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Llywodraeth Cymru  
Welsh Government

# **LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL**

## **Explanatory Memorandum**

incorporating the  
Regulatory Impact Assessment and  
Explanatory Notes

**November 2020**

# **Explanatory Memorandum to the Local Government and Elections (Wales) Bill**

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before Senedd Cymru.

It was originally prepared and laid in accordance with Standing Order 26.6 in November 2019, and a revised Memorandum is now laid in accordance with Standing Order 26.28.

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## **Member's Declaration**

In my view the provisions of the Local Government and Elections (Wales) Bill, introduced by me on the 18 November 2019, would be within the legislative competence of Senedd Cymru.

## **Julie James MS**

Minister for Housing and Local Government

Member of the Senedd in charge of the Bill

3 November 2020

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26.6(v)	Summary of outcomes of consultation	Chapter 4 – Consultation
26.6(vi)	Reasons for not publishing Bill (or Part of Bill) as a draft	The requirement of Standing Order 26.6(vi) does not apply to this Bill as a consultation was undertaken on a draft Local Government (Wales) Bill published in November 2015.  In respect of provisions not included in the draft Bill, see Chapter 4 - Consultation
26.6(vii)	Summary of intentions of each of the provisions	Annex 1 – Explanatory Notes to the Local Government and Elections (Wales) Bill
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26.6B	Table of derivations.	Annex 2 –Table of Derivations
26.6C	Schedule of wording of existing legislation significantly amended by the Bill	Annex 3 – Schedule of Amendments

## List of abbreviations in this document

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<b>Legislation</b>	<b>Abbreviation</b>
Fire and Rescue Services Act 2004	FRSA 2004
Fire Services Act 1947	FSA 1947
Local Government (Democracy) (Wales) Act 2013	2013 Act
Local Government (Wales) Measure 2009	2009 Measure
Local Government (Wales) Measure 2011	2011 Measure
Local Government Act 1972	1972 Act
Local Government Act 2000	LGA 2000
Local Government and Housing Act 1989	LGHA 1989
Local Government Finance Act 1988	LGFA 1988
Local Government Finance Act 1992	LGFA 1992
Localism Act 2011	Localism Act
Public Services Ombudsman (Wales) Act 2019	PSOWA 2019
Representation of the People Act 1983	RPA 1983
Senedd and Elections (Wales) Bill	Senedd Bill
Wales Act 2017	Wales Act 2017
Well-being of Future Generations (Wales) Act 2015	WFG Act

<b>Body</b>	<b>Abbreviation</b>
Commission on Public Service Governance and Delivery	Williams Commission
Community and Town Councils	Community Councils
European Union	EU
Local Democracy and Boundary Commission for Wales	Boundary Commission
Office of National Statistics	ONS

## Chapter 1 Description

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1.1 The Local Government and Elections (Wales) Bill (“the Bill”) provides for the establishment of a new and reformed legislative framework for local government elections, democracy, performance and governance.

1.2 The Bill, in summary, proposes:

- Reforms to improve electoral arrangements for local government, including extending the franchise to 16 and 17 year-olds and foreign citizens legally resident in Wales; improving voter registration; and enabling a principal council to choose between the ‘first past the post’ or the ‘single transferable vote’ voting systems
- A general power of competence for principal councils and eligible community councils
- Reforms to increase public participation in local democracy, and improve transparency
- Provision relating to the leadership of principal councils, including encouraging greater diversity amongst executive members and establishing a statutory position of chief executive
- The development of a framework and powers to facilitate more consistent and coherent regional working mechanisms
- A new system for improving performance and governance based on self-assessment and panel performance assessments, including the consolidation of the Welsh Ministers’ support and intervention powers
- Powers to facilitate voluntary mergers of principal councils and the restructuring of a principal area
- Provisions relating to local government finance including measures to address non-domestic rating avoidance and changes to council tax which relate to the removal of imprisonment as a sanction for non-payment and power to exclude classes of persons e.g. care leavers from joint and several liability for council tax.
- Miscellaneous provisions relating to information sharing between regulators, abolition of community polls, fire and rescue authorities, the Boundary Commission and Public Service Boards.

## **Chapter 2 Legislative Competence**

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Senedd Cymru has the legislative competence to make the provisions in the Local Government and Elections (Wales) Bill pursuant to Part 4 of the Government of Wales Act 2006 as amended by the Wales Act 2017.



## **Chapter 3 Purpose and intended effect of the legislation**

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### **Context**

- 3.1 The ways in which we live and work in Wales are constantly changing, and our public service organisations are working hard to keep pace with that change. This Bill is introduced at a time when austerity continues, and relationships and technology are changing the way public services interact with each other, and with the communities they serve.
- 3.2 This Bill aims to provide local government with new ways to support and serve their communities in this challenging context. It also aims to reinvigorate local democracy in Wales. There will be greater opportunities to engage with votes for 16 and 17 year-olds and foreign citizens legally resident in Wales at local government elections.
- 3.3 This Bill will enable a local democracy which reflects our diversity as a nation. It also enables decisions about the future of local government to be rooted in a renewed democracy, driven by active citizenship and transparent political decision making.
- 3.4 We are in a new phase in the relationship between Welsh Government and local government, and between local government and its citizens. There is a stronger focus on ensuring our institutions are governed effectively, with more openness and transparency. There is a new focus on working together to shape the future of sustainable local government in Wales.
- 3.5 Local government is essential to the effective delivery of good quality public services to communities across Wales and the Welsh Government is committed to working with local authorities, to make it sustainable. We want to support local authorities to achieve their ambitions for communities.
- 3.6 This Bill will therefore deliver a major package of reforms, including electoral reform, a general power of competence for principal councils and eligible community councils; more consistent and coherent collaboration and joint working; voluntary mergers and increasing public participation in local government.
- 3.7 The Bill also contains proposals aimed at reforming and strengthening local government accountability and performance, enabling them to deliver modern, accessible, high quality public services for, and with, the communities they serve. Provisions in this Bill will move councils further towards openness and increased transparency. Members of the public will be able to understand more about how councils function, how decisions are made and how they can get more involved in these processes.

- 3.8 The new performance and governance regime intends to promote a culture where principal councils are open to and embrace challenge, whether presented from within the council or externally.
- 3.9 Some provisions in the Bill, particularly the introduction of the general power of competence, will lift some of the restraints that have previously hindered innovation by councils, and will now enable increased ambition for both principal councils and eligible community councils.
- 3.10 This Bill is the basis for a new relationship between Welsh Government, local government and citizens that, by working together, will ensure the sustainability of services into the future.

## **Background to the Bill**

- 3.11 As detailed in chapter 4, the Welsh Government has considered and consulted extensively on options for local government reform in Wales following publication of the report of the Williams Commission<sup>1</sup>.
- 3.12 Consultation on a draft Local Government (Wales) Bill (“draft Bill”), based on the proposals set out in the White Papers ‘Reforming Local Government: Power to Local People’, and ‘Public Services Staff Commission’ was carried out between November 2015 and February 2016. That showed support for the broad principles of many of the draft Bill’s provisions, including those relating to public participation in local government and a general power of competence. A full summary report of the responses was published in July 2016<sup>2</sup>.
- 3.13 Subsequent consultations, by the current Welsh Government, on the White Paper ‘Reforming Local Government: Resilient and Renewed’ (January 2017), ‘Electoral Reform in Local Government in Wales’ (July 2017) and the Green Paper ‘Strengthening Local Government: Delivering for People’ (March 2018) have also informed the Bill as introduced. Extensive engagement with stakeholders, in particular principal councils, both individually and through the Working Group on Local Government, has taken place on the proposals in the Bill. The resulting Bill reflects that engagement.
- 3.14 The following pages describe the purpose of the legislation and its intended effect.

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<sup>1</sup> [Welsh Government | Commission on Public Service Governance and Delivery](#)

<sup>2</sup> [Welsh Government | Draft Local Government \(Wales\) Bill and Explanatory Memorandum](#)

## **Part 1 Elections**

### **Background**

- 3.15 Prior to commencement of the Wales Act 2017, the Senedd had very limited powers in relation to local elections and registration of electors. Its powers in relation to Senedd elections were confined to the appointment of returning officers (where constituencies crossed county boundaries) and regional returning officers, as well as the financing of these elections.
- 3.16 From 31 January 2017, the Senedd has had legislative competence in relation to the administration of elections to the Senedd and local government.
- 3.17 The transfer of competence by the Wales Act 2017 has provided the opportunity for the Welsh Government to review the framework of legislation applying to Welsh local elections.

### **Purpose and Intended effect of the Provisions**

#### Votes for 16 and 17 year-olds

- 3.18 In January 2020 the Senedd and Elections (Wales) Act 2020 received Royal Assent and extended the franchise to 16 and 17 year olds (and qualifying foreign citizens) for the next Senedd elections. Since June 2020 these newly enfranchised groups have been able to make an application to be on the local government register of electors in Wales.
- 3.19 16 and 17 year-olds were allowed to vote in the UK for the first time in the referendum on Scottish independence, held on 18 September 2014. Since the Scottish referendum, 16 and 17 year-olds in Scotland have also voted in Scottish local and Scottish parliamentary elections.
- 3.20 The case for enabling 16 and 17-year-olds to vote has been well-rehearsed. With most of the 16 and 17-year-old cohort being in school, it makes them far more exposed to some form of political education than was the case in previous generations. Use of social media and electronic media sites is high amongst this age group and discussion of major political events is common.
- 3.21 Citizenship and political education are important parts of the curriculum and learners currently have the opportunity to study politics and current affairs through Personal and Social Education (PSE), Education for Sustainable Development and Global Citizenship and the Welsh Baccalaureate. The 'Active Citizenship' theme in the existing PSE framework, the key document which schools and colleges should use to review and develop existing PSE provision for 7 to 19 year-olds, allows learners to develop their knowledge of politics and their rights in a democratic society which is consistent with the principles of the United

Nations Convention on the Rights of the Child. This should mean a more politically aware section of the population.

- 3.22 The 2014 Scottish referendum gives some indication on likely rates of registration amongst 16 and 17 year-olds. 109,533 16 and 17 year-olds registered, estimated at 89% of those eligible. By contrast, it was claimed that 97% of the total eligible electorate registered, suggesting higher registration for the general population than for 16 and 17 year-olds.
- 3.23 However, turnout of 16 and 17 year-olds was estimated at 75%, compared with 54% of 18 to 24 year olds and 72% of 25 to 34 year-olds, though it was lower than for the electorate as a whole (85%). On balance, this presents an argument in favour of extending the franchise, as an early experience of voting could well lead to a maintained engagement, which would hopefully lead on to a greater interest in democratic politics more generally, including standing as a candidate. The lowering of the voting age will require a drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and attending school.
- 3.24 In a debate in the Senedd in May 2013, a clear majority of members were in favour of reducing the voting age. Consultation on the 'Resilient and Renewed' White Paper showed 89% of the respondents who expressed an opinion were in favour. Responses to the electoral reform consultation in 2017 showed strong support for lowering the minimum voting age for local government elections to 16. More than two-thirds of respondents supported the proposal.
- 3.25 The Bill provides for the extension of the local government franchise to allow 16 and 17 year-olds to be able to vote in Welsh local government elections and any poll in Wales which uses the local government franchise such as mayoral elections and referendums from May 2022. This reflects the rights of 16-17 year olds in Senedd elections.

#### EU Citizens and citizens of other countries

- 3.26 The local government franchise currently applies to citizens of the Republic of Ireland, the EU and the Commonwealth.
- 3.27 The Welsh Government see no reason why a person who is resident in Wales and who is lawfully in the country should not be eligible to vote in Welsh local government elections, irrespective of their nationality. This reflects the rights of qualifying foreign citizens to vote in Senedd elections.
- 3.28 The Bill therefore extends the local government franchise to citizens from any country provided that they meet the criteria set out in Section 4(3) of RPA 1983, and can satisfy the local ERO that they are resident in the area in which they wish to register and vote, under Section 5 of RPA 1983.

