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Cabinets, Committees and Elected Mayors

Models of Decision Making in Local Government and the Welsh Assembly

(revised edition)

For several years alternatives to the traditional decision making processes of local government have been under discussion. These arguments have also been relevant to the debate over the structure of decision making in the National Assembly for Wales, where a committee structure was initially proposed.

Part I of this paper examines proposals for decision making in the National Assembly contained in the *Government of Wales Bill*, including recent amendments giving much more of the potential of a cabinet on the Westminster model.

Part II considers the Heseltine review of local government decision making in 1991 and the *Local Government (Experimental Arrangements) Bill*, a Private Member's Bill introduced in the Lords by Lord Hunt, which would allow councils to experiment with alternative models such as elected mayors or cabinet type structures. The Bill has passed through all its stages in the Lords and is due for a Second Reading in the Commons on 24 April 1998.

Oonagh Gay

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Summary

For several years alternatives to the traditional decision making processes of local government have been under discussion. The committee system has been in operation since the nineteenth century, and has been criticised for slowness and also for driving real policy making into private party meetings, which tends to obscure accountability to the public. Supporters of the committee system argue that it encourages greater participation by all members through the subject committees, and leads to inter-party co-operation through multi-party committees.

These arguments have also been relevant to the debate over the structure of decision making in the National Assembly for Wales, where a committee structure was initially proposed in the *Government of Wales Bill*. The Government have now introduced amendments to the Bill on Report to allow the First Secretary to appoint members of an Executive Committee. The structure has now much more of the potential of a cabinet on the Westminster model, although the Assembly will take final decisions on the delegation of functions.

The Heseltine review of local government in 1991 suggested elected mayors or cabinet type structures for local government as possible alternatives to committees on the traditional model. However no legislation was forthcoming following the review. A House of Lords Select Committee report *Rebuilding Trust* called in July 1996 for legislation to enable local authorities to experiment with alternative arrangements. In November 1997 Lord Hunt introduced the *Local Government (Experimental Arrangements) Bill* to allow local authorities in England and Wales to apply to the Secretary of State for permission to introduce an experimental arrangement, including directly elected mayor and cabinet type structures. The Bill has passed through all its stages in the Lords but failed to receive a second reading in the Commons on 20 March 1998. In February 1998 a green paper, *Modernising Local Government: local democracy and community leadership*, made clear Government support for alternative models such as directly elected mayors. It promised every assistance to the Hunt Bill, but both the Conservatives and Liberal Democrats have expressed reservations. No Government time has been promised for the Bill. It is currently 17th in the order of Bills to be debated on Friday 24 April. On 23 March the Local Government Minister, Hilary Armstrong, offered concessions designed to secure cross-party support but a report in the *Financial Times* the next day suggested that this would not be enough to meet the Conservatives' concerns about the Bill.

I The National Assembly for Wales: Proposals for the Executive Structure

A. Background

The Labour party's intentions for Welsh devolution were set out in *Shaping the Vision* (1995) and *Preparing for a New Wales* (1996)¹, which planned for devolution on the *Wales Act 1978* model of subject committees with an executive council exercising a steering function. The proposals were developed in the White Paper *A Voice for Wales*², but had come under criticism from the independent Constitution Unit which argued that in reality the local government model drove decision making underground into party groups.³

As originally published the *Government of Wales Bill*⁴ provided for a First Secretary who would lead an Executive Committee made up of the leaders (Assembly Secretaries) of each of the subject committees to be established in the Assembly. Separate chairmen would also be chosen from each committee. Clauses 52-58 set out the scheme in detail:

52. The Assembly shall elect an Assembly member to be Assembly First Secretary or Prif Ysgrifennydd y Cynulliad Assembly First Secretary.
- 53.-(1) The Assembly- Committees.
- (a) shall establish the committees which it is required to establish by the following provisions of this Part, and
- (b) may establish any other committees which it considers appropriate.
- (2) The members of any committee established by the Assembly under subsection (1)(b)-
- (a) shall be elected by the Assembly from among the Assembly members, and
- (b) shall, unless the committee exists solely to provide advice, be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee.
- 54.-(1) Any committee of the Assembly may establish one or more sub-committees. Sub-committees.
- (2) The members of any sub-committee established by a committee of the Assembly shall be elected by the committee from among Assembly members who are members of the committee.

¹ For further details see Research Paper 97/60 *Wales and Devolution* which looks at the manifesto commitments of the major political parties

² July 1997 Cm 3718 The White Paper is summarised in Research Paper 97/129 *The Government of Wales Bill: Devolution and the National Assembly*

³ *An Assembly for Wales* June 1996 para 212.

⁴ Bill 88 of 1997-8

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- (3) A committee of the Assembly, other than the executive committee, shall not elect as members of a sub-committee Assembly members who all represent the same party.

55.-(1) The Assembly may delegate any function of (or delegated to) the Assembly (to such extent as the Assembly may determine)- Delegation to committees, sub-committees and staff

(a) a committee of the Assembly, or

(b) a member of the Assembly's staff.

- (2) A committee of the Assembly may delegate any function of (or delegated to) the committee (to such extent as the committee may determine)
- (a) a sub-committee of the committee, or
- (b) a member of the Assembly's staff.

- (3) Where a function is delegated (or further delegated) to a sub-committee of a committee of the Assembly, the sub-committee may further delegate the function (to such extent as the sub-committee may determine) to a member of the Assembly's staff.

- (4) In delegating (or further delegating) a function to a committee, the Assembly may limit or exclude the operation of subsection (2) in relation to the function; and in delegating (or further delegating) a function to a sub-committee, a committee may limit or exclude the operation of subsection (3) relation to the function.

The statutory committees

Subject committees **56.-**(1) The Assembly shall establish a number of committees each with responsibilities in a field specified in the standing orders.

- (2) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act subject committees).
- (3) The standing orders must secure that, taken together, the subject committees have responsibilities in all of the fields specified in Schedule 2.

Members of subject committees etc. **57.-**(1) Each subject committee shall have such number of members as standing orders may provide.

- (2) The Assembly shall elect a number of Assembly members to be panel from which the members who are to chair the subject committees are to be selected; and the members of the panel shall be elected so as to see that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the panel.
- (3) The number of members of the panel at any time shall be equal to the number of subject committees at that time; and each member of the panel shall be selected to chair one (but not more than one) subject committee.

- (4) The members of each subject committee, apart from the member who chairs it, shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee (including the member who chairs it).
- (5) Each subject committee shall elect one of the members of the committee to be its leader but the member who chairs a subject committee may not be its leader.
- (6) The leaders of the subject committees shall be known as Assembly Secretaries or Ysgrifenyddion y Cynulliad.
- (7) The Assembly may, in delegating (or further delegating) any function to a subject committee, require that the subject committee further delegate the function to the Assembly Secretary who is the leader of the committee except in any circumstances and to any extent specified by the Assembly.
- (8) Where a function is delegated (or further delegated) by the Assembly to a subject committee, the subject committee may further delegate the function (to such extent as the subject committee may determine) to the Assembly Secretary who is the leader of the committee; and where a function is further delegated to a sub-committee of the subject committee, the sub-committee may further delegate it to him (to such extent as the subcommittee may determine).
- (9) The Assembly may limit or exclude the operation of subsection (8) in relation to a function delegated (or further delegated) to a subject committee; and a subject committee may limit or exclude the operation of that subsection in relation to a function further delegated to a sub-committee.

58.-(1) The Assembly shall establish a committee consisting of- PART III
(a) the Assembly First Secretary, who shall chair it, and Executive
(b) the Assembly Secretaries. committee.

- (2) The committee established under this section shall be known by such title as the standing orders may provide (but is referred to in this Act as the executive committee).
- (3) The executive committee may delegate any function of (or delegated to) the executive committee (to such extent as the executive committee may determine) to the Assembly First Secretary; and where a function is delegated (or further delegated) to a sub-committee of the executive committee, the sub-committee may further delegate it to him (to such extent as the sub-committee may determine).
- (4) The Assembly may limit or exclude the operation of subsection (3) in relation to a function delegated (or further delegated) to the executive committee; and the executive committee may limit or exclude the operation of that subsection in relation to a function delegated (or further delegated) to a sub-committee.

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The scheme was criticised as following the current local government model too closely. Although there would be a statutory leader of the Assembly and an executive committee, the leader would not be in a position to select the composition of the executive committee since each member would have been elected by a subject committee subject to the rules on party proportionality set out in Clause 57(4) above. Moreover, although there is power to delegate functions to individual Assembly Secretaries from the subject committees under Clause 57 (7-9) the Bill establishes the Assembly itself as an executive body and the functions currently exercised by the Secretary of State for Wales are to be transferred to the Assembly as a whole under Part II. This is in contrast to the *Scotland Bill* where a separate Scottish Executive will exercise the executive functions of the Secretary of State for Scotland and the Scottish First Minister will select the ministers for the Executive.

The Institute of Welsh Affairs, an independent research institute, called for the replacement of the local government model by a form of Cabinet executive. It criticised the initial scheme set out in the White Paper *A Voice for Wales*⁵ arguing that the members of the Executive Committee should be appointed from the majority party or governing coalition by the Chief Minister of the Assembly, which would "allow for more effective and quicker decision making and sharper accountability to the Assembly as a whole. Further, it would leave the Executive to take the broad strategic view while allowing backbenchers of all parties more scope for developing policy and promoting debate through the Subject Committees."⁶

The Cabinet model has been defined as follows:⁷

cabinet/cabinet government A form of government in which a group of ministers, usually drawn from the majority party or parties of a parliament, combine to make collective decisions about the country's Policies. Originally developed in Britain it was later exported to most Commonwealth countries and established in several European nations, such as Sweden, Norway, West Germany and Italy. Two points are central to the concept. First, the decisions of a cabinet are meant to be collective, not those of a single person; ministers are bound by the doctrine of collective responsibility publicly to support all the decisions taken by cabinet. Second, the cabinet acts as a political link between the executive and the parliament because ministers are answerable to the parliament. Cabinet government needs to be differentiated from the cabinet in a PRESIDENTIAL SYSTEM where the cabinet, again a meeting of leading executives, only offers advice to a president who is responsible for the final decisions.

