Devolution, Democracy and Delivery

White Paper – Public Services Staff Commission

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Overview

The White Paper ‘Public Services Staff Commission’ outlines the Welsh Government’s proposals to establish a Staff Commission to advise Welsh Ministers on workforce issues affecting the Public Service workforce in dealing with staffing matters. The White Paper seeks views on whether the proposals in relation to establishing a Staff Commission are the right ones.

How to respond

To respond to the consultation please either complete the online form or complete the questionnaire at the back of the document and return it either by email to publicserviceworkforce@wales.gsi.gov.uk

or by post to

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Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.


Contact details

For further information:

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Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often.

The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone’s name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.
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Foreword By The Minister For Public Services

In our Programme for Government, we made a clear commitment to the delivery of efficient, effective and accessible public services across the whole of Wales. We recognise our ambition for world class public services can only be realised through a world class public service workforce with the right skills and support to deliver them.

Equally important, is ensuring our distinct public service values are clearly reflected throughout our public service organisations and are embedded in our approach to workforce matters, removing barriers which prevent flexibility and collaboration across and between organisations.

We have already made progress in developing social partnership in the public sector, working with employers and Trades Union through key forums like the Workforce Partnership Council.

Given the continuing challenges faced by our public services, dealing with the competing pressures of reducing resources, increasing demand and rising expectation, it is right to put workforce matters at the centre of the public service reform agenda.

We want to engage the workforce in discussing how improvement can best be delivered. We know they want to be more closely involved in designing solutions to the delivery challenges they face every day.

In order to achieve these aims we intend to establish an independent non-statutory Public Services Staff Commission to advise the Welsh Ministers and public service organisations on the workforce issues needing action and resolution. The Staff Commission will identify and propose practical solutions to issues arising from reform which can be considered and implemented. It will also support the development and dissemination of good practice workforce arrangements across our public services.

To ensure the Public Services Staff Commission is able to provide support to any voluntary Local Authority mergers, in accordance with the timetable set out in the Reforming Local Government White Paper, we aim to establish it, on a non-statutory basis, by April 2015.

We will then bring forward legislation after the next National Assembly for Wales elections, to place the Commission on a statutory footing.

These proposals demonstrate our clear commitment to supporting the public service workforce through the Reform Programme. I look forward to hearing your views.

Leighton Andrews AM
Minister for Public Services
1. Our Vision

1. We have set out our vision for improving public services in Wales in *Devolution, Democracy and Delivery: Improving Public Services in Wales*. A key aspect of this vision are our proposals for reforming Local Government through a series of mergers, but also through a transformational change based on delivering stronger democracy, better governance and improved performance. Our initial proposals for Local Government are set out in *Devolution, Democracy and Delivery: Reforming Local Government*.

2. All of our proposals reflect the value we place upon the public service workforce. We are committed to working in partnership with Trade Unions and public service employers to help public service workers deliver the best possible public services to people across Wales. This commitment to working through a distinct model of social partnership demonstrates the value we attach to public services and the public service workforce. This is reflected in the vision we set out in ‘*Working Together for Wales – A Strategic Framework for the Public Service Workforce in Wales*’, published in May 2012.

3. We know the dedication and excellence of the public service workforce is instrumental to transformation. Our vision is for a workforce that is at the heart of public service delivery for people and communities.

4. Our public service workers experience public service delivery in their own lives, within their families and across their wider communities everyday. Their experience in both delivering and experiencing public services is potentially a rich source of knowledge about how we might make our public services the best they can be, doing things better and doing them differently. We want our public service workforce to have a voice that is listened to, trusted and acted upon because it has authentic first-hand experience, and we believe the workforce itself shares this aspiration.

5. We know trust is crucial to high performing public services. Excellent services need a workforce which is fully engaged in a loop of feedback and improvement. In this way every employee has the chance to lead and influence how the day to day operations of public service works. Releasing their creativity and enthusiasm is vital as we adapt to new models of delivery.

6. We also want a fair deal for our public service workforce, and to protect their jobs in whatever way we can. This deal will respect the rights and responsibilities of staff and employers, together with the vital role of the Trade Unions, in making a difference and shaping a successful future for Wales.