### The voting system - offering a choice: First Past the Post or Single Transferable Vote

- 3.29 The first past the post (FPTP) system, also known as “the simple majority system”, has been the only voting system used to elect local councils in Wales since the introduction of elected local government in the late 19th century. It is also the system used to elect Members of Parliament, constituency Members of the Senedd and town and community councillors in Wales. Accordingly, it is the voting system with which Welsh voters are most familiar.
- 3.30 Supporters of FPTP take the view that the voting and counting procedures are simple, familiar and relatively cheap, and there is a straightforward relationship between where a candidate finishes in the tally of votes and whether or not they are elected.
- 3.31 The White Paper ‘Reforming Local Government: Resilient and Renewed’ contained the proposal to allow individual principal councils to choose their voting system, the choice being between the FPTP system or the single transferable vote (STV) system.
- 3.32 STV is a preferential voting system, which means voters are asked to rank the available candidates in order of preference, using numbers. Voters may choose to rank all the available candidates or only as many as they wish. STV is considered to be a system of proportional representation. It usually produces results which generally reflect the proportions of votes cast for the different political parties, groups and independents in an individual electoral area and across the election as a whole.
- 3.33 Each election of a principal council is a separate election confined to the area of the council. It is appropriate that the council should decide on its voting system, which best reflects the needs of their local people and communities.
- 3.34 The Bill provides that each principal council may decide for itself on the voting system to use, whether FPTP or STV. A principal council will continue to use the existing FPTP voting system until such time as it may decide to change. A decision to change voting system will require the support of at least two-thirds of the total number of councillors on the council (whether or not present and voting on a proposal to change). If a council has considered and rejected a proposal to change the voting system, the council may not re-visit the issue during the same electoral cycle.
- 3.35 Provision is made to prevent a principal council, having changed to a different voting system, from moving back until at least two ordinary elections have been held under the new system.

- 3.36 A change from one voting system to another would require a fresh electoral arrangements review of the council area, which would be undertaken by the Boundary Commission.

### Five Year Terms

- 3.37 The Bill changes the electoral cycle of principal councils and community councils from four to five-year terms. This would bring local government elections into line with the five-year terms for the UK Parliament (as set in the Fixed Term Parliaments Act 2011) and for the Senedd in GoWA 2006.
- 3.38 70% of respondents to the main electoral reform consultation agreed the term should be set at five years. A smaller majority, 52%, of the respondents to the youth friendly version of the consultation agreed.
- 3.39 The Bill also seeks to provide a regulatory provision to increase the flexibility available to the Welsh Ministers, subject to consultation, to alter not just the year of an ordinary local government election but the date on which that election is held.
- 3.40 The Bill also makes provision to repeal what remains of the legislation in LGA 2000 in relation to elections by halves and thirds which still applies in Wales. No principal council in Wales has expressed an interest in changing to elections by halves or thirds since re-organisation in 1996.

### Electoral registration

#### *Current system of registration*

- 3.41 In order to vote in elections or referendums, an eligible person needs to be on the electoral register. Section 9 of RPA 1983, as amended by RPA 2000, states that:

*“Each registration officer shall maintain -*

*a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and  
a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts”.*

- 3.42 The electoral register is a list of the names and addresses of everyone who is able and registered to vote (or soon to become entitled to vote) and is held and maintained by the ERO for each principal council.
- 3.43 EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. The ERO will send an Invitation to Register (ITR) to any individual they become aware of who is not registered. A Household Enquiry Form is issued annually to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. There is a legal requirement to respond

and ITRs will be sent to anyone responding to the canvass who is not registered.

3.44 In 2014, the UK Government moved from a system of household registration, where the head of the household completed the registration forms on behalf of all members of each household, to a system of individual electoral registration (IER). IER requires an individual when registering to provide their national insurance number and date of birth in addition to their name and address. National Insurance numbers are used for data matching verification with Department for Work and Pensions' records and are then destroyed by the ERO. IER can be completed online through the UK Government's digital system. The rolling registration process enables individuals to register or update their details at any time of the year by informing the ERO.

3.45 There are two versions of the electoral register:

The full register (also known as the closed register) is updated monthly and published once a year. It is used by EROs and Returning Officers for purposes related to elections and referendums.

The edited register, also called the open register, contains the same information as the full register but is not used for elections or referendums. It is updated and published every month and can be sold to any person, organisation or company for a wide range of purposes. Users of the register include businesses and charities for checking names and address details; direct marketing firms and also online directory firms. Individuals can choose whether or not to have their details included in the open register.

### *Improving registration*

3.46 The policy intention is to make it easier for individuals to be included on the electoral register by promoting data-sharing, and removing the requirement for individuals to verify their data by IER where automatic registration and data matching has taken place.

3.47 In evidence to the UK Government's Political and Constitutions Reform Committee's review of voter engagement<sup>3</sup> a number of proposals were considered for improving electoral registration including:

- Prompting people to register to vote when they access a wide range of public services, such as registering to pay council tax, or applying for a passport
- Registering people while they were still in school or college
- A system whereby those eligible to vote could be automatically registered
- Consideration of compulsory voting.

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<sup>3</sup> [UK Parliament | Voter engagement in the UK - Political and Constitutional Reform](#)

- 3.48 Under the 10 minute rule in Parliament a Bill was introduced on 3 February 2016 making provision for the sharing of data for the purposes of electoral registration; and for connected purposes. The Bill did not progress past its First reading.
- 3.49 A further Bill<sup>4</sup> on Automatic Registration was introduced to Parliament on 16 November 2017 and had its first Reading on 11 January 2018. The Bill makes provision for the sharing of data to automatically include individuals on the electoral register. The Bill proposes that when passed the Act would extend to the whole of the UK. A date for the second reading debate is to be announced.
- 3.50 In Australia, legislation allows the Australian Electoral Commission to directly enrol citizens or update their details on the electoral roll based on information received from other government agencies, including the federal social security and national driver license agencies. The Commission writes to prospective electors to inform them that they intend to add their name to the roll or update their details, while also giving the elector an opportunity to change their details if necessary. Canada and some US states also use automatic registration.
- 3.51 The Bill therefore provides for a power for EROs to add an individual to the electoral register without the need for them to apply. EROs would be encouraged to obtain information/data of individuals not included on the electoral register from sources such as council tax records. Where the registration officer is satisfied that the information about a person not in the register of local government electors is correct and is entitled to be registered, the officer may decide to register the person without an application, subject to certain requirements. The registration office would be required to notify the individual that they will be included on the register.

### Candidacy

- 3.52 Currently, to be eligible to stand as a candidate in a local government election in England and Wales a candidate must:
- be at least 18 years old
  - be a British citizen, an eligible Commonwealth citizen or a citizen of any member state of the European Union, and
  - meet at least one of the following four qualifications:
    - to be, and continue to be, registered as a local government elector for the principal council area in which they wish to stand from the day of nomination onwards
    - to have occupied as owner or tenant any land or other premises in the principal council area during the whole of the 12 months before the day of nomination and the day of election

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<sup>4</sup> [UK Parliament | Automatic Electoral Registration \(No. 2\) Bill 2017-19](#)



- have their main or only place of work during the 12 months prior to the day of nomination and the day of election in the principal council area
- to have lived in the principal council area during the whole of the 12 months before the day of nomination and the day of election.

3.53 The Welsh Government are of the view that local government candidacy should not be limited to individuals who are either British citizens, citizens of the Commonwealth or citizens of any member state of the European Union. The Bill therefore amends the eligibility criteria for candidates at local government elections to allow a citizen of any country to stand for election. This is subject to the other qualifying criteria, such as age and residence. All disqualification criteria will continue to apply.

*Allowing council staff to stand for their own council*

3.54 Officers and staff in principal and community councils generally have a thorough understanding of their communities and a deep commitment to improving their well-being. Many might themselves make effective elected members, but there are restrictions on some officers and employees of a council standing for elections. All council employees and officers (including school staff) can stand for election to another council unless they hold a politically restricted post (generally higher paid officers). However, any paid officers or employees of a council are currently disqualified from standing or being elected members of their employing or appointing council. This means that those council employees and officers need to resign from their job before they announce their candidacy.

3.55 The Welsh Government recognises the need for checks and balances to ensure the integrity and impartiality of advice offered by officers to elected members. However, given that principal councils are major employers in all areas of Wales, these restrictions may be preventing a wide range of suitable candidates from diverse backgrounds from coming forward to stand for election in their local area.

3.56 Whilst any person who is disqualified currently from standing may resign their post to stand for election, this is a significant disincentive due to the risk it carries for the individual. In Scotland these individuals are only required to resign their paid employment with the council once they are elected.

3.57 61% of respondents to the electoral reform consultation agreed that council staff below senior level should be able to stand for election to their own council.

3.58 The Bill provides that council officers and employees, other than those holding politically restricted posts, will be entitled to stand for election to their own council. They will only be required to resign their paid employment with the council if they are elected. This will widen the pool

of potential candidates while ensuring there is no conflict of interest once the candidate is elected.

### *Disqualification criteria for standing as a councillor*

3.59 Section 80 of the 1972 Act sets out the disqualification criteria for election and holding office as a member of a local authority. A person is disqualified if he or she (in summary):

- is employed or appointed by a local authority
- is subject to a bankruptcy restrictions order or debt relief restrictions order
- has within 5 years before being elected or at any time since being elected, been convicted in the UK, Channel Islands or Isle of Man of any offence and received a sentence of imprisonment (suspended or not) for a period of not less than three months without the option of a fine
- is disqualified under Part III of the Representations of the People Act 1983
- is employed under the direction of various local authority committees or boards
- is a teacher in a school maintained by the local authority.

3.60 The UK Government consulted at the end of 2017 on expanding the disqualification criteria to include individuals who are subject to a notification requirement under the Sexual Offences Act 2003. This is commonly referred to as being on the sex offender register. The UK Government's consultation applied to England only. The responses have been analysed<sup>5</sup> and the UK Government intend to seek to legislate to ensure individuals are disqualified from standing for office as local authority members or mayors in England where behaviour has led to a conviction or enforcement action resulting in an individual being subject to one or more of the following:

- the notification requirements in the Sexual Offences Act 2003
- a Sexual Risk Order
- a civil injunction
- a Criminal Behaviour Order

3.61 Welsh Ministers believe the disqualification criteria for standing as a councillor should be extended in Wales to include individuals who are subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003. Disqualification of individuals subject to a civil injunction or a Criminal Behaviour Order will not be adopted in Wales.

3.62 The Bill therefore amends the disqualification provisions in Wales to disqualify individuals, from standing for election, or holding office as a member of a principal council or community council in Wales, if they are

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<sup>5</sup> [GOV.UK | Disqualification criteria for councillors and mayors](https://www.gov.uk/government/consultations/disqualification-criteria-for-councillors-and-mayors)

subject to a the notification requirements of, or an order under, the Sexual Offences Act 2003.

### Returning Officers

- 3.63 Returning Officers are appointed under RPA 1983 and are responsible for the conduct of elections. Every principal council is required to appoint an officer of the council to be the Returning Officer for the election of councillors to their principal council. The duties of the Returning Officer are separate from their duties as a local government officer. The Returning Officer of a principal council is usually, although not always, the principal council's chief executive.
- 3.64 Current practice means that Returning Officers often reclaim an amount for their services and expenses incurred in the running of an election from the body responsible for the funding of the elections. (For Welsh elections, this means the Welsh Government for Senedd elections and individual principal councils for principal and community council elections. The costs associated with community councils elections can be reclaimed by the principal council from the community council).
- 3.65 In recent years, however, significant public attention has been paid to the level of salaries payable to senior public servants at a time of general restraint and limitations over pay more generally. This has included the issue of Returning Officers fees, which, in some cases, are claimed in multiples. (This is the case in Senedd elections, for instance, if a Returning Officer covers more than one constituency and/or is appointed as Regional Returning Officer for the purpose of the election of Regional Members of the Senedd). The negative view of senior salaries was confirmed by responses to the electoral reform consultation.
- 3.66 The Local Government and Communities Committee of the Scottish Parliament conducted an enquiry into payments to Returning Officers in Scotland. In their report<sup>6</sup>, published in January 2017, they made a number of recommendations to the Scottish Government which included ending the current system of payments to Returning Officers.
- 3.67 The Bill therefore restates that Returning Officers can only claim expenses properly incurred in the running of a local government election in Wales. Personal fees in respect of services rendered during the conduct of a local government elections cannot be claimed as they are not "expenses". It is proposed that the personal fee will also be removed for Senedd elections when an order is next made under article 23 of the National Assembly for Wales (Representation of the People) Order 2007 (currently the National Assembly for Wales (Returning Officers' Charges) Order 2016 is in force).