The IWA published *An Effective National Assembly: Key Amendments to the Government of Wales Bill*⁸ which developed its arguments in this area. The Institute recommended that each Assembly Secretary have formal policy functions and be responsible to the Assembly as a whole rather than the individual subject committee. The role of the committees would become essentially that of scrutiny.

⁵ July 1998 Cm 3718 The White Paper's proposals are summarised in Research Paper 97/129 *The Government of Wales Bill: Devolution and the National Assembly*

⁶ *Making the Assembly Work: Report of an IWA Constitution Working Party* November 1997 para 3.4

⁷ *The Blackwell Encyclopaedia of Political Science* (1991) ed Vernon Bogdanor

⁸ January 1998

The Bill provides for the establishment of a statutory Commission to draw up draft standing orders for the Assembly.⁹ In the interim an Advisory Group under the chairmanship of John Elfed Jones CBE is undertaking preparatory work. It is considering matters such as the Assembly's decision making arrangements, business procedures and responsibilities of Assembly members.¹⁰

The question of a cabinet model was debated at Committee stage of the Bill on 2 February 1998.¹¹ The Conservatives, Liberal Democrats and Plaid Cymru proposed amendments to introduce a cabinet system. Dafydd Wigley said:¹²

There is broad consensus in Wales in support of a cabinet system rather than a committee system for the assembly. The support cuts across party-political boundaries. People in the Labour party, the Liberal Democrats, the Conservative party and Plaid Cymru realise the merits of a cabinet system. I remember that, after Lord Roberts-our old friend Sir Wyn Roberts expressed an opinion on the matter, the Secretary of State said that there is essentially a continuum of possible models, running from a pure committee system to a pure cabinet system, and that the Welsh assembly will perhaps land on some point along that continuum.

I should be glad if the Minister, in his reply, will tell us how Ministers currently think that that balance will be struck. Is there any reason, if the assembly deems that it is appropriate, why the point chosen in the spectrum should not be at or close to the cabinet end rather than the committee end? If the assembly can take the decision, that will be fair enough-because it will be allowed to develop a cabinet system. If the Bill rules that out, however, amendments will have to be tabled either on Report or in the other place to ensure that the Bill allows the possibility of such a system.

Michael Ancram, for the Conservatives, was concerned about a possible blurring of lines of accountability:¹³

One of our concerns is that the current blurred position will make accountability-not only to politicians but to the public-a serious issue. The people in Wales will want to know who is responsible for what and-if necessary, as is the case in politics-who to blame if things go wrong. The experience of local government and the committee system tends to show that political accountability can become blurred. With a Committee system, it is easier to argue that responsibility is shared, that it is everyone's fault if something goes wrong and, if necessary, that it is to everyone's credit if things go right. My experience is that there tends to be a less than clear political focus, although I am in no way disparaging local government by saying that.

My understanding of the Bill is that we are not creating, or at least we should not be creating, local government. A committee structure is perhaps less in keeping with what we are attempting to do than is a cabinet structure, as there is to be in Scotland. Under that

⁹ Clause 49

¹⁰ for further detail see Research Paper 97/132 *The Government of Wales Bill: Operational Aspects of the National Assembly*

¹¹ HC Deb vol 305 c741-762

¹² c747-8

¹³ c749-50

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system. those holding responsibility are appointed by the First Minister or First Secretary, as our amendments seek to provide. That also creates the accountability in that the First Minister decides who his Ministers will be and they are responsible for their intrusions.

I am surprised that the Government seem to have set about creating what I can only describe as a constitutional mule-it is neither one thing nor the other, neither local government nor the type of cabinet structure to which we are accustomed.

My experience of committee structures is that they give undue influence to officials. Throughout local government, officials play an important role in putting forward recommendations and hold greater sway over elected members than is the case in a cabinet structure. If the assembly is a genuine exercise in democracy-I make this point having said all I have to say about devolution-and if we are trying to make it work effectively, what is proposed would undermine it.

In response Win Griffiths, for the Government, said that the bill at present allowed for a variety of models to be accommodated:

Mr. Win Griffiths: This has been a very important debate. It was instigated by the hon. Member for Brecon and Radnorshire (Mr. Livsey) and has produced a wide variety of views. Most importantly, for the first time in these debates, the official Opposition have made enlightened and constructive comments on the way in which the assembly should be run.

The purpose of the amendments is to establish a cabinet model of internal organisation for the assembly. The Cabinet would consist of a Prime Minister of Wales-an Assembly First Minister-and, perhaps, Assembly Ministers, who would be appointed by the First Minister. That Cabinet would be collectively responsible to the assembly and would hold office only while retaining the assembly's confidence.

I have listened very closely to both sides of the argument. The right hon. Member for Caernarfon (Mr. Wigley) made much of the difference between a cabinet model and a committee model, especially the local government committee model. My hon. Friends the Members for Cardiff, North (Ms Morgan) and for Merthyr Tydfil and Rhymney (Mr. Rowlands) made great play of what they felt were more open and inclusive forms of decision making in local government.

In both cases, the strengths and weaknesses of either system are dependent on the people who are in charge. I recall some local government systems that included a full panoply of committees, but which were as closed and as secret as any cabinet committee structure. We must consider all systems in the context of who will be in charge. The Bill would allow, more or less, for either extreme to be accommodated. A cabinet model, more or less, could be accommodated, as the hon. Member for West Dorset (Mr. Letwin) tried to point out in a rather theoretical way. On the other hand, at the other end of the spectrum, a pure committee system could be accommodated. We believe that there can be points along the spectrum, and that the assembly can make its own decisions about how it might like to operate. The assembly will be a democratically accountable body and be able to decide such matters for itself.

We do not want to prescribe the exact internal architecture of the assembly. The issue of how the Standing Orders might lead to the operation of the assembly has been given to the advisory group, which will pass on its thinking to the Commissioners.

The Welsh Local Government Association submitted a discussion paper to the National Assembly Advisory Group which proposed a model which gave the Executive Committee the role of making policy proposals:

19. There are different views within Welsh local government on the appropriate role of the Executive Committee. There is a view that decision making should be concentrated to the Executive Committee which would then be held to account by subject committees and the Assembly. There is another view that once a broad strategic framework has been determined by the Executive Committee and agreed by the Assembly, then responsibility for service budgets and service-based decisions should be delegated to subject committees.
20. The model proposed for discussion in this paper is one of an inter-relationship between the Executive Committee and the Subject Committees- It might be appropriate to accord the Executive Committee-the role of making policy proposals - in the form of draft budgets, legislation, regulations etc. In so doing the Executive Committee would be open to the wide range of initiatives and pressures surfacing from the Assembly, the subject committees, the Welsh Office, primary legislation and initiatives of the Government, and Welsh organisations, But, having sifted through all these conflicting pressures, the responsibility would fall the Executive Committee to make well-coordinated policy proposals. Such proposals would be available to the Committees for appraisal and, on occasion, to people of Wales as consultation documents (white papers).

Subject Committees -Appraisal, Scrutiny and Evaluation

21. The subject committees would have a wide range of roles-
 - they would initiate policies for consideration by the Executive Committee
 - they would appraise policy proposals from the Executive Committee
 - they would scrutinise the performance in implementation of the Welsh Office and by Public Bodies - offering rigorous accountability
 - they would evaluate the effectiveness of policies once implemented
22. It would often be appropriate for policy proposals from the Executive Committee to be considered by more than one subject committee and such crosschecking would have the effect of appraising the various implications of any proposal. Proposals relating to health, anti-poverty initiatives, sustainability, equal opportunities are examples of the many potential multi-subject proposals.
23. The appraisal of policy proposals by subject committees would initially be returned to the Executive Committee. Where agreement is not found between the Executive Committee and subject committees, the Assembly might receive the opinion of both for consideration and decision,
- 24- In the exercise of all its roles subject committees would be expected to receive evidence and conduct a dialogue with representatives of interested parties, including local government. It would be normal practice for subject committees to conduct a public dialogue with officials of the Welsh Office.
25. Committees would be the engine room of the Assembly. Significantly more time would be spent in Committee than in the Assembly as a whole. The public interest in the Assembly would need to be focussed far more on Committee proceedings than on the meetings of the full Assembly.

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The Wales Council for Voluntary Action argued in evidence to the Advisory Group that the local government model was inappropriate, since a proliferation of subject committees would reproduce divisive politics. The Council did not recommend a cabinet system, however, since it was concerned that this would place a great deal of power in the hands of a small number of people.¹⁴

The extent to which a cabinet system for the National Assembly will require the exercise of the doctrine of collective responsibility has not featured so far in the debate. However the conventions on collective responsibility which have developed for UK government¹⁵ may not all be appropriate for the National Assembly, which will have a fixed term of four years, with no provision for an earlier dissolution. The Scottish Parliament has provisions for earlier dissolutions on a two thirds majority of the Parliament or if a First Minister cannot be appointed.