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Delivering the Vision

7. The strategic priorities identified to deliver this vision are:
   • building an engaged, motivated, and high performing workforce;
   • attracting and retaining talent;
   • developing skills; and
   • ensuring equality and diversity.

Building an engaged, motivated, and high performing workforce

8. We firmly believe the public service workforce is one of our most valuable assets, and we want to work in partnership to help it adapt to the changing needs of our society, and the evolving pressures on our public services, including funding constraints. Front-line staff are often better placed to suggest innovative and cost-effective solutions to public service challenges.

9. We want sustained and closer engagement between those who are responsible for organising service delivery, front-line staff and their trade unions and service users in the design, delivery and scrutiny of public services in Wales. This is vital if we are to make best use of our strengths, talents and resources. It also creates the right conditions for people to know how their work is meaningful. Even the most committed employee needs to understand what they are required to deliver and how this contributes to service delivery and improving organisational success, if they are to perform to their potential.

10. Levels of employee engagement, empowerment, motivation and high performance are interlinked and interdependent. Research\(^2\) tells us levels of engagement matter, because better employee engagement can correlate with better performance and innovation. The expertise needed to improve our public services exists within our current public service organisations, and by engaging the workforce in shaping and reforming our services we can benefit from their innovative ideas and motivation to improve the services they deliver.

Attracting and retaining talent

11. The Welsh Public Service is a great place to work. We know our public service workforce value the opportunity they have to make a difference to our people and communities.

12. There is a strong public service ethos in Wales. Twenty five percent of the Welsh workforce is employed within our public services. They are an important part of the fundamental economy. Attracting and retaining our best talent is critical to driving the transformational change to which we aspire, and people need interesting and varied opportunities if they are to commit to a career in public services.

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\(^2\) For example, in their report to Government, Engaging for Success: enhancing performance through employee engagement (2009), Macleod and Clarke make the case for improving engagement, which, in turn, improves performance and innovation.
13. However, we face challenges of capacity and scale. Specialist skills and technical expertise may not be sustainable in small organisations, so employers may need to work collaboratively across sectorial boundaries if they are to provide sufficient career development opportunities.

14. Culture and values also play a key role in attracting and retaining our talent. Building a relationship of mutual respect between employers and employees based on fairness and trust, where the promises and commitments to each other are understood and fulfilled, will support us in attracting and retaining talent.

15. Finally, whilst culture, values, empowerment and career progression all play a critical part in attracting and retaining talent, these need to be underpinned by fair and reasonable terms of employment which are flexible to the needs of a diverse workforce.

Developing skills

16. The professions and specialisms within our public services are varied and diverse. We have essential core skills which equip us to manage people, resources and finances in multi-million pound organisations, and a wide range of professional skills which enable the delivery of specialist and complex services.

17. However, we cannot afford to stand still. We must continue to develop the skills of our workforce, and build the capability and capacity necessary to meet the demands of the changing environments we work within. We must be more innovative and flexible in how we go about developing those skills.

18. There are numerous ways in which we could learn and develop in a more cost-effective, joined-up manner, which would make the most of the resources we share. Development of common leadership and management programmes, common procurement and sharing of training contracts, and better use of e-learning will help facilitate this. Encouraging proposals for reform from front-line staff is key to this.

19. For the Welsh Public Service to truly develop a learning culture we have to get better at using the skills of our people and at facilitating continuous learning. By creating a learning culture we will enable people to work together, with a shared aim of improved and more efficient service delivery, becoming more adaptive to the changes in our external environment and people’s expectations.

Ensuring equality and diversity

20. Ensuring the public service workforce is representative and reflective of the society we serve is crucial, and we are committed to ensuring the diversity of the people of Wales is reflected in our workforce through developing innovative approaches to gathering and collating intelligence on workforce data and trends to inform the strategic workforce planning required in the future to make this a reality.