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<sup>6</sup> [Scottish Parliament | Payments to Returning Officers in Scotland](#)

## Electoral Wards

- 3.68 The 2013 Act introduced the term “electoral ward” to describe the area within a principal council represented by a member of that council. Each principal area is divided into electoral wards, representing the areas for which councillors are elected. The view of Welsh Ministers at that time was that the term ward was always used when referring to “electoral divisions” and it was therefore the most appropriate term to use legally.
- 3.69 Prior to this, under the provisions of the Local Government (Wales) Act 1994, such areas were described as “electoral divisions”. The rationale for this was to distinguish them from “community wards”, the areas represented by community councillors in community councils whose areas were divided into wards.
- 3.70 The Bill makes consequential amendments to change “electoral division” in existing legislation to “electoral ward” to reflect the terminology used in the 2013 Act. This is purely a technical change to ensure consistency in terminology.

## **Part 2 General Power of Competence**

### **Background**

- 3.71 The role of local government is not set out in any single piece of legislation, but is defined by the powers and duties (“functions”) conferred upon them over time. Local government functions are set out in, and limited by, legislation. No principal council or community and town council can act without legal authority. Activity carried out in the absence of statutory powers would be deemed *ultra vires* – unlawful.
- 3.72 The idea of removing this limitation by introducing some form of ‘general power of competence’ for local government can be dated back at least to 1967. The report of the Maud Committee on ‘Management of Local Government’ noted:

*“Ultra vires as it operates at present has a deleterious effect on Local Government because of the narrowness of the legislation governing Local Authorities’ activities. The specific nature of legislation discourages enterprise, handicaps development, prevents the community of services which the Local Authority may render, and encourages too rigorous oversight by central Government. It contributes excessive concern over legalities and fosters the ideas that the Clerk should be a lawyer.”<sup>7</sup>*

- 3.73 Section 111 of the 1972 Act provides county, county borough and community councils with a power to do anything which is calculated to facilitate, or is incidental to, the discharge of their functions. Section

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<sup>7</sup> *Management of Local Government*, HMSO, 1967, para.283

137(1) of the 1972 Act provides community councils with the power to incur expenditure for certain purposes not otherwise authorised, that is, on activities which they consider would directly benefit their area but for which they have no other specific statutory power. Community councils have made frequent use of the power within section 137(1).

- 3.74 If there is a statutory prohibition on a community council carrying out a particular function, section 137 cannot be used to circumvent this. The expenditure that community councils can incur under section 137 is limited to a specific amount per elector.
- 3.75 Over time, there have been calls for more general powers and, in response, section 2 of LGA 2000 introduced a power (the “well-being power”) for county and county borough councils. This power was extended to community councils by the 2011 Measure.
- 3.76 The well-being power enables county, county borough and community councils to act in any way that they consider would improve the economic, social or environmental well-being of their area or people in their area, as long as they are not otherwise prohibited or restricted from doing so by other legislation. For community councils, the well-being power is subject to the same financial limit as section 137 of the 1972 Act.
- 3.77 There is a perception that the well-being power is too limited and may prevent principal councils and community councils acting innovatively in reliance upon it for fear that they would be found to have acted outside the scope of the power. An evaluation report for the Department of Communities and Local Government in 2008 noted that lawyers played a critical role in encouraging or discouraging use of the power and concluded that use of the power of well-being remained limited over the life of the evaluation as Local Authorities had a tendency to use more specific powers to achieve their goals.<sup>8</sup>
- 3.78 This reluctance increased following a 2009 decision of the Court of Appeal (“the LAML case”<sup>9</sup>). In particular, the judgement raised doubts about whether local authorities had the power to act in their own financial interest to generate efficiencies and secure value for money outcomes.
- 3.79 The Regulatory Impact Assessment for the Localism Bill, which introduced a general power of competence for local authorities in England, stated in 2011:

*“Although there is a lack of recent information on precise take up, the message from Local Authority representative groups is that there has been a loss of confidence in the existing well-being provisions following the London Authorities Mutual Ltd case. It was this loss in confidence that has promoted calls for a general power of competence by the Local Government Association among others.”*

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<sup>8</sup> Evaluation of the take-up and use of the well-being power, DCLG, 2008,p.1

<sup>9</sup> Brent London Borough Council v Risk Management Partners Ltd (2009) EWCA Civ 470.

- 3.80 Responses to previous local government reform consultations in 2015 and 2017 have been consistently supportive of the move towards the general power of competence for principal councils, and for community councils, subject to certain criteria being met.
- 3.81 The 2017 consultation recorded that 75% of the online respondents to the consultation agreed that community councils should be subject to meeting eligibility conditions in return for greater rights and responsibilities. Eleven of the fifteen principal councils that responded, the Welsh Local Government Association and One Voice Wales were all broadly supportive of the introduction of eligibility conditions for community councils.

### **Purpose and Intended effect of the Provisions**

- 3.82 The Bill provides principal councils and eligible community councils ('qualifying local authorities') with a general power of competence, with the aim of bringing about more effective, capable and innovative local government.
- 3.83 The general power will allow qualifying local authorities to act in their communities' best interests, generate efficiencies and secure value for money outcomes. They will also be able to raise money by charging for discretionary services and to trade in line with existing powers.
- 3.84 In addition, the general power will allow qualifying local authorities to engage in activities potentially judged to be outside the remit of well-being power within LGA 2000. It is considered the general power will allow qualifying local authorities to be more innovative, and move away from a position where they have to identify a specific power in order to undertake a particular activity, to one in which it is assumed they can do something unless there is a statutory restriction preventing it.
- 3.85 Specifically in relation to 'eligible community councils', the general power will empower this tier of local government, so it is better placed to be part of the Welsh public service in the future and can better contribute to local well-being and community resilience. Access to the general power will enable them to be ambitious and innovative.
- 3.86 The restrictions on the use of the general power are in line with similar restrictions placed on councils in England in relation to their use of the general power of competence in the form that has applied in England since 2012<sup>10</sup>.

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<sup>10</sup> [Legislation.gov.uk | Localism Act 2011 \(Part 1\)](https://legislation.gov.uk/ukpga/2011/22/part/1)

## **Part 3 Promoting Access to Local Government**

### **Background**

- 3.87 Political decision-making should take place in the public eye. Local authorities should ensure their citizens are kept informed of policy developments and have the opportunity to be consulted on policy changes.
- 3.88 In June 2012, the Wales Audit Office produced a report entitled 'Public Engagement in Local Government'<sup>11</sup> which included recommendations that councils:
- improve their public engagement activity
  - consider ways in which they could instil a culture which empowered citizens to produce solutions to the challenges facing them
  - improve their systems for collecting and storing data from public engagement; to develop targets for public engagement
  - improve their speed of feedback to the public
  - improve their performance management arrangements so that they can measure the impact of public engagement.
- 3.89 The Welsh Government supports these recommendations and supports this process by putting in place certain requirements relating to public engagement and participation.

### **Purpose and Intended effect of the Provisions**

- 3.90 The intention is to encourage a more diverse range of members of the public to engage with local democracy. The majority of respondents to the draft Bill consultation agreed anything which improved public participation in local government was valuable. The provisions in this part will require principal councils to encourage public participation in their decision-making and scrutiny procedures. The proposals are also intended to support openness and transparency.

#### **Public participation strategy**

- 3.91 Principal councils will be required to encourage local people to participate in local government. In addition, councils will be required to prepare, consult on, publish and review a 'public participation strategy', with the aim of making it easier for members of the public to understand how local government functions; how it makes decisions; and how local people can follow proceedings, input their views, and have them taken into account.

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<sup>11</sup> [Wales Audit Office | Public Engagement in Local Government](#)

### Petition scheme

- 3.92 In order to promote greater and more effective use of petitions within the local government sector, the Bill includes provisions to require a principal council to make a petition scheme setting out how it will handle and deal with petitions, including e-petitions. Such a proposal is similar to schemes already in place within a number of public bodies in Wales, such as the Senedd. Encouraging the use of electronic petitions specifically is in line with the Welsh Government's digital agenda.
- 3.93 Elected members should be freely accessible to local people. A duty will be placed on principal councils to publish an electronic and postal address for each member of the council on its website to support this objective. A council address may be used if the member wishes to protect the privacy of their home address.

### Constitution guides

- 3.94 Section 37 of LGA 2000, requires principal councils to adopt a constitution which sets out their standing orders and rules relating to procedures, conduct, and role specifications relating to the governance, administration, finances, commercial and collaborative activities of councils. Their purpose is to enable elected members, officers, the public and stakeholders to understand how the council makes decisions and sets out who is responsible for those decisions.
- 3.95 The result is county or county borough council constitutions in Wales which range from around 250 pages to over 450. While council constitutions may need to be lengthy to fulfil the requirements of the legislation, it is questionable whether documents of this length help an ordinary member of the public to understand local government decision-making, or help communicate the values of a council to the people it serves.
- 3.96 In response to the consultation on the White Paper 'Reforming Local Government: Power to Local People', 92% of online respondents agreed "*Local Authorities should set out in plain language their values and the principles they will use to operate their constitution*". There was also support amongst the free-form respondents, with many highlighting the need for constitutions to be people instead of process focused.
- 3.97 The Bill will require principal councils to prepare and publish a guide to their constitution, which explains in ordinary language the content of their constitution. This will be a layperson's guide to their constitution, enabling the general public to understand how the council operates and makes decisions. The intention is to make it easier for local people to understand how their council functions.

### Access to meetings

- 3.98 The way people interact with each other and with public services have changed significantly in recent years. In previous years, the Welsh



Government has given substantial political and financial support to the introduction of broadcasting of council meetings through on-line web streaming. This has improved significantly the opportunity for the public to follow proceedings in their local council. However, whilst most councils have introduced webcasting for council meetings, some have ceased doing so and a minority have never undertaken any webcasting.

- 3.99 The Welsh Government believes people should be able to watch council meetings at any time. The Bill will therefore require principal councils to broadcast those meetings which are open to the public electronically as they take place, and to make the broadcast available electronically for a reasonable period after the meeting.
- 3.100 The Bill makes provision for public participation at community council meetings which are open to the public. The provision will give members of the public in attendance a reasonable opportunity to make representations about any business to be transacted at the meeting.

#### Remote Attendance

- 3.101 Remote attendance at principal council meetings was a reform introduced through the provisions of the 2011 Measure, intended to support the membership of principal councils. Its enactment built on the proposals of the Expert Panel on the Councillors' Commission, whose report 'Are we Being Served?' said:

*"Many councils in Wales are already introducing 'paperless' systems but the Panel believe that more could be done to make it easier for working people in particular to contribute, for example, by considering attendance at meetings via video conferencing and remote voting."*

- 3.102 Remote attendance, although piloted in a few councils, has proved to be very difficult to introduce. In most councils, members have decided there is no need for it as they would always intend being at the council offices. Even with the advent of web streaming council meetings, contractors have been reluctant to attempt to provide for remote attendance because of the technical challenges posed by the specific requirements of the 2011 Measure.
- 3.103 Despite this, remote attendance is seen as a potentially important reform, particularly in the encouragement of diversity, with hopefully more employed elected members and more with caring responsibilities being able to stand for election. The majority of respondents to the draft Bill consultation supported improving the provisions for the use of remote attendance. Respondents recognised this was an appropriate issue to consider, especially as technologies in this area improved. Respondents were in favour of increasing the variety of technology which could be utilised, and felt this would prove particularly useful within a larger principal council, and was seen as a positive step.
- 3.104 The Bill therefore modifies the provisions in the 2011 Measure with the intention of making it easier for remote attendance to operate.