The significance of the establishment of the Assembly as an executive body was highlighted by some concerns about the provisions of Clause 79 of the Bill. This Clause brings all members of the Assembly within the ambit of the *Official Secrets Act 1989*. Assembly members as well as Assembly civil servants are to come within the *Official Secrets Act* because they have executive responsibilities in the same way as Ministers of the Crown. The Welsh Assembly is an executive body and the functions of the Secretary of State for Wales are being transferred to it directly under forthcoming secondary legislation. It therefore has a status akin to a government department and is a Crown body. The position of the Scottish Parliament is rather different because it is a legislative rather than executive body; the separate Scottish Executive will be subject to the *Official Secrets Act*.¹⁶

Of course not all Assembly members may be carrying out executive functions at any one time. However there is no provision in the Bill for different classes of members. The Assembly would need to liaise with UK government departments about policy implications and legislative plans and so would need to see, for example, various internal civil service papers which might fall within the *Official Secrets Act*. Non-statutory concordats are being drafted that will enable the Welsh Assembly to continue to gain access to other government departments' policy making and so the Assembly is not in the same position as local government which does not contribute to internal government policy development and is not specifically covered by the official secrets legislation.¹⁷

¹⁴ *Municipal Journal* 13.3.98 "Welsh committee system will breed "divisive politics"

¹⁵ see Research Paper 96/55 *the Collective Responsibility of Ministers: An Outline of the Issues*

¹⁶ This is not explicitly set out in the *Scotland Bill* but it is intended that the Scottish Executive will come within the 1989 Act

¹⁷ Guidance on the operation of concordats is given in response to a recent PQ HC Deb vol 307 27.2.98 c393 Dep 6156. Similar guidance has been issued in respect of the Scottish Executive Dep 6157. Concordats have implications for the role of civil servants in Cardiff and London on which see fn 17

There are also considerations about the staffing of the Assembly under a cabinet model. The Assembly is to be staffed entirely by civil servants transferred from the Welsh Office, in contrast to the Scottish Parliament where a Clerk is to be appointed. If the roles of Assembly members are to be defined more clearly in terms of an executive or scrutiny position the question arises as to whether different types of staff might be appropriate, for offering procedural and legal advice in the complex area of secondary legislation, as currently given by Clerks in the Commons and Lords and by Speaker's Counsel. The government has issued guidance on the workings of the civil service following the establishment of the Assembly which acknowledges the need to amend the civil service code in the light of devolution.¹⁸

B. Government New Clauses and Amendments to the Bill

On 17 March new clauses were tabled to the *Government of Wales Bill* by Ron Davies which will provide for the First Secretary to be directly elected by the Assembly (as at present) and for the Standing Orders to provide for the appointment of a maximum number of Assembly Secretaries. In practice Assembly Secretaries will now be chosen by the First Secretary. They also provide for the First Secretary to "allocate accountability"¹⁹ in the fields in which the Assembly has functions to members of the executive committee so that, in the case of each of those fields, accountability in the field is allocated either to one of the Assembly Secretaries or to him".²⁰ Under New Clause 23 the Assembly may decide to allocate its functions to the Executive Committee and the Executive Committee may delegate functions to individual Assembly Secretaries. The Assembly Secretaries who will make up the Executive Committee will no longer automatically be the leaders of the subject committees. Instead a subject committee will be established for each of the fields of accountability allocated by the First Secretary and the relevant Assembly Secretary will be a member of that subject committee.²¹ In practice, that Secretary will exercise a leadership role within the Committee.

New Clauses 21, 22 and 23 are reproduced in full below:

Executive Committee

Mr Secretary Davies

To move the following Clause:-

NC21

- (1) There shall be a committee of the Assembly whose members shall be:
 - (a) the Assembly First Secretary, who shall chair it, and
 - (b) the Assembly Secretaries.
- (2) The committee shall be known by such title as the standing orders may provide (but is referred to in this Act as the executive committee).

¹⁸ Letter to Ted Rowlands National Assembly for Wales: Guidance for Civil Service 27 February 1998
Dep 6124

¹⁹ The definition of the term 'accountability' is of interest; 'responsibility' is not mentioned. See Research Papers 97/4 *The Accountability Debate: Next Steps Agencies* and 97/5 *The Accountability Debate: Ministerial Responsibility*

²⁰ New Clause 21(3)

²¹ New Clause 22

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- (3) The Assembly First Secretary shall allocate accountability in the fields in which the Assembly has functions to members of the executive committee so that, in the case of each of those fields, accountability in the field is allocated either to one of the Assembly Secretaries or to him.
- (4) The Assembly First Secretary need not make an allocation under subsection (3) to every member of the executive committee; but the number of Assembly Secretaries to whom no such allocation is made shall not exceed such number as may be specified in, or determined in accordance with, the standing orders.
- (5) For the purposes of this section and section (*Subject committees*) "accountability", in relation to a member of the executive committee and a field, means that he is the member of the executive committee accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of the Assembly's functions in that field, except the exercise of functions by the executive committee (or by the Assembly itself).
- (6) The Assembly First Secretary is accountable to the Assembly (in accordance with standing orders under subsection (7)) for the exercise of functions by the executive committee.
- (7) The standing orders must include provision for allowing Assembly members to question (orally or in writing, as Assembly members prefer)-
 - (a) each member of the executive committee about the exercise of the Assembly's functions in the field or fields in which he is accountable, except the exercise of functions by the executive committee (or by the Assembly itself), and
 - (b) the Assembly First Secretary about the exercise of functions by the executive committee.
- (8) In this section-
 - (a) references to the exercise of functions by the executive committee include the exercise of functions by a sub-committee of that committee or by members of the Assembly's staff in pursuance of a delegation to the Assembly's staff by either that committee or such a sub-committee, and
 - (b) references to the exercise of functions by the Assembly itself include the exercise of functions by members of the Assembly's staff in pursuance of a delegation to the Assembly's staff by the Assembly itself.'

Subject committees

Mr Secretary Davies

NC22

To move the following Clause:-

- (1) The Assembly shall establish committees with responsibilities in the fields in which the Assembly has functions.

- (2) The committees established under this section shall be known by such titles as the standing orders may provide (but are referred to in this Act as subject committees).
- (3) There shall be the same number of-
 - (a) subject committees, and
 - (b) members of the executive committee to whom the Assembly First Secretary allocates accountability in any of the fields in which the Assembly has functions.
- (4) The division between the subject committees of the fields in which those committees have responsibilities and the division between members of the executive committee of the fields in which accountability is allocated to members of that committee shall be the same; and the member of the executive committee who has accountability in the field or fields in which a subject committee has responsibilities shall be a member of that subject committee.
- (5) The Assembly shall elect a number or Assembly members to be a panel from which the members who are to chair the subject committees are to be selected; and the members of the panel shall be elected so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the panel
- (6) The number of members of the panel at any time shall be equal to the number of subject committees at that time; and each member of the panel shall be selected to chair one (but not more than one) subject committee.
- (7) A subject committee shall have such number of members (in addition to the person who is a member of the committee by virtue of subsection (4) and the member who chairs it) as the standing orders may provide.

Those other members shall be elected by the Assembly from among the Assembly members so as to secure that, as far as is practicable, the balance of the parties in the Assembly is reflected in the membership of the committee (including the person who is a member by virtue of subsection (4) and the member who chairs it).'

Delegation of Functions

Mr Secretary Davies

To move the following Clause:-

NC23

- (1) The Assembly may delegate functions of the Assembly (to such extent as the Assembly may determine) to-
 - (a) any committee of the Assembly, or
 - (b) the Assembly First Secretary.
- (2) Any committee of the Assembly, apart from the Audit Committee, may delegate functions of the committee (to such extent as the committee may determine) to a sub-committee of the committee.

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- (3) In addition-
 - (a) the executive committee may delegate functions of the executive committee (to such extent as the executive committee may determine) to the Assembly First Secretary or an Assembly Secretary, and
 - (b) a subject committee may delegate functions of the subject committee (to such extent as the subject committee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section (*Subject committees*)(4).
- (4) A sub-committee of the executive committee may delegate functions of the sub-committee (to such extent as the sub-committee may determine) to the Assembly First Secretary or an Assembly Secretary; and a sub-committee of a subject committee may delegate functions of the sub-committee (to such extent as the subcommittee may determine) to the member of the executive committee who is a member of the subject committee by virtue of section (*Subject committees*)(4).
- (5) The Assembly First Secretary may delegate functions of his (to such extent as he may determine) to an Assembly Secretary.
- (6) In delegating a function under any provision of this section the Assembly, a committee of the Assembly or a subcommittee of such a committee may limit or prohibit its further delegation under this section or section (*Exercise of functions by Assembly staff*) (or both).
- (7) Where a function has been delegated to the Assembly, this section applies to the function subject to the terms of the delegation to the Assembly.
- (8) The delegation of a function under this section shall not prevent the exercise of the function by the body or person by whom the delegation is made.'

Further new clauses define the delegation of functions. The Assembly will still be able to delegate functions to a committee,²² and the Assembly retains its role as an executive body. New Clause 24 provides for the head of the Assembly staff, now designated at least initially, the Permanent Secretary, to make arrangements for staff to carry out delegated functions.

Therefore a full cabinet model is not to be introduced, but the amendments appear to move the Assembly a considerable distance from the original design. Differences remain with the model for the Scottish Parliament where the appointment of individual ministers require the approval of the Scottish Parliament and where the Scottish Executive must resign if the Parliament resolves that the Executive no longer holds its confidence. The new clauses appear to offer the Assembly some flexibility. The Assembly could decide not to delegate many functions to the Executive Committee, or the Executive Committee could decide to delegate minimal functions to Assembly Secretaries if the local government model were preferred. However, it is expected that the internal organisation of the Assembly will be set out in the standing orders and so any changes to the delegation of functions are likely to involve changes to standing orders, which will require a two thirds majority.

²² NC23(1)

The Welsh Office Press Notice on the changes is reproduced below:²³

W98137-dev 18 March 1998

RON DAVIES ANNOUNCES KEY CHANGES TO GOVERNMENT OF WALES BILL

Welsh Secretary Ron Davies has unveiled important changes to the Government of Wales Bill which will allow the National Assembly for Wales to operate through a 'cabinet-style' administration. Government amendments have been tabled today (Wednesday, 18 March) for debate in the House of Commons next week. The amendments will give the Assembly First Secretary the power to appoint a cabinet, allows the Assembly to delegate any of its functions to either the First Secretary or to any committee, and requires the Assembly's Standing Orders to provide for oral and written questions on the parliamentary model.