21. There is substantial research to show that the most productive and engaged nations are those which are most equal. The same has been shown to be true of organisations and their employees. Ensuring equality and diversity within the workforce is, therefore, an essential part of developing a public service capable of driving the change to which we aspire.
In addition, Welsh public service employers are bound by the general equality duties outlined in the Equalities Act 2010 (which require public authorities to eliminate discrimination, harassment or victimisation, advance equality of opportunity and foster good relations) and by the Wales Specific Equality Duties outlined in the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011. Public Sector employers need to take account of the protected characteristics defined in the Equality Act, in developing their Strategic Equality Plan and objectives.

Social Partnership and Social Capital

22. Social partnership is the principle which underpins our vision. We are committed to working in partnership with Trade Unions and public service employers, to help public service workers deliver the best possible public services to people across Wales, and to support, a fair deal for the public service workforce.

23. Our model of social partnership is embodied in the Workforce Partnership Council (WPC) which brings together Trade Unions and public service employers to address shared challenges and opportunities for public services and the public service workforce. The increasing and changing demands for public services, coupled with the growing budget pressures, highlight the importance of working together to support the public service workforce.

24. The WPC has been at the heart of a number of public service summits in which partners have sought to reach consensus on the issues to be tackled. It will not always be possible to reach a consensus on all matters however, it is clear there is a strong commitment from all sides to tackle the issues we face in partnership. We need to draw on the social capital of our public service workforce.

25. The WPC remains an integral part of our vision to support the development of a world class public service workforce. It will continue to play a leading role in embedding a social partnership approach nationally and locally between employers and Trade Unions. We would expect the Staff Commission to engage regularly with the WPC.

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

26. In the following sections we set out the case for including a Public Services Staff Commission as a key feature of the Devolved Services Reform Programme, make proposals for how a Staff Commission should be established and ask for views on its role, remit and membership.
2. The Case for a Public Services Staff Commission

27. We want to ensure Local Authority mergers are part of a wider, transformative change to the way in which Local Government and the whole of the public service operates, in a way previous reorganisations were not. This means fundamental change to the way in which Local Authorities work, plan service delivery, work with other public service partners and engage with their communities. This will generate different challenges for our public services, and will further increase the importance of good workforce planning. This needs to be tackled collaboratively across the public service. At the same time, it will be important to establish a firm foundation for addressing technical matters such as differences in terms and conditions, job evaluation and single status.

28. We also believe although other parts of our public services may not be facing structural changes, there will be workforce issues and challenges which a Staff Commission with a public services remit will be well placed to provide support and advice on.

29. We therefore believe the case for a Staff Commission is strong, with an effective Commission having a key role in setting a benchmark for the consideration of staffing issues at this moment of transformative change, and contributing to the vision for the public sector workforce we have described.

30. In developing the case for a Staff Commission, we have considered the role played by previous Local Government Staff Commissions and have identified the value their work added and the support they provided to staff throughout the change process. Details of the work of the Commissions set up as part of Local Government reorganisation in 1972 and 1994 can be found at Annex 1.

31. We plan to establish the Staff Commission by April 2015. It will then be in a position, as we proceed with Local Authority mergers, to support existing Authorities to retain vital skills within Local Government and within the wider public service. It can help minimise the emotional costs of redundancy for staff and its associated financial costs to the public sector, by developing a framework, including guidance to ensure all options for redeployment are explored.

32. Public Service reform may be an unsettling time for staff and we need to ensure they are treated fairly and consistently through this major change. We want to work in partnership with public service organisations to ensure this happens, starting by developing the blueprint for a Staff Commission in partnership.

33. The public service workforce delivers services in a diverse range of areas such as education, environmental health, housing, and social services, all of which benefit the local community. Public Service organisations employ people in many different professional and occupational areas, which require a range of specialist skills and capabilities.

34. The public service workforce will be central to the success of any reform programme and to delivering improvements in public services. During a time of significant change and uncertainty we will need to develop and maintain skills, including equipping managers and leaders to get the best from the workforce and creating a culture where staff can feel valued and motivated.
35. There is a clear case for specific support for this large and diverse workforce at a time of significant change. This is why we are proposing to create a Staff Commission. Its first priority task would be to support Local Authority voluntary mergers, working with employers and unions to develop solutions for the workforce issues which will require action and resolution.