Essentially, the conditions attached to the operation of remote attendance within the 2011 Measure are removed, in favour of leaving the principal council's standing orders to specify the conditions about how it should operate within that council. In addition, the chair of the meeting will need to be happy that the conditions for remote attendance are satisfied in the case of any particular meeting.

#### Notices of meetings

- 3.105 The Bill also makes provision in relation to notices of principal council and community council meetings.
- 3.106 Much of the legislative provision governing the meetings and proceedings of council business is contained in section 99 of, and Schedule 12 to, the 1972 Act and reflects the practices of the time. Provision for access to meetings and documents of certain authorities, committees and sub-committees is set out at Part VA of the Act. While many of the provisions remain relevant, there is scope to modernise them. Schedule 12 predated the internet and the production of electronic documents and use of electronic communications.
- 3.107 Provision is therefore made to amend the law relating to meetings in order to modernise the rules governing the meetings and proceedings of principal councils and community councils. For example notices of meetings may be published electronically.

#### Community Council Annual Reports

- 3.108 An Independent Review on the future of community councils in Wales reported its findings in October 2018. The recommendations included that all community councils should be required to report annually on their work.
- 3.109 The Bill requires community councils, as soon as reasonably practicable after the end of each financial year, to prepare and publish an annual report about the council's priorities, activities and achievements during that year.

## **Part 4 Local Authority Executives, Members, Officers and Committees**

### **Purpose and Intended effect of the Provisions**

#### Chief Executives

- 3.110 The term "chief executive" (occasionally "managing director") is widely used throughout local government in Wales to denote the head of a principal council's administration, but the title is not found in local government legislation. The principal responsibility of chief executives is to ensure the good governance of their council so that the organisation is capable of delivering the executive's objectives and

discharging the other statutory functions of the council, in a way which is lawful and fiscally appropriate.

- 3.111 Section 4 of LGHA 1989 places a duty on principal councils to designate one of their officers as the “head of paid service” and principal councils must provide the head of paid service with the staff, accommodation and other resources to allow him or her to perform their duties. LGHA 1989 requires the head of paid services to prepare, where they consider it appropriate, a report on their proposals in respect of a list of ‘matters’. These matters are listed in section 4(3) of LGHA 1989 and comprise:
- the manner in which the discharge by the authority of their different functions is coordinated
  - the number and grades of staff required by the authority for the discharge of their functions
  - the organisation of the authority’s staff
  - the appointment and proper management of the authority’s staff.
- 3.112 The statutory role of head of paid service is almost always exercised by the officer more usually referred to as the chief executive (or managing director), but there is nothing in legislation to require the head of paid service to be combined with that of the chief executive, nor is there any statutory definition of any other duties of a chief executive in a principal council.
- 3.113 For local government to operate effectively with clear and resilient governance arrangements there needs to be clarity about roles and responsibilities.
- 3.114 The leader, not the chief executive, is the spokesperson for the council on policy matters, while the chief executive is responsible for management of the principal council and its staff, who are charged with carrying out the decisions of the council and its leadership.
- 3.115 In the White Paper ‘Power to Local People’, the Welsh Government consulted on a requirement to appoint a chief executive, management of the chief executive’s performance and a clear separation of the leader’s and chief executive’s responsibilities, and the status of the role of ‘Head of Democratic Services’. The majority of respondents were in agreement with the proposals.
- 3.116 The provisions in the Bill will clarify the role of the chief executive in a principal council and their relationship with the council, the leader / elected mayor and other elected members. The provisions will require a principal council to appoint a chief executive, and will define in law the post of a principal council chief executive officer. This post will encompass the role of ‘Head of Paid Service’ as well as new duties with regards to performance and improvement. In this way, the chief executive will be clearly accountable both for the management of the council’s staff and also for ensuring the council’s officers carry out the necessary steps to achieve the executive’s policy intentions. The

purpose of the provisions is to ensure the effective governance of principal councils.

### Executives of principal councils

- 3.117 In the White Paper 'Power to Local People' the Welsh Government consulted on whether there should be a role for deputy cabinet members, with the aim of enabling executives to reflect the diversity of society and giving an opportunity for members to gain experience to better prepare them for being appointed to the executive. The majority of respondents were in favour. The Bill will enable the appointment of elected members as 'assistants to the executive'. However, the Welsh Government believes the present upper limit of 10 on the number of members of the executive is sufficient, therefore these provisions do not permit assistants to the executive to be members of the executive for the purposes of remuneration or voting on decisions of the executive etc.
- 3.118 The Welsh Government also consulted on proposals to require a leader or elected mayor of a principal council to have regard to equality and diversity when selecting members of the executive. This was supported by the majority of respondents. The Bill makes provision enabling the Welsh Ministers to issue guidance designed to encourage good practice in relation to equality and diversity. A principal council, an executive leader or an elected mayor will be obliged to have regard to the guidance when exercising functions relating to executive arrangements, including the appointment of executive members.

### Job Sharing in Principal Councils

- 3.119 To promote diversity in office holders in principal councils, the Bill makes provision to facilitate, and empowers the Welsh Ministers by regulations to enable and facilitate, the sharing of certain offices within principal councils, such as executive leader, member of the executive, committee chair and presiding member. In the case of the executive, the Bill also makes provision to ensure that the maximum size of the executive (10 members) as set out in the LGA 2000 can be exceeded to accommodate job-shared cabinet posts.
- 3.120 Executive arrangements must include provision enabling two or more councillors to share a cabinet post, including the position of executive leader. This will offer more councillors the opportunity to participate as a cabinet member, and enable executives to better reflect the diversity of their relevant area.

### Family absence in Principal Councils

- 3.121 The 2011 Measure introduced a system of family absence for principal councils in Wales. The system was intended to require local authorities to extend to councillors similar family absence entitlements available to officers of those authorities. The objective was to remove some of the

barriers which restrict the ability of people with family responsibilities from seeking to become candidates.

- 3.122 Changes in statutory family leave arrangements have, in part, been updated. As there has been no corresponding change in the provisions for family absence set out in the 2011 Measure and the underpinning regulations the arrangements for family absence for councillors of principal councils are now out of step.
- 3.123 The provisions in the Bill remove the obstacles which might prevent the regulations from being able to keep in step with UK employment law.

#### Ethical framework

- 3.124 Part 3 of LGA 2000 established a statutory framework to promote and maintain high standards of ethical conduct by members and employees of relevant authorities in Wales. A 'relevant authority' is a county or county borough council ("a principal council"), community council, fire and rescue authority and a national park authority.
- 3.125 Engendering a culture within a principal council which embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.
- 3.126 The White Paper 'Reforming Local Government: Power to Local People' stated that councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, if a more diverse range of people is to be encouraged to seek elected office in local government. The White Paper noted that standards of behaviour were key to this and expressed concern that an overly 'macho' culture in some authorities might be acting as a deterrent to women, in particular, standing for office.
- 3.127 To complement the existing statutory ethical framework, the White Paper proposed that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of diversity and to combat bullying and harassment amongst elected members and council staff.
- 3.128 The Bill provides that leaders of political groups must take reasonable steps to promote and maintain high standards of conduct by the members of their group. In doing so, a group leader must co-operate with the council's standards committee in the exercise of its functions to promote and maintain high standards of conduct. In turn, a standards committee has new functions under the Bill to ensure group leaders have access to advice and training to support their new duties and to monitor group leaders' compliance with those duties.
- 3.129 Local standards committees play an important role in supporting members, individually and collectively, to develop and maintain a culture which embraces high standards of conduct. It is important that standards committees review their work periodically and report

significant matters they have dealt with and any emerging trends to their council. Standards committees will be required after the end of each financial year to make an annual report to the authority describing how the committee's functions have been discharged during the financial year and setting out an overview of conduct matters within the council. The council will be obliged to consider the report and any recommendations made by the standards committee within 3 months of receipt.

### Public Services Ombudsman for Wales

- 3.130 The Public Services Ombudsman for Wales ("the Ombudsman") has powers under section 69 of LGA 2000 to investigate allegations that a member of a relevant authority in Wales has, or may have, failed to comply with their authority's code of conduct.
- 3.131 The Welsh Ministers have powers under section 70 of LGA 2000 to make an order which applies or reproduces any provisions of sections 60-63 of that Act, as those sections had effect immediately before their repeal (by the Localism Act), for the purpose of any investigation under section 69. Prior to their repeal, sections 60-63 dealt with a number of practical matters relating to the investigation by an ethical standards officer in England, including conflicts of interest, powers to obtain and disclose information and protection from defamation proceedings. The Public Services Ombudsman for Wales (Standards Investigations) Order 2006 (as amended) was made pursuant to the Welsh Ministers' powers in section 70.
- 3.132 Following the repeal of sections 60-63 of LGA 2000, concerns have been expressed by the Ombudsman and others about the inaccessibility of the law, given that these sections no longer appear on legal databases. The opportunity presented by the Bill has been taken, therefore, to address this problem by placing equivalent provision for investigations on the face of LGA 2000. No substantive changes have been made to the effect of the law, but in drafting the provisions account has been taken of modern drafting approaches and, where appropriate, the Ombudsman's powers relating to the investigation of maladministration and service failure in PSOWA 2019.

### Overview and scrutiny committees

- 3.133 The Welsh Government consulted in the White Paper 'Power to Local People' on proposals to make the role of scrutiny within a principal council more effective and to ensure the local community has a greater involvement in the scrutiny of council policies.
- 3.134 Section 22(10) of LGA 2000 enables the Welsh Ministers to make regulations requiring the provision of information about decisions the executive have made or intend to make. In England regulations have been made regarding what are commonly known as 'key decisions', that is, decisions which have a significant financial implication or a significant effect on local communities. To date, the Welsh Government has not

made such regulations. As indicated in 'Power to Local People', the intention is to do so, in order to ensure scrutiny committees are given sufficient notice of important decisions before they are made, so they may scrutinise the executive more effectively. The Bill amends section 22(10) of LGA 2000, so that regulations may require that scrutiny committees and their sub-committees are given such notice.

- 3.135 The Bill amends a regulation-making power in the 2011 Measure so that regulations may require principal councils to establish a joint scrutiny committee. The amended regulation-making power could be used to require councils to establish a joint scrutiny committee where services are being provided across those councils' areas. The purpose of this provision is to ensure effective and efficient scrutiny of services delivered in collaboration.

#### Training of members and staff of community councils

- 3.136 The draft Bill contained provisions which would have placed responsibility on principal councils for deciding what training should be compulsory for community councils, and to secure that training.
- 3.137 The broad tenor of the consultation responses was supportive of the proposal that all community councillors should receive training in certain core areas. However, some consultees raised concerns about whether the principal council was the most suitable body to determine which training should be compulsory for community councillors, and whether it would be appropriate to expect principal councils to secure the provision of such training. In addition, concern was raised about the training being made compulsory as community councillors, in many cases, fit the role in around other commitments.
- 3.138 The Bill therefore requires community councils to consider and address the training needs of members and staff. This can be undertaken in a proportionate way recognising the current variation in the scope of what individual councils are responsible for. The purpose of the provisions is to make community councils and their staff more effective and capable, to improve their administration and governance so that they are better able to perform their responsibilities.
- 3.139 It is not the intention to ensure that each and every councillor necessarily receives training on the same subjects but to seek to bring about a situation where the councillors as a group, and the staff collectively, possess the knowledge and awareness they need to operate effectively. This takes into account that some community councils have only one member of staff, the clerk, and some smaller community councils actually share their clerk with one or more other community councils.