Mr Davies said he was bringing forward the amendments in response to points made by Opposition parties in House of Commons debates and in the light of advice from the National Assembly Advisory Group, which represents a wide range of views and interests across Wales.

"Through listening to people - inside parliament and outside - it is clear that there is a demand for a cabinet-style approach to government. People want decision-making arrangements which provide for identified individuals to be clearly accountable to the public for particular decisions. These amendments will provide for that."

"The arrangements I am now proposing, however, will not result in excessive concentration of power in individuals' hands. Each Assembly Secretary will have to work in partnership with the all-party subject committee of which he or she is leader."

"Those subject committees will have key roles in developing policies, examining draft subordinate legislation and monitoring the performance of public bodies. In this way, all parties in the Assembly will play a real part in policy-making."

Opposition parties have welcomed the new amendments, but the Conservatives have tabled amendments to rename subject committees, select committees and the executive committee a cabinet. Rhodri Morgan has tabled a New Schedule²⁴ to establish the Assembly as a corporate body which would enable it to employ its own clerk and staff, and enter into contracts. It would have crown status passed to it through Order in Council for certain enactments. The Liberal Democrats have tabled a new clause to create separate categories of staff.²⁵

²³ source: Welsh Office web site

²⁴ New Schedule 1

²⁵ New Clause 25

II The *Local Government (Experimental Arrangements) Bill*

A. Background: The Committee Structure in Local Government

Local authorities are corporate bodies: that is to say, an authority consists of a group of individuals (a chairman and councillors)²⁶ who are deemed in law to be a single legal entity. Ever since the earliest days of local government, however, the full council has usually been considered too large to take all of the decisions necessary to administer its functions, and consequently the practice arose of delegating some decisions to committees. Even where decision making is delegated, however, decisions are, in law, still taken on behalf of the whole council.²⁷

The Department of the Environment consultation paper *The Internal Management of Local Authorities in England* [July 1991, p5] contains a brief account of the origins of the committee system in local government and its subsequent development.

The functions of local government had often historically been vested in large corporate bodies. Examples were the Municipal Corporations and the Justices at Quarter Sessions for the County as well as special bodies such as the Improvement Commissioners. Powers were vested in the body, rather than the individual members; but those bodies tended to be too large to administer their functions directly. The result was that, by the time of the Municipal Corporations Act 1835, which allowed boroughs to set up committees as they saw fit, it was commonly thought that committees were almost essential to decision-making in these large bodies.

In the nineteenth century, as the duties of boroughs broadened, they took on the majority of local government functions in their towns. Elsewhere, the functions were often performed by separate bodies, perhaps having different boundaries. The need for unifying these functions within fewer bodies was increasingly recognised and committees were the means by which these functions were administered. By the end of the century, multi-purpose elected county and county borough councils, urban and rural district councils and metropolitan boroughs in London had been created, each able to form its own committees. The powers of authorities to form committees were standardised in the Local Government Act 1933 and have remained much the same ever since, although the discretion to delegate decisions to committees and subcommittees was substantially widened in 1972.

Subsequent developments

The committee structure was originally focused on specific services. But since the 1970s many local authorities have increasingly sought to devise arrangements to enable them to take a more co-ordinated and strategic view of the council's responsibilities. Most local authorities have established committees which are responsible for overall council policy. Since the 1974 reorganisation, most councils have (in one form or another) a policy and resources committee,

²⁶ *Local Government Act 1972*, sections 2 & 21

²⁷ There are, however, a number of provisions in local government law which require particular officers to take action on their own initiative. For example, under section 5 of the *Local Government and Housing Act 1989* the monitoring officer must issue a report if it appears that the authority is likely to take action which is contrary to law.

whose task is to co-ordinate the work of specialist committees. Since 1 August 1990, when the requirements of the Local Government and Housing Act 1989 for pro rata representation of political groups on committees came into force, minority groups have been able to claim seats on all committees and sub-committees including such policy committees. Some authorities have acquired the agreement of the full council to use these policy or 'management' committees as the normal decision-making forum for all major decisions with a time-limited opportunity for councillors to require decisions to be reviewed.

Informal meetings of the leading members of the council (especially of a controlling political group, where there is one) have an important role to play in allowing elected members to develop their policy without the constraints of publicity and the presence of political opponents. The Government's White Paper "The Conduct of Local Authority Business" (Cm 433) emphasised that it was proper for such informal policy groups to receive advice from the council's professional officers, provided that all political groups received fair treatment in this respect. Clearly too much power wielded by informal single-party groups carries a risk of abuse of power, although used properly informal party meetings can be a very effective way of speeding up council decision-making.

Most local authorities have management teams consisting of the senior officers of the council. In some authorities the leader or other senior members attend the management team meetings either regularly or intermittently. Some local authorities have established working parties either comprising members only (but with officers in attendance and servicing them) or both members and officers. Such working parties are often set up to deal with specific projects.

Because a council has no power to delegate functions to individual councillors, urgent decisions are often delegated either to small representative sub-committees which can meet at short notice, or to officers who may be required to consult political leaders before reaching a decision.

For some local authorities the present committee system works satisfactorily, and where this is the case the Government have no wish to impose changes. Other councils have sought to introduce changes in their management arrangements by building on the developments in the committee system described in the preceding paragraphs. However, because of the constraints of the existing legislative framework, there are limits to the new systems they can adopt.

B. Local Authority Decision Making: The Heseltine Review and Subsequent Developments

Following John Major's appointment of Michael Heseltine as Secretary of State for the Environment late in 1990, a comprehensive review of local government in England was undertaken by the DoE. The first two arms of the review led to the replacement of the community charge or 'poll tax' by the council tax and the creation of the Local Government Commission, which undertook a review of local government structure in the shire counties. The third arm of the review concentrated on the decision making process in local government. It received less attention at the time but appears to have had a lasting influence on ideas for reinvigorating local government. The July 1991 DoE consultation paper, *The Internal Management of Local Authorities in England*, made a number of suggestions designed to promote more effective, speedy and business-like decision making; enhance the scrutiny of decisions; increase the interest taken by the public in local government; and provide scope for councillors to devote more time to their constituency role. The current model for local authority decision making, involving votes taken by committees or,

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exceptionally, by the whole council, might be revised or replaced where there was local agreement. Borrowing from arrangements in other countries, the consultation paper suggested a variety of options for change:

- Adaptation of the committee system, allowing certain decisions to be delegated to committee chairmen or establishing "question time"-type arrangements;
- A cabinet system, introducing formal separation of executive and representational (backbench) roles for councillors.
- A council manager, involving the appointment of an officer to take over the day-to-day running of the authority;
- A directly-elected cabinet, requiring separate elections for backbenchers and the executive; and
- A directly-elected mayor, a variant of the previous model but with executive responsibility residing in a single individual, who might then have the power to make political appointments to support him or her.

A brief survey of some of the arrangements for local executive governance used in Europe and the USA, contained in the consultation paper, is reproduced as an appendix to this Paper.

At this stage it seemed as though elected mayors and other alternative forms of decision making in local government, which were strongly supported by Mr Heseltine, stood a good chance of being implemented. Michael Howard, who succeeded Mr Heseltine as Environment Secretary, established a Department of the Environment joint working party with the local authority associations, the Audit Commission, the Local Government Management Board²⁸ and others, to consider current practice and suggestions for improving internal management arrangements and to investigate possible experimental models. The working party, which reported in July 1993,²⁹ identified two main objectives [p4]:

- To strengthen the role of all elected members in formulating council strategies, leading and representing their communities, and, within their powers, acting as consumer champions to help citizens in the area get the quality of services which is their right and hold to account those responsible for providing those services; and

²⁸ This body advises local authorities on personnel and other management issues

²⁹ Community Leadership and Representation: Unlocking the Potential, HMSO

- To develop the framework for effective leadership within local authorities - including clear political direction, identifying the needs and priorities of local communities and overseeing the efficient provision of high quality services to them.

The working party recommended, amongst other things, that the Secretary of State for the Environment should take powers to allow, in consultation with local government, experimental changes to their internal management arrangements proposed by individual local authorities [p7]. Subject to suitable safeguards, these might include models of the kind described above, including directly-elected mayors. Additional experimental models included:

- deliberative committees whose membership consisted only of members of the majority group;
- decentralised decision-taking
- new rights for councillors to review and scrutinise council decisions; and
- enhanced roles for councillors not in executive positions

Many of the changes proposed in the consultation paper and the report of the working party would require primary legislation. The working party's proposals were not implemented. In response to a PQ from Tony Wright in October 1996 asking what assessment had been made of the advantages of having elected mayors, the then Local Government Minister David Curry said that of the responses received to the July 1991 consultation paper not a single county council, district council, London borough or metropolitan borough was in favour of elected mayors:³⁰

[Local government] was much more interested in the structure of committees. It was more interested, perhaps, in some form of cabinet system for local government. It was also more interested in the idea of a council manager. It was especially interested in councillors' allowances. It was not particularly interested in locally elected mayors

Nevertheless the idea of elected mayors was endorsed by the Commission for Local Democracy, an independent commission chaired by the former editor of *The Times*, Simon Jenkins. The Commission claimed that evidence from other countries suggests that the existence of a directly elected mayor or an equivalent office ameliorates many of the problems found in British local government:³¹

³⁰ HC Deb Vol 282, 15.10.96, c575

³¹ Taking Charge: the rebirth of local democracy, 1995, p19

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Citizen participation in local politics is higher. Numbers standing for public office are higher. Recognition of local leadership is higher. Public satisfaction in local government and its services is higher. Since remedying precisely these flaws in the British system is our goal we cannot ignore the factor that appears to bear so directly upon them.

