February it makes it practically very difficult to take account of changes. It is doubted if public authority’ budget planning timetables have been adequately considered .This is strongly opposed.* |

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| Question 28:Do you agree to the consultation period for supplementary reports being reduced to between four and eight weeks? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This change should assist good governance and is non prejudicial.* |

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| Question 29:Should the Panel be empowered to require local authorities to publish information relating to all remuneration received by individual councillors in connection with the performance of public duties? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *The publication of this information is already largely governed by law and good practice. This reinforces this.*  |

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| Question 30:Do you agree that area committees responsible for non-executive functions should be made up of all the councillors elected for that area who wish to be members? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will enhance the use of Section 55 of the 2011 Measure.*  |

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| Question 31:Should it be a legal requirement for councillor membership of audit committees to be politically balanced? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This will reinforce the guidance of the 2011 Measure.*  |

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| Question 32:Should audit and newly-created democratic services committees fall under the normal access to information rules? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This reflects current best practice. Also now governed by SS14(8) and 83(7) of the Measure* |

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| Question 33: What are your views on town and community councils being required to ensure their contact and membership details, together with records of their proceedings are accessible via the Internet? |
| *They are part of the democratic process and members of the public will wish to contact them. There may be difficulties with smaller community councils but the expectation/aspiration should be for this to achieved.* |

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| Question 34: Can you suggest any other communication channels that should be explored to improve individuals’ access to information about their town and community councils? |
| *Electronic, local, press* |

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| Question 35:Do you agree that a local government officer should not receive payment under the terms of a returning Officers’ fees and changes order whilst also receiving remuneration for the same period of time from their local authority? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *Any payments received should be set off against remuneration received for the same period of time from their Local Authority. The “time” should not be charged for twice.*  |

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| Question 36: What are your views on the potential use of funding mechanisms to reward efforts to improve registration levels? |
| *This would depend on an analytical study of how other jurisdictions approach this issue. A study should be commissioned and then returned to the Assembly for further consideration.* |

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| Question 37:Do you think that legislative competence in relation to electoral registration and the conduct of local and Assembly elections should be conferred on the Assembly? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *In principal yes, but subject to full consultation.* |

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| Question 38: What are the practical barriers to extending the local resolution process to community and town councils and how might they be overcome? |
| *In many community and town councils a lack of clear party political leadership and discipline. A good training programme could help. Once Voice Wales could be useful in this context.AS a result this should be limited to principal councils.* |

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| Question 39: To what extent is it desirable or necessary to modify the current statutory framework or model code of conduct to facilitate local resolution of complaints? |
| *Very important. The PSOW latest report for 2011/12 highlights the need for this and should be supported. This will need to put on a properly structured common approach. Each authority’s scheme should be “validated” by the PSOW .Also he should screen such complaints before d then referring them back, so that there is some element of outside independent overview.* |

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| Question 40:Should the ethical framework in Wales be more radically modified (e.g. to introduce local assessment and investigation of all alleged breaches of the code of conduct) and, if so, how? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer see comments to Q39 above.*This would operate as a “screening process” and enable PSOW to concentrate on the most serious cases, thus freeing up his resources.*  |

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| Question 41:Are the “call-in” arrangements sufficient, or should cases which fall just short of the Ombudsman’s current criteria be routinely referred for local investigation and determination? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This is a reasonable balance and will build on what has been established by some Local Authorities already. It has proved effective there and has been effective. There is a technical problem with the LGA 2000 which only allows the PSOW to refer a case to the Monitoring Officer after an investigation is commenced.* |

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| Question 42:Is the voluntary cap on indemnities provided for this purpose appropriate and sufficient? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *This is in need of urgent review, to prevent the reputation of the current system of monitoring and enforcing structures being damaged as well as its efficacy. The proposed limit of £10,000 is based on other tribunals and commensurate with them. There will ned for some thought to be given to the position of insurance cover providers who may well have higher limits in place.* |

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| Question 43:Should the Welsh Government introduce a statutory limit on indemnities through subordinate legislation? |
| Yes | 🗸 | No | [ ]  |
| Please expand on your answer *My experience is that members will not accept a voluntary limitation. Also it will lead to a consistent all Wales approach.*  |

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| Question 44: What are the perceived barriers, if any, to the establishment of regional standards committees? |
| *Remoteness, difficulties over travel, loss of local independence and loss of “local” knowledge. It will need consistent training and monitoring to over come these. but could result in savings and greater consistency We suggest a trial or a pilot scheme, to be reviewed and analysed before national roll out. This could be achieved by collaborative approach now if there was a clear need demonstrated.* |

There is need for consideration of the following issue

. **Term of office of councillor members of standards committees.**

It would of assistance to the efficient administration of standards committees that the term of appointment of councillor members of standards committees would be for the term of office for the time being of that councillor, rather than for four years, and that this rule should be applied to current incumbents. This would accommodate the situation where the ordinary elections for a principal council are extended, as is the case currently.