## **Part 5 Collaborative Working by Principal Councils**

### **Background**

- 3.140 Following the consultation on the Green Paper 'Strengthening Local Government: Delivering for People' in 2018, the Welsh Government and local government established the Working Group on Local Government. Its purpose was to work, through partnership and mutual respect, to develop a shared agenda for reform which ensures the sustainability of local government and local service provision.
- 3.141 As part of this role, the Working Group reviewed existing regional working arrangements in local government and the appetite and priorities for increased future collaboration.
- 3.142 In June 2019 the Minister for Housing and Local Government published the recommendations of the Working Group. The recommendations cover a number of areas including shared services, voluntary mergers, powers and flexibilities, diversity in local government, and the mutual respect agenda.
- 3.143 A key recommendation of the Working Group was the need for more consistent mechanisms and structures to support regional working and collaboration - a mechanism that would retain local democratic accountability and deliver consistency and simplification to collaborative arrangements.

### **Purpose and Intended effect of the Provisions**

- 3.144 Following the recommendations of the Local Government Working Group, the Bill will provide a framework for regional collaboration. The framework will both support and encourage regional working and collaboration through a more coherent, consistent, simplified and democratically controlled mechanism.

### **Corporate joint committees**

- 3.145 These corporate joint committees will be 'bodies corporate', established in statute, which will enable them to have functions vested in them, directly employ staff, hold assets and manage finances. The Bill will provide for the establishment of these corporate joint committees.
- 3.146 The Bill will enable the creation of corporate joint committees by regulations. The Bill will set out the process by which they are established, and how they can be changed once they are established. The detail of which principal councils will be part of a corporate joint committee; what functions they will be responsible for; and how they will operate will be determined as part of the regulations establishing the body.



3.147 This Bill allows that corporate joint committees will be able to be established by two routes:

- At the instigation of two or more principal councils (in relation to any of the functions they exercise)
- At the instigation of Welsh Ministers (in relation to a number of limited and specified functions)

*Corporate joint committees established at the instigation of two or more principal councils*

3.148 Two or more principal councils will be able to instigate the establishment of a corporate joint committee. This would need to be done via regulations (since as statutory bodies they will only be able to undertake functions which have been conferred on them) but the process for doing so would be proportionate and reflect the emphasis on empowering principal councils and providing them with the tools they need to innovate and deliver their services. The Bill enables principal councils to ask Welsh Ministers to make regulations on their behalf to establish a corporate joint committee. The presumption would be in favour of the regulations being made.

3.149 Principal councils would also be able to transfer additional services or functions into already established corporate joint committees where there was agreement amongst the constituent authorities. This would also need to be done via regulations.

3.150 The process for principal councils to establish a corporate joint committee is not intended to be prescriptive, though the Bill will require principal councils to consult 'appropriate/relevant' people before asking for regulations to be made. There is an expectation that corporate joint committees will be instigated on the basis that it is more economic, efficient and effective to exercise the proposed activities or functions collaboratively than being done by the principal councils alone - that collaboration is a means to an end and should be underpinned by a case for change.

*Corporate Joint Committees established at the instigation of Welsh Ministers*

3.151 The Bill will enable Welsh Ministers to instigate the establishment of a corporate joint committee to exercise functions without a request from principal councils but only in relation to certain functions which are specified on the face of the Bill. The areas where Welsh Ministers can instigate the establishment of a corporate joint committee are transport, economic development, strategic planning for the development and use of land and improving education.

3.152 These are largely areas where there are existing regional arrangements, where the case for regional working has been established and where there is scope to bring consistency and discipline to the Welsh Government's approach to regional working arrangements across different policy areas. For example, there is existing provision in

legislation for Strategic Planning Panels in land use planning and Joint Transport Authorities in transport. Corporate joint committees in these areas would look to consolidate approaches providing for more simplified and consistent regional working.

- 3.153 It is important to note that not all functions within the listed service areas will necessarily be vested in a corporate joint committee. Inclusion in the Bill just provides the *power* to establish corporate joint committee in these areas. There would still need to be regulations establishing them and detailing the specific functions they would undertake. These regulations would be subject to consultation.
- 3.154 The Bill also enables principal councils to request that regulations be made adding (or removing) functions from a corporate joint committee. Welsh Ministers could also add or remove functions, but only in relation to the areas specified in the Bill.

#### Removal of other regional working mechanisms

- 3.155 The Bill also repeals two pieces of existing legislation which enable the creation of collaboration or regional working mechanisms. The repeal of this legislation is necessary to deliver the policy intent of simplifying arrangements and providing a single consistent regional working mechanism through the establishment of corporate joint committees. The intent is to enable better coordination between planning, transport and economic development within a single body with responsibility for these closely related functions.
- 3.156 The Bill will repeal section 60D of the Planning and Compulsory Purchase Act 2004 (as inserted by the Planning (Wales) Act 2015) which allows Local Planning Authorities (including National Park Authorities) to put forward proposals for the establishment of Strategic Planning Panels for the purpose of preparing a Strategic Development Plan. Welsh Ministers are also able, under this section, to designate a strategic planning area and establish a Strategic Planning Panel for the purpose of preparing a Strategic Development Plan.
- 3.157 Section 5 of the Transport (Wales) Act 2006 will also be repealed, removing the power for Welsh Ministers to establish, by Regulations, Joint Transport Authorities for the delivery of transport functions on a collaborative basis.

## **Part 6 Performance and governance of Principal Councils**

### **Background**

- 3.158 Principal Councils are highly complex organisations. Each year, they spend many millions of pounds of public money, delivering hundreds of services to thousands of people. Citizens rightly expect them to be run with high standards of financial rigour, careful consideration of the

current and future needs of their people and communities, and a focus on performance improvement.

- 3.159 The current improvement programme for principal councils is driven through the 2009 Measure which requires principal councils to produce a plan setting out how they will make improvements, this plan is subsequently reviewed by the Wales Audit Office.
- 3.160 This system has become process orientated and Improvement Plans (a required output of the 2009 Measure) have tended to focus on activity or outputs which can be easily measured.
- 3.161 The White Paper 'Power to Local People' therefore put forward proposals in respect of:
- the corporate governance of principal councils,
  - self-assessment and peer review,
  - the powers of Welsh Ministers to intervene, and
  - the repealing part 1 of the 2009 Measure.
- 3.162 Based on the White Paper proposals, arrangements for a new improvement regime are set out in Part 6 of the Bill. The provisions in the Bill reflect the consultations on the White Paper and draft Bill.
- 3.163 The provisions provide the framework for a system which will support innovation in service re-design and encourage proactive responses from principal councils to address declining performance.
- 3.164 The timescales for reporting under the present system are also an issue. The production of a plan, an audit of the plan, and the reporting by the Wales Audit Office often takes in excess of six months. This means that by the time Wales Audit Office reports are published a significant period of time (12-18 months potentially) has passed between the plan for improvement being developed and an assessment of how well the plan is working. The proposed approach will substantially reduce any potential time lag associated with the current reporting system helping to create more flexible and agile systems which can catch and respond to problems earlier.

### **Purpose and intended effect of the Provisions**

- 3.165 The purpose of the provisions is to establish a more regularised performance and governance system that puts the onus on the principal council to take ownership of its own improvement, and that builds reflection on performance and action to improve into the system.
- 3.166 This entails a system that requires annual self-assessment of performance by principal councils and a periodic review to provide an external, expert perspective on the council's performance and its progress in improving its performance.

- 3.167 The Bill also makes provision for the Welsh Ministers to provide support and, where necessary, to intervene in principal councils facing significant problems. The Welsh Ministers will be able to provide support to principal councils to address difficulties they are facing. In more serious cases, the Welsh Ministers will be able to intervene to enable improvement.
- 3.168 The support and intervention provisions draw upon, but further develop, the existing legislative framework set out in the 2009 Measure (which will be repealed). The new provisions include a power for the Auditor General for Wales to carry out a special inspection that is similar to his existing power. The purpose of a special inspection is to support a principal council in meeting or increasing the extent to which it is meeting its performance requirements.

#### Governance and Audit Committees

- 3.169 The White Paper 'Power to Local People' made a number of proposals for strengthening the internal governance and accountability arrangements in principal councils as a consequence of removing councils from the improvement regime in Part 1 of the 2009 Measure. A key proposal was to clarify and strengthen the role of principal council audit committees, given the proposal to increase their functions significantly.
- 3.170 Provisions in the Bill amend the 2011 Measure to change the name of the audit committee to the governance and audit committee to reflect this broader role; set out the new functions of the committee and amend the rules relating to the membership and proceedings of the committee.

#### Co-ordination between regulators

- 3.171 The aim of this provision is to promote effective working between the relevant regulators in order to minimise the burden on local government and enhance transparency for the public. The provision, in line with the 2009 Measure, will ensure that the Auditor General for Wales and the relevant regulators (Estyn and Care Inspectorate Wales) have regard to the need for co-ordination when exercising their functions.

## **Part 7 Mergers and Restructuring of Principal Areas**

### **Purpose and intended effect of the Provisions**

#### Voluntary Mergers

- 3.172 In line with the Welsh Ministers' commitment to assist principal councils wishing to merge, the Bill makes provision for the voluntary merger of principal councils.
- 3.173 The Bill provides for two or more principal councils to submit a joint application to the Welsh Ministers for the voluntary merger of their

respective areas and councils. The Welsh Ministers would be enabled to make regulations (“merger regulations”) to give effect to the abolition of the principal councils which had submitted the joint application and for their replacement by a single new area and council. The new provisions are needed because the powers allowing for voluntary mergers in the Local Government (Wales) Act 2015 were time limited and can no longer be used.

3.174 The Bill also enables the merger regulations to address all the issues which are involved in establishing a new principal council, notably:

- the date on which the merging principal councils will be abolished and replaced by the new principal council
- the date of the first elections to the new council
- the establishment of the shadow council for the new area
- any necessary supplementary, incidental, consequential, transitional or saving provision, including for the transfer of staff, property, liabilities and criminal liabilities.

#### *Shadow Councils*

3.175 Important decisions will need to be taken in advance of the new merged council coming into being, to enable the new council to function effectively and lawfully from the first day of its existence. The key decisions include setting the budget and council tax for the first year of the new council, overseeing the appointment of the senior management team for the new council and agreeing initial service delivery plans.

3.176 The shadow council provides a representative body, accountable to local government electors across the whole of the new area, and charged with taking key decisions in the name of the new council. The shadow council will work alongside a joint transition committee and the merging councils to ensure the transition to the new principal council is as smooth and effective as possible.

#### *Elections and Elected members*

3.177 The Bill provides the Welsh Ministers with the power to cancel ordinary elections to merging councils and to extend the terms of office of existing members. This is necessary to avoid staging elections to councils which are about to be abolished. If there are community councils in the areas of the merging councils, the community council elections may also be postponed and re-scheduled to coincide with the first elections to the new council of the newly merged area.

#### *Transition Committees*

3.178 The Bill makes provision requiring the merging principal councils to establish a transition committee. The role of the transition committee is to prepare for the establishment of the new council by undertaking preparatory activities to ensure that the new principal council will be able

to function effectively from the day it assumes the full range of local government responsibilities.

*Restraints on transactions and recruitment etc. by merging councils*

3.179 The Welsh Ministers want to ensure the run-up period to a merger is as smooth, constructive and productive as possible. As such, the Welsh Ministers want to encourage positive behaviour and ensure decisions taken by the individual merging councils during the transition period take account of the impending merger and the impact of their decisions on the wider area of the successor council.

3.180 The Bill, therefore, makes provision so that the Welsh Ministers may require a merging principal council to seek the opinion or consent of a specified person, or persons, before it is able to:

- acquire or dispose of land
- enter into contracts or agreements
- make capital acquisitions
- give a grant or other financial assistance or make a loan
- employ the use of certain types or values of reserves in setting its budget
- start the process of appointing non statutory chief officers and deputy chief officers.

3.181 The Bill also enables the Welsh Ministers to issue directions requiring a merging principal council, which is seeking to appoint or designate a head of paid service or statutory chief officers, to comply with specified requirements about the appointment or designation.