36. The public services are already dealing with complex workforce challenges. Reducing resources have meant a reduction in the workforce, changes to workers’ terms and conditions of employment, with alternative service delivery options being pursued alongside cuts to services. Inevitably, this has placed some strain on relationships between Trade Unions and employers. Whilst some local arrangements are working well, others could clearly be improved.

37. We do not underestimate the scale of the challenge facing us, but we believe this challenge can be overcome, provided we build on our commitment to the partnership approach. Ensuring the public service workforce is developed and supported is essential to ensuring public services in Wales emerge stronger, better and transformed.

38. Our over-riding imperative will be to support the public service workforce and employers through a time of change and transformation, to ensure the opportunities for improving public services can be realised.
3. Our Proposal

39. In this section we set out our proposals for how a Public Services Staff Commission could be established and its potential role and remit. In developing this Paper we have built on the proposals we set out in Devolution, Democracy and Delivery: Reforming Local Government and the responses we received.

40. We first discuss the set up of a ‘non-statutory’ Staff Commission. In this document the term “non-statutory Staff Commission” is used to refer to a Staff Commission which will be established in reliance upon existing statutory powers. We will use powers under section 60 of the Government of Wales Act 2006 to set up this Staff Commission. For clarity, references in this document to the ‘statutory Staff Commission’ are to a Staff Commission created in an Act of the National Assembly for Wales.

41. We believe swift establishment is essential to supporting the process of public service reform, in particular by, as an early priority, providing an authoritative source of advice for those Local Authorities deciding to move forward with voluntary, early merger.

42. The Welsh Ministers will be seeking powers, in a Bill to be introduced into the National Assembly for Wales early next year, to make orders to give effect to voluntary mergers. The aim is these Orders would be made in the early part of 2016, with the first set of elections to the new Authorities taking place in May 2018. Hence, we propose to establish the non-statutory Staff Commission by April 2015.

43. Our aim therefore, is to strike a balance between the imperative of establishing it in a timely way to support staff in Local Government through the early merger process, and consulting as widely as possible on the Staff Commission’s role and remit and getting the right people appointed to the Commission to enable it to provide the best possible advice and support. We believe initial establishment of the Staff Commission on a non-statutory basis is the best way to achieve this.

44. For those Authorities not merging voluntarily, elections will be held to existing Authorities in May 2017 with elections to the newly-created Authorities, in Shadow form, after legislation, in May 2019. The new Authorities will take up their full role from April 2020.

45. Alongside the immediate priority of supporting the Local Authority workforce through merger proposals, the Staff Commission will therefore also be able to support and advise on issues affecting the whole of the public service workforce.

46. Secondly we discuss putting the Staff Commission onto a ‘statutory’ footing. This would be established following the introduction of the second Local Government Reform Bill following the National Assembly elections in May 2016. The earliest the statutory Staff Commission might therefore be in place is the Autumn of 2017.

Overview of the non-statutory Staff Commission

47. The initial priority of the non-statutory Staff Commission will be to work with Local Authorities, Trade Unions and staff, to develop advice for the Welsh Ministers on action required to tackle workforce issues arising from Local Authority mergers, to ensure staff across Wales are treated fairly and consistently.
48. Many of the challenges faced by Local Authorities in Wales are common to other public service organisations. All are seeking to improve performance whilst demand increases and financial resources are reduced. We also believe it should work with stakeholders from the wider public services to develop its role to support the wider public service workforce.

49. The public service bodies which could be covered by the remit of the non-statutory Staff Commission include:

i. A county borough council or county council in Wales;
ii. A town or community council;
iii. Fire and Rescue Authorities;
iv. National Park Authorities;
v. The Local Democracy and Boundary Commission for Wales;
vi. Local Health Boards and NHS Trusts;
vii. The Care Council for Wales;
viii. The governing body of a maintained school or federation;
ix. The Higher Education Funding Council for Wales;
x. The Arts Council of Wales;
xii. The National Library of Wales;
xii. The National Museum of Wales;
xiii. The Royal Commission on the Ancient and Historical Monuments of Wales;
xiv. The Sports Council for Wales; and
xv. The Natural Resources Body for Wales.