A report published by INLOGOV at the University of Birmingham lists the following arguments which have been advanced for introducing executive mayors:³²

- to achieve national prominence for local political leaders and to strengthen the local government side of the central-local relationship
- to re-invigorate local democracy
- to strengthen community leadership
- to reinforce internal leadership
- to change the impact of party politics

In July 1996 the House of Lords Select Committee on Relations between Central and Local Government,³³ chaired by Lord Hunt of Tanworth, called upon the Conservative Government to find, as a matter of urgency, Parliamentary time to legislate in order to enable local authorities to experiment with internal management in line with the 1993 working party recommendations (see above).³⁴ The Conservative Government's response to the Select Committee report stated that legislative time in which to implement the working party's recommendations had not been available, but promised that legislation would be brought forward in the next Parliament to enable local authorities in England and Wales to propose such experiments for approval.³⁵ The General Election intervened, but the current Private Member's Bill introduced by Lord Hunt, which was drafted with the support of the Labour Government, would fulfil the same purpose.

Some commentators have warned that the idea of elected mayors, based as it is on experience in other countries (particularly the USA), may not transfer easily to the UK:

The concept would be meaningless in Britain unless a high public profile could be translated into political power and leverage. Nor would mayors mean much unless they also enjoyed the patronage and ability to distribute largesse which makes many US mayors the pre-eminent figures within their cities.

³² Executive Mayors for Britain?, Michael Clarke et al, 1996, p3

³³ Rebuilding Trust, HL 97 of 1995-96, Vol I, para 3.30

³⁴ The report was debated on 18.11.96 at HL Deb, Vol 575, cc1101-1158

³⁵ Cm 3464, November 1996, para 41

There is much reason to doubt that elected mayors in the UK would have the same impact as American mayors because of the nature of our unitary system. British mayors would still be operating within a system which constrains majority groups on councils and under a centralising state which sets the limits of the localities' powers and spending.

...American mayors may have many powers but are often politically isolated. Separating the executive from the legislative functions of councils can often lead to political deadlock over budgets, priorities, agendas and status. This deadlock was at the centre of New York's history of fiscal problems.

Elected mayors would threaten existing political interests in British local government as the need to appeal to a city-wide mandate means greater reliance on personality politics to build a winning coalition. Do local political parties and backbenchers want to relinquish the influence they have over group leaders?

...Directly-elected mayors will not work as simple additions to the system - there would have to be fundamental changes in British local government.³⁶

The creation of a directly-elected executive would be an arrangement currently unknown to local or central government: the UK tradition has been for the executive at local or central level to be drawn from the ranks of constituency or ward-based elected representatives. Indeed, at the local level there may be a *de facto* separation of executive and backbench roles in many authorities but this is not reflected in councils' formal structures at present. Charter 88's response to the green paper on London government³⁷ emphasises the uniqueness of the proposal for an elected mayor for London.³⁸

Charter 88 welcomes the decision to separate the executive and deliberative arms of London Government. This will create the first British institution of Government to have a separation of powers.

Gerry Stoker, professor of politics at the University of Strathclyde, who supports Labour's proposal to create an elected mayor in London, has nevertheless acknowledged that the new system might bring with it a new set of problems, for example a situation in which the mayor is of a different party background to a party with a majority in the assembly:³⁹

Mayor/majority party disparity is probably worth trying to avoid. The likelihood of such a situation arising could be reduced by systems of proportional representation for authority elections which deliver no overall control, and a culture of coalition politics. Another option is a PR election which delivers a majority bonus to the party/coalition of the winning mayor.

³⁶ Dr Declan Hall, *Municipal Journal* 19.1.96 "Elected mayors: a blind alley?" See also David McKinless, letter to the *Local Government Chronicle*, 17.1.97 "New Zealand's mayoral experience suggests they are not the big cure-all."

³⁷ New Leadership for London, July 1997

³⁸ Ensuring Accountability, undated, para 2.16

³⁹ *Local Government Chronicle* 13.6.97 "Dual force to hit the capital."

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Other mechanisms which could be considered in the management of mayor/authority relations are statutory provisions for budget and certain policy plans to be agreed by a certain date each year.

A paper prepared by the Society of Local Authority Chief Executives [SOLACE] Think Tank acknowledges that

Local government, not surprisingly, has seen elected mayors as a threat to be resisted, although no doubt many individuals see a possible future role for themselves and will have been making appropriate noises in smoke filled rooms⁴⁰

The paper goes on to argue that it is difficult to see what real difference an elected mayor would make if their remit was confined simply to the things councils traditionally do:

Fifteen years of financial stringency - not to mention CCT - have meant that the vast bulk of council services are now reasonably efficient, and it is difficult to see what difference an elected mayor, however charismatic, would actually make to core services like refuse collection, housing or education.

The SOLACE Think Tank suggests that elected mayors would only be effective if they could operate across all the agencies at local level: councils, quangos and national departments: "In short, they will need to be given the power to co-ordinate effective governance at local level." This would allow them to do "what charismatic leaders are best at - giving leadership, pulling people together into teams."

Mayors operating along these lines... would give a local focus to the attack on local issues, drawing agencies together at local level and stimulating and co-ordinating their actions. Their job would be to orchestrate existing agencies, rather than supplant them, and in doing so they could provide the local democratic drive and legitimacy that so many of those agencies currently lack. And having democratic legitimacy, they could also have some control over funding - both national and locally determined - to draw recalcitrant bodies into participation.

The Think Tank's paper suggests that these arguments apply particularly strongly to London, "which of course does not even have a single voice to speak out for the whole of it, far less anyone to exercise effective local governance for the whole capital." The *Greater London Authority (Referendum) Act 1998* provides for a referendum on the creation of a directly elected mayor and assembly for London on 7 May 1998. There has been speculation that if successful, the elected mayor for London would lead to pressure for similar arrangements in other areas. Such demands could well be met to some extent by the *Local Government (Experimental Arrangements) Bill*.

⁴⁰ *Mayor Culpa*, February 1997,

The Green Paper *Modernising Local Government: local democracy and community leadership*, published by the Department of the Environment, Transport and the Regions in February 1998, set out the Government's analysis of the existing committee system in local government and made clear its support for alternative arrangements such as elected mayors.⁴¹

5.1 The way local government currently operates with its traditional committee structure is inefficient and opaque. This committee system was designed over a century ago for a bygone age; it is no basis for modern local government.

Too many meetings

5.2 Councillors spend many hours on civic business. In 1985 it was estimated at 74 hours per month on average. A more recent figure, but based on a much smaller sample, produced an average of 97 hours per month, two-thirds of which was spent on preparing for, travelling to and attending council meetings. This time is often not spent efficiently.

5.3 The Audit Commission recently reported⁴² that "too much of a burden is placed on councillors, often unproductively, by committee meetings". This puts people off entering local politics and it is not what councillors themselves want to do. While 70% of councillors in a recent study felt that representational work directly with the community was their most important role, they spent an average of only 30% of their time on it.

5.4 Furthermore, these committees are often not where the real decisions are made. In most councils it is the political groups, meeting behind closed doors, which make the big and significant decisions. There is sometimes little open democratic scrutiny of decisions taken except through the comments on decisions by opposition parties, where they exist. Too many decisions are taken within a committee structure where even the councillors can feel unable to influence events and in the absence of a real detailed knowledge of the needs and aspirations of the people.

5.5 But the story is not all bad. Many councils are already pushing at the boundaries of what is possible within the current legislative framework. They are trying innovative ways of involving the public in their decisions, adapting their committee structures to move away from the traditional functional structure and towards looking at strategic issues or devolving some matters to committees responsible for small parts of the overall council's area, for example.

5.6 The Audit Commission found that some councils have made progress in refocusing their committees to remedy some of their shortfalls (for example, by reducing agendas, committee membership, the number of committees, reform to allowances and greater delegation to officers). But it also found that the pace of change had been slow. The fact remains that the current framework is ripe for change.

Councils' political and management structure

5.7 Traditional committees are also a poor vehicle for developing and demonstrating community leadership. It is not always clear who has taken a decision in reality. Few people know who is the leader of their local authority or, just as important, who is chair of the education committee. The committee system fails to foster community leaders and leadership; local people have no direct say over their local leaders. Executive leadership needs to be visible. An individual can provide a clear focus for local leadership as experience across Europe and the Western world shows.

5.8 There is a strong argument for separating the executive and representational functions of councillors which are so easily confused in the traditional committee. Both have an important part to play in community leadership but in different and complementary ways. Leadership and scrutiny are distinct functions. Both are needed for a healthy democracy to function effectively. Both need to be recognised and accorded their rightful place and powers.

⁴¹ A green paper on the same subject was published in Wales on 19 March: *Modernising Local Government in Wales: Local democracy and community leadership*

⁴² Representing the People: The Role of Councillors, Audit Commission, 1997

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5.9 The Government believes that this separation of roles would mean:

- greater clarity about who is responsible for decisions;
- greater clarity about who has taken and should be held to account for decisions; and
- sharper scrutiny of these decisions.

5.10 Splitting these two roles would mean that it would no longer be possible for councillors to disclaim responsibility for corporate decisions. It would be clearer to both councillors and the public where decisions were being taken. Councils would be less able to operate behind closed doors without debate and review. And where existing committee structures have become unnecessarily bureaucratic, they would be shaken up and re-invented.

5.11 Accountability and scrutiny would be sharpened because those councillors who have played no direct part in the decisions taken will have a clear explicit responsibility to review and question those decisions, whether or not they belong to the same party as the executive. The result should be improved decision making, greater openness and greater accountability - even where there is no opposition party represented on the council.