Restructuring

3.182 A council facing serious difficulties might conclude that the best outcome for local residents and effective local government would be for the principal council to be restructured. The Bill will provide a mechanism for principal councils to volunteer for merger (for which see above), but voluntary merger requires at least a second willing partner. It is conceivable that a council wanting to merge may be unable to find another council willing to join them.

3.183 The Welsh Ministers currently have powers, in section 162 of the 2011 Measure, to amalgamate by order a struggling principal council with one or more of its neighbours to create a single new principal council. The existing power does not allow for a principal council to apply for amalgamation and it sets in motion a complex and cumbersome series of procedures.

3.184 There is also provision in section 23 of the 2013 Act which enables the Boundary Commission to conduct a review of a principal council and to make recommendations to the Welsh Ministers for boundary changes which may include abolishing a principal area, altering the boundary of a principal area and constituting a new principal area. The Boundary

Commission may undertake such a review of its own initiative or at the request of a local authority (which may be a council of a county or a county borough or a community council). The Welsh Ministers have no powers to direct the Boundary Commission to carry out a review of a principal council.

- 3.185 The Welsh Ministers consider that the existing powers should be revisited to take better account of the circumstances in which struggling local authorities might find themselves. In particular, Ministers are concerned that the power in the 2011 Measure is not conducive to a timely resolution of the problems. The power available to the Boundary Commission in the 2013 Act is potentially very wide-ranging, but in reality it is difficult to envisage circumstances in which the Boundary Commission would itself take the initiative of recommending the abolition of a principal area or the constitution of a new one.
- 3.186 Accordingly, the Welsh Ministers propose to replace the powers in the 2011 Measure and the 2013 Act with a power which enables a principal council to submit a request for it to be abolished.
- 3.187 On receipt of an abolition request, Ministers will have to consider all the options including further interventions, but if they conclude that abolition is in the best interest of local residents and of ensuring effective and convenient local government, they will be empowered to make regulations for restructuring the area of the council in question. This could entail amalgamating the council with one or more of its neighbouring councils or splitting its area among two or more of its neighbours.
- 3.188 There may be circumstances where a principal council has not submitted a request for abolition but the available evidence suggests that the council is struggling and various support mechanisms and interventions have been tried to no avail. The Welsh Ministers will need to consider the options, but will be enabled to make regulations for the restructuring of the area of the council in question; again, this could entail amalgamating the council with one or more of its neighbouring councils or splitting its area among two or more of its neighbours.
- 3.189 If no abolition request has been submitted, the Welsh Ministers would only be able to exercise the power to restructure a principal council if the Auditor General for Wales has first carried out a special inspection of the council in question.
- 3.190 In all cases of exercising the restructuring power, whether triggered by an abolition request or not, the Welsh Ministers would first have to undertake consultations with the council, neighbouring councils likely to be affected by the restructuring and any other bodies likely to have an interest (such as the local health board, national park authorities and community councils).
- 3.191 The amalgamation order-making power in the 2011 Measure and the Boundary Commission's power in the 2013 Act to conduct a review of a

principal council and to make recommendations to the Welsh Ministers for boundary changes which may include abolishing a principal area and constituting a new principal area will be repealed.

### *Restructuring Regulations*

- 3.192 The provisions facilitating voluntary merger provide a framework for regulations to restructure a principal area and council. Restructuring regulations will thus also feature provisions for shadow councils, elections, transition committees and restraints on transactions and recruitment; the structure and content of such provisions will follow the framework provided for a voluntary merger, but they may be tailored depending on the requirements of the restructuring in question.

## **Part 8 Local Government Finance**

### **Purpose and intended effect of the Provisions**

#### Non-domestic rating

- 3.193 Non-domestic rates are a property tax paid on non-domestic properties. They are the means by which businesses and other users of non-domestic property contribute to the costs of local government services. Non-domestic rates are calculated by taking the rateable value of a property and multiplying it by the non-domestic rates multiplier for the year in question. The Valuation Office Agency determines the rateable values and the Welsh Government sets the multiplier each year.
- 3.194 Non-domestic rates apply to non-domestic premises and other infrastructure, including public property and property occupied by non-profit making organisations with some exemptions (e.g. for agricultural land, fish farms, places of worship) and relief schemes (e.g. for charitable and non-profit making organisations, small businesses) being applied. Receipts are pooled centrally and distributed to principal councils and Police and Crime Commissioners in Wales to take account of local variations in collection and to ensure sufficient funding is available for areas with smaller tax-bases.
- 3.195 The Bill includes a number of provisions aimed at reducing opportunities for avoidance behaviour relating to non-domestic rates. Views on avoidance of non-domestic rates were sought during the consultation on the draft Bill and separately in more detail in April 2018<sup>12</sup>. Respondents generally agreed there was a need to address the issue of avoidance and there was support for creating new legislation alongside a range of other Welsh Government proposals that are non-legislative or require amendments to subordinate legislation.
- 3.196 The Bill provides Billing Authorities with powers to request information from ratepayers and third parties and to inspect properties for the

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<sup>12</sup> [Welsh Government | Tackling avoidance of non-domestic rates in Wales](#)



purposes of exercising their functions in relation to non-domestic rates billing and collection. The third party could be the owner of the property, rating agents or utility companies. The information collected would help determine the correct ratepayer at an address, date of occupation and details of leases, etc. This will assist the authority to carry out its billing and collection functions relating to non-domestic rates. Valuation Officers have similar existing powers to request information from owners and occupiers for valuation purposes. Valuation Officers also have similar powers to inspect properties.

- 3.197 The Bill also provides Welsh Ministers with a power to make regulations requiring persons to notify Billing Authorities of a change in circumstance that would affect rates liability. The nature of the changes in circumstances which require notification to Billing Authorities, and who is to be placed under the duty, will be specified in regulations. The purpose of this provision is to bring to the knowledge of Billing Authorities any changes which might impact the rateable value of a hereditament, who the liable ratepayer is and whether they are eligible for relief and exemptions. This will improve the accuracy of non-domestic rates bills and reduce the potential for fraud and avoidance.
- 3.198 In the Autumn Budget on 22 November 2017, the Chancellor announced that the UK Government would bring forward the use of the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI) to uprate the non-domestic rates multiplier in England, from 2020-21 to 2018-19. To ensure the economy of Wales was not placed at a disadvantage in comparison with other parts of the UK the Welsh Ministers made the Non-Domestic Rating (Multiplier) (Wales) Order 2018 to have the effect of increasing the non-domestic rates multiplier by CPI rather than RPI for the financial year 2018-19 in Wales.
- 3.199 The Bill changes the measure of inflation that applies to calculations of the non-domestic rates multiplier from RPI to CPI on a permanent basis without the need to make an order annually. The provisions will also allow the Welsh Ministers to change the index figure in later years should circumstances change.

#### Council Tax and the imprisonment of debtors

- 3.200 The system for the collection and enforcement of council tax in England and Wales is largely contained in LGFA 1992. Provision in the Act allows the Welsh Ministers in relation to Wales, to make regulations providing for the committal to prison of persons failing to pay council tax where liable.
- 3.201 The Welsh Government believes imprisonment is an outdated and disproportionate response to a civil debt issue and that the financial costs and the impact on households outweigh the benefits. To this end, the Welsh Ministers have previously made amendment regulations to remove the power for a billing authority in Wales to commit a person to prison for failure to pay council tax.

- 3.202 Provision is made in the Bill to remove the enabling power in relation to Wales so that any reinstatement of the power to commit to prison must be done by way of primary legislation.

#### Council tax and joint and several liability

- 3.203 In households with more than one adult, the adults may be held jointly and severally liable for the council tax bill on their home. The Bill contains provision to enable the Welsh Ministers to specify in regulations that classes of persons who are disregarded for the purposes of a council tax discount (e.g. care leavers) may not be held jointly or severally liable for council tax in relation to any chargeable dwelling.

## **Part 9 Miscellaneous**

### **Background**

- 3.204 Part 9 of the Bill includes miscellaneous provisions relating to a range of matters, which are aimed at strengthening and modernising the operation of local government.

### **Purpose and intended effect of the Provisions**

#### Information sharing

- 3.205 The Bill includes information sharing provisions similar to those in the 2009 Measure which facilitate the sharing of information between members of the “information sharing group” (the Auditor General for Wales, Estyn and the Welsh Ministers).
- 3.206 The purpose is to ensure that members of the information sharing group are able to share information for the purpose of exercising their specified functions in relation to a principle council.
- 3.207 The Bill also provides that the Welsh Ministers and the Auditor General for Wales may request information for the purposes of their functions relating to collaborative working by principal councils, performance and governance of principal councils, and the restructuring of principal areas.

#### Head of Democratic services

- 3.208 The 2011 Measure introduced provisions requiring principal councils to appoint a democratic services committee with various functions, including the duty to designate one of the council’s officers as the head of democratic services.
- 3.209 The 2011 Measure made no determination as to the level of officer that should fulfil the duty. Consequently, in many cases, the head of democratic services is at middle management with insufficient authority

within the council to deliver the wishes of the Democratic Services Committee. The Welsh Government believe that scrutiny must have appropriate and sufficient support, in the form of skilled officers and its own budget.

3.210 This proposal was consulted upon in the Power to Local People White Paper in 2015. The majority of respondents were in favour of this proposal.

3.211 The Bill amends the 2011 Measure and the Localism Act so that the head of democratic services is treated as a chief officer and afforded appropriate statutory protection. It also removes the statutory bar on a local authority's monitoring officer also being the head of democratic services.

#### Abolition of community polls

3.212 The 1972 Act (as amended by the 2011 Measure) provides that a community poll can be held if one is demanded at a properly convened community meeting. The subject of the poll can be anything which arose at the meeting. Community polls are non-binding and whilst a principal council must take one or more steps as set out in the legislation it is not bound by the results of the poll.

3.213 Community polls generally relate to a matter of importance to the community, however addressing or resolving that matter is often outside the control, or indeed influence, of the council. A frequent topic of community polls is the closure of, or changes to, health facilities or provision, with recent polls in respect of the future of Ffestiniog Memorial Hospital and Flint Community Hospital, neither of which are within the remit of a principal council.

3.214 Whilst a certain proportion of local electors must be in favour of the poll for it to take place there are no requirements in respect of the number of people voting in the poll. Evidence shows that turn-out at community polls, as a percentage of the total people entitled to vote is low, ranging from 37% down to only 9% for the 2012 poll on the proposed closure of the paddling pool in Ynysangharad Park in Pontypridd.

3.215 In addition community polls are costly. A poll in respect of Flint Community Hospital cost £3,000 and a poll regarding the closure of Rhiwbina library cost £5,000. Whilst the poll in respect of Rhiwbina library could be considered successful with Cardiff Council reversing their proposal to close the library, the Welsh Government considers there are other measures which could have the same impact without the associated costs.

3.216 Community polls could be argued to be a democratic tool allowing community voices to be heard and providing an indication of community feeling in respect of the subject matter of the poll. The Welsh Government is not looking to remove or reduce the democratic rights of communities or the opportunities available to those communities to

make their views known to their council. However, it considers the process related to community polls to be outdated and at odds with the ever increasing use of social media and digital resources such as electronic petitions etc.

- 3.217 The consultation document which accompanied the draft Bill included a proposal to repeal community polls legislation in Wales and implement a system of petitions. The majority of respondents agreed with the proposal, welcoming the proposal as a means of reducing the burden and costs for councils, as well as creating a more accessible mechanism for communities to express their views.
- 3.218 The Bill provides for the abolition of community polls, and implementation of a system of petitions in their place.
- 3.219 The exception is community governance polls, those which enable a community to hold a poll in respect of a proposal to establish or dissolve a community council or to group with other communities under a common community council.