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

50. We propose Members of the non-statutory Staff Commission should be appointed by the Welsh Ministers and comprised of independent experts with a range of relevant skills and experience in workforce matters and organisational development. This was a strength of previous Commissions and provided the credibility and breadth of knowledge and understanding these Commissions needed to function effectively.

51. The non-statutory Staff Commission is not intended to cut across existing or developing structures required for pay negotiations within specific public service sectors.

52. The non-statutory Staff Commission will provide authoritative advice and come to independent judgements. It will bring together different viewpoints to ensure it has the expertise and experience necessary to fulfil its objectives. In developing its advice the non-statutory Staff Commission will be required to actively consult with relevant parties, especially the Workforce Partnership Council and consider the views of staff, their representatives and employers. It should also have a remit to seek out best practice in Wales and internationally, in the public and private sectors, to inform its judgements and support any advice provided to the Welsh Ministers.
53. We believe the non-statutory Staff Commission should work through consensus, which will be essential to ensuring its advice is respected and followed. We will expect it to undertake impact assessments and consider the practicalities of implementing any proposed approaches. We will expect the non-statutory Staff Commission to place a priority on seeking out and evaluating evidence of successful implementation of approaches to supporting staff in other reform programmes. We believe this will be essential to developing an understanding of lessons learnt to inform its advice to the Welsh Ministers.

54. Following the receipt of advice, it will be for the Welsh Ministers to decide what, if any, action to take. However, it is proposed the advice to the Welsh Ministers will be published to demonstrate openness and transparency for stakeholders. The non-statutory Staff Commission will not issue guidance in its own name, although by publishing its advice to the Welsh Ministers the advice will be publicly available and organisations could choose to act upon it voluntarily.

55. Where the Welsh Ministers decide to take action based on the advice of the non-statutory Staff Commission, they will do this in the context of their existing statutory powers.

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

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

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

Membership of the non-statutory Staff Commission

56. It is proposed there will be up to five members who will be remunerated for their work. Members will be appointed by Welsh Ministers.

57. The skills, experience and capability mix of the Commission members will be extremely important to establish its credibility as an authoritative source of advice. In considering the range of skills the following have been identified as essential:

- HR;
- Leadership of organisational change;
- Finance and accountancy;
- Employee relations;
- Knowledge of Local Government;
- Organisational development; and
- Trade Union organisation.

58. The Staff Commission will need to have access to independent legal advice to undertake its functions and will be supported by a secretariat comprised of officials seconded from the Welsh Government, Local Authorities and other public service organisations. The secretariat will need a similar mix of skills and capability.

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

Q: Are there any skills and experience which the non-statutory Staff Commission requires which is not included in the list?
Approach to Consultation and evidence gathering by the non-statutory Staff Commission

59. The Welsh Government will consult all stakeholders on the detailed remit and work programme for the non-statutory Staff Commission. Following this consultation the Welsh Ministers will confirm the remit and establish the Commission by April 2015. The Commission will have an initial work programme as a result of this consultation but when established it will be able to consult further with stakeholders to ensure the work programme remains current, flexible and adaptable.

60. In order to support voluntary Local Authority mergers and to effectively support staff and provide advice on how best to achieve consistent and fair treatment through the reform process, the non-statutory Staff Commission will need to engage thoroughly, to gather the views of a wide range of people. It will also engage with the Transition Committees and Shadow Authorities when they are established as part of the implementation of the Local Authority merger programme.

61. In addition, the non-statutory Staff Commission members will need to meet quickly with the Leaders, Chief Officers, staff and Trade Union representatives of all Local Authorities and other public services once established. They will need to have extensive dialogue with employees, their staff representatives and employers. The non-statutory Staff Commission might also need to consult at national and local levels (and if appropriate with individual employees), and to consult on impact assessments which it will be required to develop. It will also seek evidence from within Wales and internationally on best practice approaches from private and public sector reform programmes.