The role of the executive

5.12 The role of the executive would be to exercise political leadership. Such leadership is necessary to make democracy work. Political leadership translates the wishes of the community into action, taking the hard choices about resources and priorities, building coalitions and working in partnership across all sectors of the economy to achieve shared aims. It forms the basis of accountability and allows sharper scrutiny of decisions taken.

5.13 Political leadership can be performed most effectively and openly where it is clear who has the power to take the decisions. Both the electorate and any potential partners for the authority need to be able to identify clearly who is holding the reins. This clarity cannot be delivered by the current committee structure. It requires a separately identifiable executive.

5.14 These benefits are the greater, the more the representative role and the executive role are separated. The Government is therefore very attracted to the model of a strong executive directly elected mayor. Such a mayor would be a highly visible figure. He or she would have been elected by the people rather than the council or party and would therefore focus attention outwards in the direction of the people rather than inwards towards fellow councillors. The mayor would be a strong political and community leader with whom the electorate could identify. Mayors will have to become well known to their electorate which could help increase interest in and understanding of local government.

The Green Paper seeks to reassure councillors (most of whom are thought to be resistant to the idea of elected mayors or cabinet-style decision making) that a backbench/scrutiny role would be worthwhile:

The role of the councillor

5.15 The Government believes that this separation of roles will also enhance the role of representative councillors. Currently councillors can effectively be excluded from the real decisions, even if they are in the party of the ruling group. They have no explicit power of challenge or scrutiny of those decisions either.

5.16 Separation of the executive and representational roles brings with it the opportunity for greater scrutiny. Instead of attending hundreds of meetings, at which some councillors may be able to make little contribution, they could make a real difference to decisions in areas that matter.

They would:

- review and question past decisions taken by those with executive responsibilities;
- be consulted before decisions are taken or policy is set; and
- review the policies and direction of the authority, proposing changes for the future.

5.17 In the past councillors have spent a great deal of time defending their provision of services to the public. Under new models they will be able to promote and defend the public interest to the council. They could spend more time in the local community at residents' meetings or surgeries - a role which is seen by both councillors and the public as being particularly important. The role of councillors would be expanded. They would become, in a much clearer way, the advocate of the local people, channelling their grievances and demands.

A wider role

5.20 The scrutiny role could also extend to other bodies operating in the authority's area. It might help ensure that the policies of quangos or bodies funded by the authority and those of the council and its executive were complementary and pulling in the same direction.

A rewarding role

5.21 In short, being a "backbench" councillor under such models could be less time-consuming, but more high profile, more effective and therefore more rewarding. This new role might encourage a wider cross section of the community to stand for election as councillors, thereby strengthening local democracy. But it is also important that political parties and local authorities take steps, as some councils already do, to encourage enthusiastic and able people to put themselves forward. These might include holding public meetings or producing leaflets on the work of councillors, emphasising the value of their role to the democratic health of their community and the nation.

C. The Bill

1. Approval of Experimental Decision Making Arrangements

As mentioned above, the House of Lords Select Committee on Relations between Central and Local Government,⁴³ chaired by Lord Hunt of Tanworth (who has subsequently become president of the Local Government Association⁴⁴), called for legislation to enable local authorities to experiment with internal management. The *Local Government (Experimental Arrangements) Bill* [HL]⁴⁵, a Private Member's Bill which was introduced in the Lords by Lord Hunt (and drafted with the support of the Labour Government), would fulfil this purpose. The Bill has been passed by the Lords and was introduced in the Commons by Dr Alan Whitehead. It is due to receive its Second Reading debate in the Commons on Friday 20 March, although at the time of writing it is tenth in the order of Private Members' Bills listed for that day.

⁴³ Rebuilding Trust, HL 97 of 1995-96, Vol I, July 1996, para 3.30

⁴⁴ The LGA was created in 1997 as a result of the merger of the Associations of County Councils, District Councils and Metropolitan Authorities (ACC, ADC & AMA)

⁴⁵ Bill 125 of 1997/8

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On introducing the Bill, Lord Hunt said:⁴⁶

My Bill will offer councils the chance to alter the way they do business. It is up to individual authorities to decide what changes may be right for them; small rural district councils will have different needs to large metropolitan boroughs. The important thing will be for individual councils to develop reforms which are suitable for their own authority and the people who live there.

Clause 4 of the Bill would enable local authorities in England and Wales (not including parish, town and community councils) to submit proposals for alternative arrangements for the conduct of their business. The Secretary of State for the Environment, Transport and the Regions or the Welsh Secretary would have power to make an order under **Clause 5** enabling a named authority to put its plan into effect for an experimental period of up to 8 years.

The main options available under the Bill, set out in **Clause 1(2)**, include:

- (a) an elected mayor
- (b) an elected mayor with executive powers
- (c) the appointment of "lead members" within committees who would have power of executive action (at present committee chairmen have no formal executive powers; decisions not taken in the full council must be taken by the committee as a whole, a sub-committee or by an officer given delegated powers by the committee)
- (d) a cabinet-style system composed of "lead members"; under this system some decisions would be taken by lead members and others would be performed by the executive committee
- (e) a single party executive committee
- (f) the appointment of a single party advisory committee which would make recommendations to the authority as a whole.

Additional options are set out in **Clause 1(3)**:

- (a) "onward delegation" would be possible. For example, an elected mayor would be able to delegate powers to a non-executive councillor ("ordinary member"), an officer or a cabinet committee which the mayor would appoint
- (b) a committee would be able to delegate powers to the elected mayor or other executive member

⁴⁶ Local Government Association Press Release, "New Bill will allow elected mayors and much more", 26.11.97

- (c) the social services committee would be able to delegate its functions to another committee
- (d) where the experimental arrangements did not include plans for an elected mayor, the council would be able to appoint one of its members as an executive mayor

Under **Clause 1(5)** scrutiny committees similar to Commons Select Committees would have to be set up to monitor the executive role of the council and/or mayor, unless the experimental arrangements only involved the establishment of single-party advisory committees. Membership of scrutiny committees would have to reflect the political balance on the council as a whole.

Most of these changes would entail the formal separation of executive and backbench roles for councillors and all would require some aspects of the existing laws controlling the conduct of local authority business to be relaxed or modified. The **Schedule** to the Bill therefore lists a number of modifications to existing legislation which the Secretary of State would be able to make under a Clause 5 order. Existing provisions requiring particular actions to be taken by the full council (eg. setting the budget) or an officer (eg. the monitoring officer's duty to warn the council about planned actions which may be illegal) would not be affected by any experimental arrangements made under the Bill.

Although approval of experimental arrangements under the Bill could not exceed a period of eight years in the first instance, councils would be able to apply for an extension of up to four years. Presumably the Government would have to decide over the next few years whether to introduce legislation enabling successful experiments to become permanent. Before approving experimental arrangements proposed by an authority the Secretary of State would have to:

- consult the Audit Commission and the Local Government Association (**Clause 5(1)(b)**)
- ensure that the council had consulted on the proposals (**Clause 5(1)(a)**)
- ensure that the council had taken account of guidance from the Secretary of State covering, amongst other things, freedom of information and access to information (**Clause 5(2)(b)**)
- take account of the extent to which the new arrangements would improve the council's decision-making process (**Clause 5(2)(a)**)

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The criteria for judging whether the council's decision-making process would be improved include:

- Decisions being taken in a more efficient, effective, open and accountable way
- Decisions being taken with more regard to the views of local electors and other interested persons in the authority's area
- Providing an opportunity for scrutiny of the council's actions (**Clause 1(7)**)

The Secretary of State would be able to stipulate conditions with which the council would have to comply (**Clause 5(4)(h)**). Elections for an elected mayor would be able to take place before the formal commencement date of the scheme (**Clause 5(6)**). Orders implementing experimental arrangements would be subject to the negative procedure: ie they would come into effect unless prayed against and subsequently rejected by the House.

Where experimental arrangements were approved by the Government, the council concerned would have to publicise the arrangements in the local press. Under **Clause 12** the authority would have to prepare annual reports on the experimental arrangements, paying particular attention to the criteria for improving the decision-making process listed in **Clause 1(7)** (see above). Early termination of the arrangements could take place only by order of the Secretary of State (**Clause 13**).

2. The Schedule: Selective Suspension of Existing Enactments

As stated above, all of the experimental arrangements listed in **Clause 1** of the Bill would require the modification of some aspects of legislation on the conduct of local authority business etc. Some of these are relatively trivial but others are of greater import. In making a **Clause 5** order allowing an authority's proposals for experimental arrangements to proceed the Secretary of State would specify which of the statutory provisions listed in the Schedule would be removed or modified. Additional legislation not listed in the Schedule could be modified if the Secretary of State considered this "necessary or expedient" (**Clause 5(4)(d)**). Some of the modifications listed in the Schedule would amount to a relaxation of existing controls (eg. powers to delegate; access to information) but others are intended to provide additional safeguards appropriate to the separation of executive and scrutiny roles (an executive mayor would not be able to chair the full council; proper written records would have to be kept of executive action taken by the mayor; such decisions would be subject to the rules on declaration of interest; members of scrutiny committees would have additional rights of access to information). The modification of existing legislation would apply only to the authority listed in the order, and only for the purposes of the experimental scheme.