#### Local Democracy and Boundary Commission

- 3.220 The role of the Boundary Commission is to monitor and review the areas and electoral arrangements relevant to the local government structure in Wales. The Boundary Commission has the power to make recommendations to the Welsh Ministers about changes to areas and electoral arrangements following a review. The Boundary Commission may also conduct a review of principal area boundaries, community boundaries, preserved counties and seaward boundaries. In addition, the Welsh Ministers may direct the Boundary Commission to conduct a review of the membership of one or more specified qualifying public bodies.
- 3.221 The 2013 Act requires Welsh Ministers to appoint, and decide on the terms and conditions of a chief executive to the Boundary Commission following consultation with the Commission. It also requires Welsh Ministers to consult with the Commission prior to the appointment of a chief executive.
- 3.222 The Welsh Government believes local authorities and other such bodies in Wales, should be provided with new powers and freedoms to organise their own affairs. The Bill removes the requirement for the Welsh Ministers to appoint the chief executive and gives the Boundary Commission the responsibility of appointing its own chief executive.
- 3.223 The Bill does however make provision for the Welsh Ministers to appoint the chief executive where the position has been vacant for a period of 6 months or more. In such circumstances the Welsh Ministers would be required to consult with the Boundary Commission before making the appointment.

- 3.224 The Bill also amends section 48 of the 2013 Act to provide a power for the Welsh Ministers to direct the Boundary Commission not to conduct or stop a review under the 2013 Act. This provision was included in the draft Bill in connection with community council reviews, a proposal which was subsequently dropped. The provision has been retained in the Bill as a useful and sensible extension to the Welsh Ministers powers.

#### Public Service Boards

- 3.225 The WFG Act enables Public Services Boards to merge, if they consider it would assist them in contributing to the achievement of the well-being goals. The Act also states that Welsh Ministers may direct two or more Boards to merge if the Welsh Ministers consider it would assist the boards in contributing to the achievement of the well-being goals.
- 3.226 However, the Act does not currently explicitly enable Public Services Boards which have merged to demerge, or partially demerge, at a later date. This means there is a potential lack of flexibility for Boards. The provisions in the Bill aim to address this inflexibility and to provide for steps to be taken following merger and demerger.

#### Fire and Rescue Authorities

- 3.227 The 2017 White Paper 'Reforming Local Government: Resilient and Renewed' included proposals to reform fire and rescue authority governance and finance.
- 3.228 The current governance and finance arrangements are set out in each fire and rescue authorities' "combination order" originally made in 1995 under section 6 of FSA 1947 (now repealed), and saved by virtue of section 4 of FRSA 2004. Modest reform proposals could be implemented by amending the combination orders, using the Welsh Ministers' powers to do so as provided in FRSA 2004. However, FRSA 2004 requires a local inquiry to be held into any proposed changes to a combination order, unless both the fire and rescue authority and all its constituent local authorities agree to them.
- 3.229 The requirement to hold a public inquiry into any changes to the combination orders is time consuming and obstructive. In addition this requirement does not apply in relation to any other local government bodies. The Bill therefore includes provisions which would restrict the current requirement for a local inquiry into proposed amendments to combination orders, so that it applied only to changes which would alter the area served by the fire and rescue authority concerned. Changes which give effect to any new governance or finance arrangements would thus not be subject to the requirement to hold a local inquiry.

#### *Performance and governance of fire and rescue authorities*

- 3.230 Fire and rescue authorities' performance management arrangements are set out in Part 1 of the 2009 Measure. The 2009 Measure requires "Improvement Authorities" (principal councils, fire and rescue authorities

and national parks authorities) to 'make arrangements to secure continuous improvement in the exercise of their functions'. The Bill will repeal Part 1 of the 2009 Measure and also set out new performance management arrangements for principal councils.

- 3.231 Rather than mirroring these arrangements for fire and rescue authorities, the Welsh Government proposes to introduce a new performance management system to better reflect the particular operating contexts and challenges which fire and rescue authorities face.
- 3.232 FRSA 2004 requires the Welsh Ministers to prepare a Fire and Rescue National Framework, setting priorities, objectives and guidance to fire and rescue authorities on the discharge of their functions.
- 3.233 The Bill provides powers for the Welsh Ministers to make regulations requiring fire and rescue authorities to develop and publish strategic plans in relation to the exercise of their functions, and the objectives and priorities set out in the Fire and Rescue National Framework. These regulations may also specify the performance management arrangements to be used to assess a fire and rescue authority's performance against these plans.

## Chapter 4 Consultation

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- 4.1 The Welsh Government has consulted extensively on a range of options for delivering local government reform since 2014. The review of public services carried out by the Williams Commission, looked at the challenges faced by public services and made recommendations on how to improve them. The policy objectives and the review of public services carried out by the Williams Commission, looked at the challenges faced by public services and made recommendations on how to improve them.
- 4.2 The policy objectives and the provisions of this Bill have been informed and shaped by that review and each of the subsequent consultations and publications which are outlined chronologically below. The White Papers published during the fourth Assembly are available on the National Archives website via the link below<sup>13</sup>

### Fourth Assembly

#### **The Report of the Commission on Public Service Governance and Delivery (January 2014)<sup>14</sup>**

- 4.3 In April 2013, the then First Minister established the Williams Commission as an opportunity for those involved in delivering services, those politically accountable for them, and users of them to examine how public services were governed: that is, held accountable for their performance and delivered most effectively to the public. The Williams Commission reported on its findings on 20 January 2014.
- 4.4 The report examined all aspects of public service provision in Wales under five themes; complexity; scale and capability; governance, scrutiny and delivery; leadership and culture; and performance and performance management. The report presented a number of wide-ranging recommendations including on the future structure of local government in Wales.

#### **Devolution, Democracy and Delivery, White Paper – Reforming Local Government (July 2014)**

- 4.5 The White Paper set out the Welsh Government's intent about the future of local government and invited a wide engagement on the challenges faced by public services. The White Paper also responded to the local government aspects of the report of the Williams Commission.

#### **Invitation to Principal Local Authorities in Wales to submit proposals for voluntary merger (September 2014)<sup>15</sup>**

- 4.6 The invitation for voluntary mergers delivered on a commitment within 'Reforming Local Government' to issue a prospectus for voluntary mergers. The paper invited local authorities to submit expressions of

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<sup>13</sup> [Welsh Government | Local government](#)

<sup>14</sup> [Welsh Government | Report of the commission on public service governance and delivery](#)

<sup>15</sup> [Welsh Government | Invitation to principal local authorities to submit proposals for voluntary mergers](#)

interest for voluntary, early merger ahead of any potential statutory programme. The invitation also set out the Welsh Government's proposals to support voluntary mergers.

#### **Public Services Staff Commission, White Paper (October 2014)**

- 4.7 The White Paper set out proposals for a statutory Public Services Staff Commission to develop and disseminate good practice in workforce arrangements across public services.

#### **The Local Government (Wales) Act 2015<sup>16</sup>**

- 4.8 As part of the proposed package of reforms, the first Local Government (Wales) Bill (now the 2015 Act) made provision for voluntary mergers and put in place preparatory legislation for further mergers and reform. The legislation includes provisions relating to transition committees, electoral arrangements, remuneration arrangements and restrictions of transactions and recruitment.

#### **Devolution, Democracy and Delivery, White Paper – Reforming Local Government: Power to Local People (February 2015)**

- 4.9 This White Paper set out the Welsh Government's detailed proposals for the reform of local government in Wales. The White Paper set out proposals for reform in the following fields: local democracy; the roles and remuneration of elected members and senior officers; community governance and community councils; corporate improvement; service improvement; scrutiny; audit, inspection and regulation; and finance.

#### **The Welsh Government's preference for the future configuration of local government in Wales (June 2015)<sup>17</sup>**

- 4.10 On 17 June 2015, the Welsh Government's revised proposals for the future configuration of local government in Wales were announced based on eight or nine new authorities.
- 4.11 The announcement set out the Welsh Government's preference for the future structure in South, Mid and West Wales while facilitating further discussion around North Wales.

#### **Devolution, Democracy and Delivery, Draft Local Government (Wales) Bill and Explanatory Memorandum (November 2015)<sup>18</sup>**

- 4.12 A draft Bill based on the proposals in the 'Reforming Local Government: Power to Local People' White Paper and the Welsh Government's revised proposals for structural reform was published for consultation on 24 November 2015. It welcomed views on all proposals for principal council mergers. The overarching objective of the draft Local Government (Wales) Bill was to:
- establish new counties and their councils by the merger of two or more existing county or county borough councils;

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<sup>16</sup> [Senedd Cymru | Local Government \(Wales\) Act 2015](#)

<sup>17</sup> [Senedd Cymru | Record of Proceedings](#)

<sup>18</sup> [Welsh Government | Draft Local Government \(Wales\) Bill and Explanatory Memorandum](#)



- establish a new and reformed legislative framework for local government democracy, community governance, accountability, performance and finance; and
  - establish a statutory Public Services Staff Commission.
- 4.13 An accompanying consultation paper was published alongside the draft Bill, which set out additional policy explanation where proposals in the White Paper Power to Local People had been modified or where the decision had been taken not to proceed with proposals. The consultation document also included additional proposals for consultation and matters not included in the draft Bill but which were intended to be in the Bill for introduction, such as controls on the avoidance of non-domestic rates.
- 4.14 Annex 1 to the subsequent White Paper Resilient and Renewed, see below, set out the status of the provisions of the draft Bill (table one of the annex) and the status of the proposals set out in the consultation document which accompanied the draft Bill (table two of the annex). This annex can be found at addendum 1 of this explanatory memorandum.

## **Fifth Assembly**

### **White Paper – Reforming Local Government: Resilient and Renewed (January 2017)<sup>19</sup>**

- 4.15 The White Paper published on 31 January 2017 set out a new relationship between national and local government. It set out a new approach to reform based on greater regional and collaborative working, allowing local authorities to undertake service planning, commissioning and delivery at an appropriate scale. Through mandated and systematic approaches to regional working, the White Paper described a strengthened role for councils and elected members, provided a framework for future voluntary mergers and set out a role of community councils. The White Paper also outlined initial proposals for ‘electoral’ reform within local government.

### **Electoral reform in local government in Wales<sup>20</sup>**

- 4.16 A consultation paper ‘Electoral Reform in Local Government in Wales’ was issued on 18 July 2017, following the transfer of legislative competence in relation to the administration of elections to the Senedd and local government. The consultation sought views on a broad range of proposals for electoral reform in local government, primarily dealing with the way in which people register to vote and cast their vote.

### **Green Paper - Strengthening Local Government: Delivering for People’ (March 2018)<sup>21</sup>**

- 4.17 The Green Paper set out proposals for stronger and more empowered local government with the powers, capacity and capability to provide

<sup>19</sup> [Welsh Government | Reforming local government: resilient and renewed](#)

<sup>20</sup> [Welsh Government | Electoral reform in local government in Wales](#)

<sup>21</sup> [Welsh Government | Strengthening Local Government: Delivering for people](#)

bold, determined and focused leadership for the future of communities in Wales. The Green Paper sought views on the future structure of local government and a practical approach to achieving it; a proposed footprint and common factors which would underpin the footprint; the proposed transition process and electoral arrangements; councillor numbers and remuneration; increased powers and flexibilities to local government: opportunities for shared services and an appropriate change support package.

### **Working Group on Local Government (May 2019)<sup>22</sup>**

4.18 Following the consultation on the Strengthening Local Government Green Paper, the Welsh Government agreed to not proceed with comprehensive mergers, on the basis that local government would continue to work with the Welsh Government to deliver reform. The independently chaired 'Working Group on Local Government' was created to develop a shared agenda for reform, and the key recommendations from that group are being driven forward through a newly created 'Local Government Sub Group' of the Partnership Council for Wales. The provisions in the Bill on corporate joint committees are a result of this work, and have been developed in close co-operation with the Welsh Local Government Association and local government leaders.

4.19 Table 1 sets out the changes made to the draft Bill following consultation, prior to its introduction into the Senedd, and the reasons for those changes.