62. The non-statutory Staff Commission will need to develop and circulate regular bulletins to keep stakeholders and staff informed of work underway, progress and key findings to date.

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

Links between the non-statutory Staff Commission and the Independent Remuneration Panel

63. The Local Government (Democracy) (Wales) Act 2013 gave the Independent Remuneration Panel for Wales (IRP) a specific role in relation to the remuneration of Heads of Paid Service, usually the Chief Executive. Local Authorities are now required to consult the IRP if they are considering changing the remuneration package of the Head of Paid Service by a rate which is not commensurate with the rate on offer to other employees.

64. The Welsh Government intends to extend these provisions for the duration of the merger programme to include all Local Authority chief officers whose salaries are based on the Joint Negotiating Committee (JNC) for Chief Officers. We believe this will be an important element of the package of measures we set out in Devolution, Democracy and Delivery: Reforming Local Government which is intended to prevent activities by current Authorities which might bring financial or reputational damage to any new Authority.

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3 Transition Committees will be established by the first Local Government Bill from the existing Local Authorities to aid planning and co-operation prior to the creation of Shadow Councils to run the affairs of the new Authorities before they formally take up their role

4 www.wales.gov.uk/irpwsub/home/?lang=en
65. A close and effective working relationship between the IRP and the non-statutory Staff Commission will, therefore, be important to ensure the Reform Programme can facilitate the recruitment and retention of a high calibre of senior officers. This will be essential if the benefits of transformation are to be realised as early as possible for the people of Wales.

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

**Workforce matters to be considered by the non-statutory Staff Commission**

66. The non-statutory Staff Commission will not be an arbiter in local or national disputes, it will not offer definitive legal advice on such matters, and will not supplant existing bargaining and negotiating mechanisms or employment tribunals. The non-statutory Staff Commission will be at its most useful when it is examining and advising on matters of principle. The sorts of practical public service workforce challenges, including those associated with the immediate priority of Local Authority mergers, which the non-statutory Staff Commission could be asked to consider will include:

- Recruitment and retention of staff within and across Local Authorities before and during mergers;
- Transfer of staff from current to new Local Authorities;
- Harmonisation of terms and conditions of service, for example, approaches to travel and subsistence payments, flexible working hours and voluntary severance and redundancy packages;
- Job evaluation/grading;
- Senior post recruitment and remuneration, in conjunction with the specific responsibilities allocated to the Independent Remuneration Panel;
- Pensions and impact of transferring staff to different public service pension schemes;
- Impact on staff recently transferred to private sector contractors; and
- Issues affecting the wider public service workforce e.g. zero-hours contracts, leadership development.

67. In providing advice on such matters, the Staff Commission will, where appropriate, need to research and capture evidence from Wales and beyond on successful approaches used in other reform programmes, both in the private and public sector.

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

**Statutory Staff Commission**

68. The proposed statutory Staff Commission will have the same goals and functions set out in the proposals for the non-statutory Commission. Proposals will be developed to enable a smooth transition from the non-statutory Commission, including continuity of membership.

69. Our proposals in *Reforming Local Government* include the introduction, after the next Assembly elections, of a second Bill relating to Local Government, which will legislate for Local Authority mergers and reform. As part of this Bill we propose to include provisions to place the Staff Commission on a statutory footing.
70. We believe creating a statutory basis for the Staff Commission at this point in the Reform Programme will:

- Build upon the lessons learnt and reputation of the non-statutory Staff Commission by giving the Commission its own legal status and therefore further enhancing its authority and independence;
- Enhance openness and transparency by having clear functions set out in legislation which have been developed as a result of wide engagement with stakeholders, including through the work of the non-statutory Staff Commission;
- At the right point in the Reform Programme, provide the Commission with enhanced powers to issue guidance and request information.

71. In developing the provisions for this legislation there are opportunities to enhance the role of the Commission and provide it with specific powers in its own right. This could include the ability of the Commission to issue statutory guidance in its own name. It would also be appropriate to consider the powers of the Welsh Ministers. There may be particular issues where it would be appropriate for the Welsh Ministers to be able to issue a direction to an organisation, or Welsh Ministers may need specific powers to address particular workforce issues.