The provisions listed in the Schedule include:

Para 1: enables delegation by social services committees to elected mayor etc. [*Local Authority Social Services Act 1970*, s4]

Paras 2 & 4: enable the elected mayor to take ceremonial precedence over the chairman of the council [*Local Government Act 1972*, sections 3 and 22; see also para 15]

Paras 3 & 5: provide for the separate election of a mayor [*Local Government Act 1972*, sections 6 & 25; see also para 15]

Paras 6, 13: prevent the chairman of a council in which there is an elected mayor from being called "mayor". The roles of mayor and chairman would be distinct: an elected mayor would not be able to chair meetings of the full council. [*Local Government Act 1972*, s25A, 245. See also paras 14, 15, 16]

Para 7: extends the rules on declaration of pecuniary interest to cover decisions taken by the elected mayor or other councillors outside a committee meeting [*Local Government Act 1972*, s94]

Para 8: relaxes the rules on access to information to enable, amongst other things, single-party executive or advisory committees to meet in private (as the Cabinet does). [*Local Government Act 1972*, s100E, as inserted by the *Local Government (Access to Information) Act 1985*]. The *Notes on the Schedule* provide greater detail on this matter

Para 9: provides additional rights of access to documents for members of scrutiny committees [*Local Government Act 1972*, s100F, as inserted by the *Local Government (Access to Information) Act 1985*]

Paras 10 & 16: require records to be made of decisions delegated to the executive mayor or a lead member [*Local Government Act 1972*, s100G, as inserted by the *Local Government (Access to Information) Act 1985*, and Schedule 12]

Para 12: gives greater flexibility over the delegation of council decisions. For example, decisions may be delegated to the elected mayor; the elected mayor may in turn delegate decisions to a committee, another member or an officer [*Local Government Act 1972*, s101]. See *Notes on the Schedule*

Paras 17 & 18: amend electoral law to take account of elected mayors [*Representation of the People Act 1983*, sections 36 & 203]

Para 19: enables an elected mayor to appoint a political assistant, in the same way that political groups on councils are currently able to make such appointments [*Local Government and Housing Act 1989*, s9]

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Paras 20 & 21: enable the appointment of single party executive or advisory committees by disapplying the current rules on political balance in committees [*Local Government and Housing Act 1989*, sections 15 & 16].

D. Lords Stages and Reactions to the Bill

The Government's criticisms of the existing committee system in local government and its proposals for alternative arrangements such as elected mayors, as set out in the February 1998 Green Paper *Modernising Local Government: local democracy and community leadership*, are reproduced in Part II (B) of this paper. The Green Paper welcomed the *Local Government (Experimental Arrangements) Bill* and stated that the Government "will give every assistance to the Bill". Should the Bill be enacted, the Government "will help and encourage as many authorities as possible to take advantage of their new freedom" to adopt innovative decision making arrangements [para 5.22]. The Green Paper pointed out that experiments under the Hunt Bill would be time-limited and invited views on the form of any longer term provision:

"Should it provide permanently for a wide range of political and management structures for councils? Or should the lessons of these experiments be codified in a narrow range of approved arrangements in the long term?" [Q 17]

Tony Blair, speaking at the Labour Local Government Conference in Scarborough on 8 February 1998, set out his support for clear, visible leadership in local government:

Elected executive mayors. Dynamic. Influential. With real power. Getting things done for people. That will allow the leaders of our major towns and cities to be influential figures on the national stage. As they deserve to be. As they are in other countries.

Now I know some councillors are concerned about this. I know some of you may be worried about what role it will leave for you. Your role will be vital. And it will be clearer. Instead of spending your time in fruitless meetings, you will be able to scrutinise in detail what council leaders are doing. And not wasting time in meetings will mean you'll be able to spend more time in your local communities. Listening to people. Absorbing their views. And then taking them forward into your council.

A discussion paper written by Mr Blair, exhorting local authorities to find "new ways of working", was published shortly afterwards by the IPPR.⁴⁷ He pointed out that if an authority did not wish to introduce an elected mayor Lord Hunt's Bill offered alternative models of executive such as cabinet government at a local level [pp16-17]. Mr Blair concluded with the warning to councils that "if you are unwilling or unable to work to the modern agenda then the government will have to look to other partners to take on your role" [p22]. In an interview with the *Local Government Chronicle* of 5 February 1998 the Local Government Minister, Hilary Armstrong, refused to rule out forcing councils to introduce changes to their

⁴⁷ *Leading the Way: A new vision for local government*, Institute for Public Policy Research, 1998

decision making process at some point in the future if they did not take advantage of the opportunities which the *Local Government (Experimental Arrangements) Bill* would present.

The Local Government Association has given strong support to the Bill. Cllr Sir Jeremy Beecham, the Chair of the Association, said:⁴⁸

Lord Hunt's Bill is a big step forward for local government - it can only help to revitalise and generate new interest in local democracy. Councils will be free to decide what type of innovation suits them best - as well as elected mayors they could opt for 'cabinet committees' or strengthened backbench committees to scrutinise council business. The most important thing is that councils become more open and transparent to the public. The LGA will encourage local authorities to experiment with democratic innovation as the Bill allows.

However, the Shadow Secretary of State for the Environment, Transport and the Regions, Sir Norman Fowler, has expressed concerns about the freedom of information implications of the Bill and the danger of concentrating power at the centre of each council.⁴⁹ He has said that it is not obvious what the Bill would do to alleviate the problem of "mismanagement and corruption in Labour councils".⁵⁰

During the Lords Second Reading debate Lord Bowness, speaking from the Opposition benches, indicated surprise that the Government should be content for the "far reaching" proposals contained in the Bill to be contained in a Private Member's Bill.⁵¹ The Liberal Democrat spokeswoman Baroness Hamwee listed some of the dangers which might stem from the models for decision making contained in the Bill, including "devaluing the role of local representatives, discouraging general local interest which often presages the first step into political activity, balancing the relationship between casework and management, the creation of a second class of members, undermining representative democracy, and introducing personality politics if that is to the detriment of democracy."⁵² She suggested that rather than pressing on with reforms of the decision making process at this stage, it would be better to wait until the Government's wider proposals for local government reform emerged. In Committee, Baroness Hamwee expressed reservations about the relaxation of the requirement for executive committees to reflect the political balance of the authority as a whole.⁵³

⁴⁸ Local Government Association Press Release, "New Bill will allow elected mayors and much more", 26.11.97

⁴⁹ "Questions to Blair on executive mayors: Fowler", Conservative Party Press Release, 6.2.98; "Tories set to vote against Hunt", *Local Government Chronicle*, 19.12.97

⁵⁰ Statement of 9.2.98. Source: Conservative Party

⁵¹ HL Deb Vol 584, 17.12.97, c711

⁵² HL Deb Vol 584, 17.12.97, c708

⁵³ HL Deb Vol 585, 27.1.98, c708

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Another Liberal Democrat peer, Baroness Maddock, offered "lukewarm" support. She said that unless stronger safeguards for backbench and opposition councillors were introduced, "I am not sure that allowing individuals certain powers and setting up one-party committees will increase accountability".⁵⁴ Measures such as the establishment of neighbourhood committees, question time for members of the public and allowing members of the public to speak in committee on certain items might help in this respect, she suggested. The Bill would not in itself address vital issues such as the need to attract high quality candidates to local government and the need to improve turnout at local elections.

At the Report Stage, Lord Hunt introduced amendments to the Bill designed to increase "safeguards for propriety and the rights of minority parties", including a requirement that where a separate executive was established the council would also be bound to create scrutiny committees; and that guidance on the Bill issued by the Secretary of State should cover the issues of freedom of information and access to information.⁵⁵

The Bill has generated considerable interest in the local government press. A majority of writers have supported the Bill, some highlighting its 'symbolic' importance in demonstrating that "the 'centre knows best' philosophy of the previous government has been thrown out of the window".⁵⁶ The Labour Peer Lord Bassam suggested that the Bill

offers local government the opportunity to bring forward changes tailored to meet local circumstances. In practice, this is likely to mean proposals which are a compromise struck between the local political elites and local political parties. The real innovators will be those who let the local electors have some sort of say in shaping new democratic structures.⁵⁷

In a later article Lord Bassam welcomed the increased emphasis on scrutiny committees which resulted from amendments passed in the Report Stage of the Bill in the Lords.⁵⁸

Professors George Jones and John Stewart, writing in the *Local Government Chronicle*, welcomed the Bill but regretted that some options for experimentation such as "council managers"⁵⁹ and directly elected cabinets had been omitted.⁶⁰ They also expressed reservations about some of the modifications to access to information legislation contained in the Schedule. Declan Hall of the Institute of Local Government at Birmingham University examined potential problems such as how to demonstrate that proposals for experimental arrangements would improve the decision making process; and the issue of political

⁵⁴ HL Deb Vol 584, 17.12.97, c693

⁵⁵ HL Deb Vol 585, 12.2.98, c1331

⁵⁶ Robin Hambleton, "Hunting out local democracy", *Municipal Journal*, 12.12.97

⁵⁷ "Local Government's brave new world", *Municipal Journal*, 12.12.97

⁵⁸ "Green paper paves way for local empowerment", *Local Government Chronicle*, 20.2.98

⁵⁹ an officer appointed to be responsible for the day-to-day running of the authority

⁶⁰ "How big a Bill for change?", 19.12.97

relationships between council, executive and the local parties.⁶¹ Jones and Stewart called for clarification of the division of powers between the council and executive.⁶²

Other writers were more strongly critical of the Bill. The Liberal Democrat leader of Dorset County Council, Trevor Jones, was concerned that the experiments sanctioned by the Bill would consolidate decision making in fewer and fewer hands:⁶³

A single party committee, by definition, excludes those councillors who aren't members of the local ruling party. Even worse, delegation to an individual councillor excludes everybody except that individual. The potential for abuse of power is obvious.

Jones suggested that since recent examples of bad practice in local government had been, almost without exception, authorities dominated by one party, proportional representation would be a better way of addressing such problems.

Peter Keith-Lucas, a solicitor with extensive experience in local government, warned that the Bill's relaxation of controls on the delegation of powers risked "breaking up the system of democratic safeguards surrounding decision making".⁶⁴ He suggested that the absence of any power to involve non-councillors in decision making was curious, "given the Bill's aim to ensure council decisions have greater regard to the views of locals [sic]". Keith Lucas also criticised the Bill's implications for access to information, particularly regarding the recording of executive decisions by the mayor or a lead member.