72. In order to provide accurate and authoritative advice on staffing matters we think the statutory Staff Commission will also need a power to require existing Local Authorities and any other public bodies to which the Commission’s remit extends, to supply it with relevant information on proposed mergers. This will include information on the workforce, for example the numbers and types of professional qualifications, the number of staff undertaking particular types of training, but not personal data such as names and addresses. Data will be provided to the Commission and processed by the Commission in accordance with the Data Protection Act 1998 and protocols will be developed to ensure good practice is observed.

73. The work of the non-statutory Staff Commission together with the views of stakeholders will inform detailed proposals to be included in the Bill. The aim is to achieve a seamless transition from a non-statutory Staff Commission, established in April 2015, to a Statutory Staff Commission, albeit the statutory Staff Commission will have a revised role and remit. We anticipate, dependent upon the legislative process, the earliest the Statutory Staff Commission might be in place is the late Autumn of 2017.

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?

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?

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

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

Q: What other powers may be required?
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?

Embedding Social Partnership

74. Finally we return to our objective, as part of the Reform Programme to embed the social partnership approach across the Welsh public service. We expect the existing social partnership forums established between public service bodies and their workforces to continue to work together to develop local solutions to local issues alongside both the non-statutory and the statutory Staff Commission.

75. Our aim is for the creation of the statutory Staff Commission to facilitate, strengthen and embed a consistent philosophy of working in social partnership across our public services. We therefore propose the statutory Staff Commission should be time limited and be phased out after completing an evaluation of its contribution to the current Reform Programme in 2021. We believe this is sufficient time to ensure a mature culture of working in social partnership is embedded across the Welsh public service.

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 completion of the Reform Programme?

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

76. We believe there is a strong case for establishing a Staff Commission to support our Reforming Local Government Programme and our wider programme of work to improve public services across Wales.

77. For Local Government we see the establishment of a Staff Commission as a key component in ensuring the workforce and employers can work together to deliver the opportunity for the transformation of Local Government which the merger programme presents. Our common aim is improved public services and to achieve this we need to maximise the opportunities for our workforce to contribute, to develop, to be flexible, and to drive change through our new Authorities.

78. We know culture change did not take place overnight in previous structural change in Local Government. It took time to harmonise terms and conditions and to bring together different approaches and philosophies to providing public services in the new Local Authorities. We want to ensure this does not happen again, as the interests of the people of Wales will not be best served by such delays. This time our ambition is for joint working to build the single culture and systems needed to ensure our new Local Authorities can be the best they can from day one.

79. Our public services as a whole face significant challenges and a Staff Commission which has a remit spanning organisational and sectoral boundaries will be able to ensure good practice is disseminated quickly and widely.

80. Delivering our vision of world-class public services requires an engaged public service workforce which is an integral part of our approach to improving public services. We must support them by ensuring there are opportunities to contribute to the improvement process, help them develop and build their skills, and provide opportunities to build their careers across the whole of the public service. The Public Services Staff Commission will provide a focus for this and support us and our social partners as we work together at this time of transformative change in our public services.
Annex 1 – Previous Staff Commissions

1. The establishment of a statutory Staff Commission has been a feature of the last two Local Government reorganisations in Wales. The statutory remits given to the Staff Commissions by the Local Government Act 1972 (the “1972 Act”) and the Local Government (Wales) Act 1994 (the “1994 Act”) were broadly similar, primarily:

(i) to provide advice to Ministers on safeguarding the interests of the Local Government workforce and to inform the preparation of the staff transfer orders; and
(ii) to consider and issue (non-statutory) guidance on the arrangements for recruitment in old and new Authorities and the remuneration (particularly of senior roles) in the new bodies.

2. These Staff Commissions were advisory bodies established by statute. They provided advice to the Secretary of State in exercise of a statutory function, but the guidance they issued in their own name to Local Authorities was non-statutory. Both the 1972 Act and the 1994 Act gave the Secretary of State a power to direct Local Authorities, but in both cases this power could be exercised only to implement advice given by the Staff Commission.