On 5 March 1998 the text of a statement on the Bill by Sir Norman Fowler was published as a Conservative Party press release.⁶⁵ Sir Norman reiterated the Opposition's view that the Bill, which was "self evidently... of constitutional importance", should proceed as a Government Bill rather than a Private Member's Bill. "The Bill therefore is *not* part of the Government programme and currently there is no time available for a Second Reading debate. This is a totally unsatisfactory position and I should make it clear that we are not prepared to see a Bill of this importance simply 'noddled through' on a Friday afternoon."

A front page leader in the *Local Government Chronicle* of 6 March 1998 reported that Liberal Democrat MPs would also oppose the Bill. It stated that "if the Hunt Bill is scuppered before it reaches the statute books, local government will have lost the best opportunity it has had in years to modernise its decision making and enthuse local residents."

⁶¹ "Looking beyond the obvious", *Municipal Journal*, 20.2.98

⁶² "Who will have the final say?", *Local Government Chronicle*, 16.1.98

⁶³ "Experimental strait-jackets don't fit", *Local Government Chronicle*, 16.1.98

⁶⁴ "A high price for a bad Bill", *Local Government Chronicle*, 16.1.98

⁶⁵ "Warning the executive mayors legislation 'will not get through' - Fowler"

III Post Script

On 20 March the *Local Government (Experimental Arrangements) Bill* was objected to and therefore did not receive a Second Reading. It is due to be considered again on Friday 24 April. On 23 March Dr Phyllis Starkey led an adjournment debate on experimental arrangements in local government. She outlined some of the innovations which have already been introduced in a number of authorities within the existing law, but warned that further reforms would be hampered unless the Bill could proceed. The Minister for Local Government and Housing, Hilary Armstrong, offered on behalf of the Government two concessions designed to win cross-party support for the Bill. All-party participation in the drafting of guidance and the approval of experimental schemes would be fostered by the involvement of the Select Committee on the Environment, Transport and Regional Affairs.

As you can see, Mr. Deputy Speaker, this topic, which led to the introduction of a Bill in the other place, has developed in a cross-party way over several years, so the Government were keen to support progress on the topic.

It is not unusual for topics such as this to be introduced by the private Member's Bill route. For example, the Local Government (Access to Information) Act 1985 was introduced as a private Member's Bill by a Conservative Member, Mr. Robin Squire, who was then a Back Bencher. No Government time was provided for the Bill. The Government did, however, support it in the way that the present Government have supported the developments in the other place.

To demonstrate the degree to which we wish to support this initiative, we should be prepared to see much more cross-party involvement, not only in the development of the Bill but in its implementation, should it proceed through Parliament.

Therefore, I would first like to offer to have cross-party consultation on any guidance that legislation of this nature would produce, with all parties closely involved in its drafting in order to ensure maximum cross-party support. Throughout the preparation of any guidance that would attach to such legislation, we would wish to involve parties other than simply the Local Government Association, academics and so on.

For example, we shall invite the Select Committee on the Environment, Transport and Regional Affairs to provide input into the content of any guidance. We believe that that is the best and most appropriate way of involving Members of Parliament from all parties in the preparation of such a document. I propose that because I want any guidance to reflect all-party support for the legislation, which is imperative if we are to renew the political culture in local government. The House must approach the matter in a manner that is more mature than folk outside are used to seeing. We must consider what is in the best interests not of central Government but of local government.

Secondly, I propose to build in all-party participation when considering any submissions in which local authorities set out their plans for experimentation, which legislation of this sort would facilitate. It will be necessary to involve more than hon. Members in this place: it will be important to involve organisations such as the Local Government Association and the Audit Commission in consideration of such proposals. I shall invite the Select Committee to consider applications for inclusion under the provisions of any such legislation prior to a final decision being made by the Secretary of State for the Environment, Transport and the Regions.

I have written already to the Chairman of the Select Committee inviting the Committee to consider this role. It is interested, and will discuss the matter in early April. That is another important step in developing the principle of all-party involvement in any arrangements of this nature. I believe that the proposals allow for cross-party involvement not simply in the passage of legislation but in its implementation if such legislation were to become law.

Nevertheless a report in the *Financial Times* of 24 March quoted the Conservative spokesman Richard Ottaway as saying: "I think we are highly unlikely to be persuaded by this overture."⁶⁶

⁶⁶ "Ministers act over elected mayors: local government Tories offered concession"

Appendix: Executive Management In Other Countries⁶⁷

1. There is a wide range of models of executive management of local authorities in other countries. Some countries have more than one system in operation. Brief descriptions of one tier of local government in France, Italy, Germany (Bavaria and Hesse only), Ireland, Denmark and Sweden, and of the main systems in the United States of America follow.

FRANCE

2. In the communes, municipal councils are elected for six year terms. The council elects a mayor from within their number. His principal responsibilities relate to the budget, but he also has certain functions as agent of the state. He is also responsible for all staff appointments within an establishment approved by the council.

3. The mayor is assisted by a number of adjutants elected by the council from within their number. Usually a party group with a majority will take all the appointments. The adjutants have no powers of their own, but the mayor frequently delegates some of his functions to them. In larger towns this is usually done on a functional basis. It is usual for the mayor and the adjutants to gather and discuss matters, but such gatherings have no formal status.

4. Mayors are usually paid allowances, subject to maxima set centrally. Adjutants are also usually paid allowances.

ITALY

5. The basic structure of the lowest level, the commune, is the same as in France. The middle tier consists of 92 provinces. The council elects an executive from within its membership. The executives (the members of which can form as many as a third of the members of the provincial council) act as a local government, with the members of the executive taking responsibility for various portfolios.

GERMANY

6. Each Land has a separate system, and some have several. Only two are described below.

⁶⁷ Reproduced from a Department of the Environment consultation paper published in July 1991, **The Internal Management of Local Authorities in England**

BAVARIA

7. In communes the First Burgomaster is directly elected for a term of six years. He becomes ex officio chairman of the council and of any council committee on which he chooses to preside. In larger communes the First Burgomaster is a full-time paid officer. (Many will already have been professional officers of their, or another, commune when elected.)

8. Councillors are elected at the same time as the First Burgomaster. Certain matters (for example the budget) need to be decided by the council. All other decisions can be delegated to committees or to the First Burgomaster. The latter is more normal, with the council laying down policy guidelines.

9. The council elects from within their number one or two further burgomasters, who are either full-time or part-time paid officers or honorary officers.

HESSE

10. Each commune has a communal representation consisting of between 15 and 93 members elected for a term of four years. The communal representation elect their chairman from among their members: his duties are limited to presiding at council meetings. By-laws, the budget and fundamental decisions need to be approved by the full council.

11. The executive is the magistracy which consists of a burgomaster and two or more assistants. These may not be members of the communal representation. The burgomaster has a paid office, and up to half the assistants may be paid. The burgomaster and the salaried assistants are elected by the communal representation for a term of six years. The magistracy is responsible for the management of all communal services. It meets in private under the chairmanship of the burgomaster, who has a casting vote.

IRELAND

12. The manager system was introduced in 1929 and then gradually extended until it was made universal in 1942. Managers, like other senior staff, are appointed on the nomination of the Local Appointments Commission. (The local authority have no rights to object to the appointment.) Managers are appointed for each county council and the manager is then responsible not only for managing the services of the county council, but also for all the municipal boroughs, urban districts and health authorities within the county.

13. All the functions of the council are handled by the manager, except for "reserved" functions, where the council must approve the decision. The main reserved functions are: setting the rate, setting the staff establishment, borrowing and making by-laws.

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DENMARK

14. Each commune elects, from among the councillors, a burgomaster who is both chairman and chief executive. He is paid a salary and his term of office is that of the council. The council is forbidden to delegate the more important decisions, but sets a scheme of delegation for the others in a by-law. There must be an economy committee to which financial matters are delegated. This consists of the burgomaster and five other members. Other committees are used on a limited scale, and usually consist of five members and the burgomaster. The committees reflect party strength on the council.

SWEDEN

15. Each commune has a council elected for three year terms. Each council elects a chairman whose power is limited to presiding at meetings. The council also elects an executive committee of at least five members which forms the commune government. The executive committee then elects a chief executive from within their number. The executive committee must include at least one representative of minority political groups. The commune can appoint one or more members of the executive committee or other councillors as full-time officers.

16. A number of statutory committees are required (eg education and traffic) each of which has separate support staff and statutory duties. Few communes have any form of chief officer. Co-ordination is usually through the members of the executive committee who will normally be the chairmen of the specialist committees.

UNITED STATES OF AMERICA

17. In the USA there are four main forms of local government:

- **Weak mayors** are normally elected by the council from within their own number. Their responsibilities were originally mainly ceremonial. Gradually some administrative functions were added, but in this system some functional responsibilities generally also rest with independent boards and commissions.

- **Strong mayors** are directly elected. They are not members of the council which is separately elected. Strong mayors are usually responsible for appointing principal officers. There are also normally independent boards and commissions in this system, but usually fewer than under the weak mayor system. Most strong mayors appoint a Chief Executive Officer who is responsible for co-ordinating the council's functions.

- **City managers** are appointed by the council and are not themselves members of the council. This system was developed in an attempt to import more effective corporate management along business lines. The council retain responsibility for policy direction. But day-to-day administration rests with the city manager. This system is the most common in the USA, particularly amongst larger councils.
- **The commission system** involves the election of a small council with corporate responsibility for the formulation and execution of policy. Each commissioner takes charge of a department or group of departments, but the commissioners are collectively responsible for their acts. There is thus no separate executive.