3. The final report\(^5\) of the Staff Commission 1994 records the procedures for dis-aggregation and re-assignment dominated the Commission’s work for the first 12 months from the establishment of the body (in shadow form) in April 1994. Only after the election of the Shadow Authorities in May 1995 was the Staff Commission able to start considering the more forward-looking aspects of its remit, such as reviewing arrangements for “the organisation, management and remuneration of staff in the new authorities”.

4. The Staff Commission 1994 comprised six members in total. The chair was a recent former Permanent Secretary of the Welsh Office and the five other members were drawn from relevant backgrounds, including key stakeholders. The members were a former District Council chief executive, a former County Council chief executive, a former union official and two members with direct experience in human resources (HR) and workforce counselling.

5. The Chair of the Commission 1994 was appointed for up to two days work a week and the other members for up to 1.5 days work a week. All posts were salaried. The Commission was supported by a secretariat of 3 officials seconded from the Welsh Office and was housed in a suite of offices outside the Welsh Office estate.


7. The Staff Commission 1994 was time-limited by the Act. The aim was for the Commission to complete its work within 3 years of its establishment, although the Act included an unused power for the Secretary of State to extend its lifespan if needed.

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8. Remit of the Commission (the 1994 Act)

The remit given the Staff Commission 1994 is set out in section 40 of the 1994 Act.

(2) The Commission shall—

(a) advise the Secretary of State on the steps necessary to safeguard the interests of staff employed by—
   (i) the old authorities;
   (ii) the new principal councils; or
   (iii) the Residuary Body;

(b) consider and keep under review—
   (i) arrangements for the recruitment of the staff of any of those bodies; and
   (ii) the organisation, management and remuneration of the staff of the new principal councils;

(c) consider and keep under review the arrangements for the transfer of staff from any of the old authorities in consequence of any provision made by or under this Act; and

(d) consider such staffing problems and other staffing matters as may be referred to it by the Secretary of State as arising out of any provision made by or under this Act.

9. This was largely the same as the remit given the Staff Commission set up by the 1972 Act for the earlier reorganisation.

10. The Staff Commission 1994 approached its work by building consensus; its advisory nature was viewed as integral to this process. The final report of the Staff Commission 1994 records Members considered the power of the Secretary of State to direct Local Authorities on the basis of advice from the Commission provided a very useful potential tool for concentrating discussions and generating consensus.

11. The final report also notes the Staff Commission 1994 considered its remit on the whole provided the right framework to work with Authorities and other bodies to protect staff. The report records, however, the Commission had concerns about the section 2(b)(ii) duty, to consider and keep under review the organisation, management and remuneration of the staff of the new Councils, (the one element which was not part of the remit given the 1974 Commission).

12. The concerns were founded on a belief that section 2(b)(ii) brought a risk of encroaching on Local Authorities’ statutory responsibilities to determine management structures and salary levels. The Commission concluded it was not confident it had the resources, the powers or the time to be able to undertake the detailed investigations it considered would be needed to provide the Secretary of State with sufficient justification for his intervention or supporting evidence. In particular, the Commission felt there was a lack of recognised benchmarks or guidelines on staffing structures and remuneration to support intervention.

13. In discharging its duty under section 2(b)(ii), the Staff Commission 94 determined its role was to provide challenge and moral authority on these issues rather than to seek to force Local Authorities to alter staffing structures or remuneration.
14. The Staff Commission’s final report has the following reflection:

15. “Our circulars provided a framework for authorities’ preparations for reorganisation. While recognising the need for authorities to have the flexibility to respond to local circumstances with local solutions, our advice helped to bring about a consistent approach on matters of principle”.

16. “As work on reorganisation progressed, it became increasingly clear that the Commission offered a useful service both to individuals and authorities simply by acting as an independent and impartial source of information and advice”.

17. In Part 3 of this White Paper we consider options for building upon and tailoring this approach in order to ensure any future Staff Commission is best placed to support staff across the public services as part of our improving public services programme.