4.20 The section numbers below refer to the sections of the draft Bill.

*Table 1*

<b>Changes made</b>	<b>Reason</b>
<b>Part 1: Local Government Areas and Councils</b>	A programme of compulsory mergers is no longer Government policy. The provisions have been removed.
<b>Part 2: General Power of Competence</b>	The principle of providing eligible local authorities with a general power of competence remains. Some changes made as a result of consultation.
<b>Part 3: Promoting Access to Local Government</b>  Community area committees Improvement requests	Consultation showed there was not sufficient support for these proposals. The provisions have been removed.
<b>Part 4: Functions of County Councils and Their Members</b>  Duties on members of County Councils Breaches of duties	Removed as a result of consultation responses. The majority view was the approach was too prescriptive.

<sup>22</sup> [Welsh Government | Working Group on Local Government: Recommendations](#)

<p><b>Part 5: County Councils: Improvement of Governance</b></p> <p>Corporate plans</p>	<p>Removed following further consideration. The Well-being of Future Generations Act 2015 requires each Public Service Board to produce a Well-being Plan. This is in effect a corporate plan, though not as all-encompassing as the proposals in the draft Bill.</p>
<p><b>Part 6: Community Councils</b></p> <p>Review of community council arrangements</p>	<p>Removed as a consequence of the independent review of the future of the community council sector.</p>
<p><b>Part 7: Workforce Matters</b></p> <p>Guidance To Public Bodies On Workforce Matters Public Services Staff Commission</p>	<p>Decision taken by the Cabinet Secretary for Finance and Local Government to not put the Staff Commission on a statutory footing. The non-statutory Commission ceased to exist on 1 April 2018.</p> <p>Decision taken by the Minister for Housing and Local Government to not make provisions for guidance to public bodies on workforce matter in this Bill</p>

## **Chapter 5      Power to make subordinate legislation**

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- 5.1      The Bill contains provisions to make subordinate legislation and issue determinations. Table 5.1 (subordinate legislation) and Table 5.2 (directions, codes and guidance) set out in relation to these:
- the person upon whom, or the body upon which, the power is conferred;
  - the form in which the power is to be exercised;
  - the appropriateness of the delegated power;
  - the applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.
- 5.2      The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

**Table 5.1: Summary of powers to make subordinate legislation in the provisions of the Local Government and Elections (Wales) Bill**

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 13(3)	Welsh Ministers	Regulations	<p>Amends the Representation of the People Act 1983 by inserting new section 36A enabling the Welsh Ministers to prescribe rules for the conduct of local government elections.</p> <p>Such Rules may:</p> <ul style="list-style-type: none"> <li>• amend, modify, repeal or revoke any enactment; or</li> <li>• make supplementary, incidental, consequential, transitional, transitory or saving provision</li> </ul> <p>if it is considered for the limited purposes of, in consequence of, or for giving full effect to rules regarding the conduct of local government election.</p> <p>These Rules may also make different provision for different purposes.</p>	Affirmative	This provision provide the Welsh Ministers with a power to make rules about the conduct of local government elections. This would also enable the Welsh Ministers to amend existing enactments in when the Welsh Ministers prescribe rules for local government elections. Therefore, the affirmative procedure is appropriate.
Section 17(3)	Welsh Ministers	Order	Amends the Representation of the People Act 1983 to	Affirmative	The power to change the ordinary day of local government elections

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			provide the Welsh Ministers with a more flexible power to change the date of ordinary local government elections in Wales.		has implications for the administration of, and preparations for, those elections. It would amend existing legislation in relation to local government elections therefore, the affirmative procedure is appropriate.
Section 18(4)	Welsh Ministers	Regulations	Enables the Welsh Ministers to specify the form and content of notices in relation to automatic registration of local government electors.	Negative	The substance of this power is set out on the face of the Bill i.e. the conditions under which an Electoral Registration Officer may automatically add a person to the register or local government electors and how they will subsequently be notified of their registration. These Regulations would allow Welsh Ministers to specify the form and content on these notices.
Section 18(5)(c)	Welsh Ministers	Regulations	Enables the Welsh Ministers to prescribe procedures for removing individuals from the local government electoral register.	Negative unless the regulations contain provisions that require the affirmative procedure.	The substance of this power is set out on the face of the Bill i.e. the conditions under which an Electoral Registration Officer may automatically add a person to the register or local government electors and how they will subsequently be notified of their registration. These Regulations would allow Welsh Ministers to specify procedures for removing electors from the register.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					It is specified on the face of the Bill that the statutory instrument containing these regulations is subject to the negative procedure unless it also contains provisions that require the affirmative procedure.
Section 29(1)	Welsh Ministers	Regulations	<p>Enables the Welsh Ministers to amend, repeal, revoke or disapply existing legislation that they consider prevents qualifying local authorities from exercising the general power of competence.</p> <p>It cannot be foreseen how qualifying local authorities may wish to use the general power or what legislative obstructions they may face, therefore, this can only be framed as an enabling power.</p>	Affirmative, unless regulations only amend earlier regulations or secondary legislation (Negative).	<p>Regulations under this section could amend primary legislation and as such, it is considered appropriate to follow the Senedd's affirmative procedure in those circumstances.</p> <p>However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend secondary legislation, or earlier regulations made under these powers in order to apply them or disapply them to a particular authority or description of authority.</p>
Section 29(2)	Welsh Ministers	Regulations	Enables the Welsh Ministers to reduce or remove any overlap between the general power of competence and any existing powers. It cannot be foreseen how qualifying local authorities	Affirmative, unless regulations only amend earlier regulations or	Regulations under this section could amend primary legislation and as such, it is considered appropriate to follow the Senedd's affirmative procedure in those circumstances.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			may wish to use the general power or what legislative obstructions they may encounter, therefore, this can only be framed as an enabling power.	secondary legislation (Negative).	However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend secondary legislation or to amend earlier regulations made under these powers in order to apply them or disapply them to a particular authority or description of authority.
Section 29(3)	Welsh Ministers	Regulations	Enables the Welsh Ministers to prevent qualifying local authorities from utilising the general power of competence for specified purposes. It cannot be foreseen how qualifying local authorities may wish to use the general power and there may be circumstances in which a constraint on the general power is required, therefore this can only be framed as an enabling power.	Affirmative, unless regulations only amend earlier regulations (Negative).	Regulations under this section could have the effect of altering the operation of primary legislation and it is considered appropriate to follow the Senedd's affirmative procedure in those circumstances.  However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend earlier regulations made under these powers (which will have been subject to the affirmative procedure) in order to apply them or disapply them to a particular authority or description of authority.
Section 29(4)	Welsh Ministers	Regulations	Enables the Welsh Ministers to make the exercise of the general power of competence subject to conditions. It cannot be foreseen how	Affirmative, unless regulations only amend earlier	Regulations under this section could have the effect of amending the operation of primary legislation and as such, it is considered appropriate to follow the Senedd's



Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			qualifying local authorities may wish to use the general power and there may be circumstances in which conditions on the exercise of the general power may be required, therefore this can only be framed as an enabling power.	regulations (negative).	affirmative procedure in those circumstances.  However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend earlier regulations made under these powers (which will have been subject to the affirmative procedure) in order to apply them or disapply them to a particular authority or description of authority.
Section 31(3)	Welsh Ministers	Regulations	Power for the Welsh Ministers to prescribe the qualification or description of qualification a community council clerk must hold to meet the second eligibility condition relating to the General Power of Competence. The Bill sets out that the clerk must hold a qualification for the council to be eligible but the nature of qualifications changes regularly and primary legislation would need to be changed frequently if the detail was prescribed in the Bill.	Negative	The substance of the requirement, that a clerk must hold certain qualifications, is on the face of the Bill. The regulations would be used to specify the detail of the relevant qualifications.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 36(1) and (3)	Welsh Ministers	Regulations	Provides the Welsh Ministers with the flexibility to amend the conditions relating to eligibility of community councils to exercise the general power of competence. The conditions are set out in the Bill. However, it cannot be foreseen how restrictive or otherwise the eligibility criteria will be and it may be appropriate to amend, remove or add eligibility conditions in the future.	Affirmative	As the regulation power will enable primary legislation to be amended by removing, adding or changing an eligibility condition or changing the circumstances in which a council may cease to be eligible, it is considered that the affirmative procedure will afford the appropriate level of Senedd scrutiny.
Section 47(4)	Welsh Ministers	Regulations	Power to specify proceedings to which the duty to broadcast electronically does not apply. The Bill sets out the main requirements clearly but there may be a need to exclude certain proceedings from the scope of the duty.	Negative	The substance on this duty is set out clearly on the face on the Bill.  These Regulations would allow for certain meetings to be excluded from this requirement. This may need to take place reasonably often.
Section 47(7)	Welsh Ministers	Regulations	Power to ensure proceedings are broadcast electronically. The Bill imposes requirements initially on principal councils, but it might be considered appropriate in future to apply similar requirements to the other	Negative  Affirmative is amending specific legislation	The substance on this duty is set out clearly on the face on the Bill. These Regulations would allow for this duty to be applied to other listed authorities, namely National Park authorities or fire and rescue authorities.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			listed authorities. This power would enable that to happen. Includes the ability to amend or repeal the Public Bodies (Admission to Meetings) Act 1960 or Part 5A of the 1972 Act.		Affirmative if amending or repealing the Public Bodies (Admission to Meetings) Act 1960 or Part 5A of the 1972 Act.
Section 59(1)	Welsh Ministers	Regulations	Power to make provision for the purpose of facilitating or enabling the sharing of a principal council office as listed in subsection (2)	Affirmative	Regulations under this section could amend primary legislation and as such, it is considered appropriate to follow the Senedd's affirmative procedure in those circumstances.
Section 60	Welsh Ministers	Regulations	Power to enable the maximum period of absence for each type of family absence to be specified within Regulations.	Affirmative	The Bill amends an existing power. The procedure is currently affirmative.
Section 61(2)	Welsh Ministers	Regulations	Power to make provision for the purposes of section 52A of the Local Government Act 2000 about the circumstances in which members of a principal council in Wales are to be treated as constituting a political group and in which a member of a political group is to be treated as a leader of the group. The Bill is clear who is intended to be	Affirmative	The substance of the duties placed on leaders of political groups, in relation to standards of conduct, is set out in full on the face of the Bill. These Regulations would allow for detailed definitions of the categories of people who would be affected by these provisions to be amended. As these Regulations will impact individuals, the affirmative procedure is considered most appropriate.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			affected by these provisions but the detailed definition of these categories of people is liable to change over time and more appropriately dealt with in regulations.		
Section 71(1)	Welsh Ministers	Regulations	Power to establish a body corporate, where a corporate joint committee application has been made, to exercise functions specified in the regulations in respect of two or more principal areas.	Affirmative	Provisions to be made under this power will create a new corporate body for the delivery of specified functions of principal councils. It is therefore considered that the affirmative procedure is appropriate.
Section 73(1)	Welsh Ministers	Regulations	Power to establish a body corporate to exercise functions specified in the regulations in respect of two or more principal areas, where no corporate joint committee application has been made.	Affirmative	Provisions to be made under this power will create a new corporate body for the delivery of specified functions of principal councils. It is therefore considered that the affirmative procedure is appropriate.
Section 79(1)	Welsh Ministers	Regulations	Welsh Ministers may amend or revoke joint committee regulations made under section 71(1) or section 73(1).	Affirmative	Provisions to be made under this power will confer new principal council functions on a corporate joint committee. Provisions may also remove functions (including abolishing a corporate joint committee). It is therefore considered that the affirmative procedure is appropriate.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 82(1)	Welsh Ministers	Regulations	The Welsh Ministers may include in joint committee regulations and regulations made under section 79(1) supplementary, incidental, consequential, transitional, transitory or saving provisions	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.
Section 82(2)	Welsh Ministers	Regulations	The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional or saving provision in relation to particular joint committee regulations or particular regulations under section 79 for the purposes of or in consequence of those regulations or for giving full effect to those regulations.	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.
Section 82(3) and (4)	Welsh Ministers	Regulations	The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional, transitory or saving provision for the purposes of or in consequence of joint committee regulations or regulations under section 79 or for giving full effect to those regulations. They may also make provision imposing	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			a prohibition, restriction or other limitation on the exercise of the economic well-being function by corporate joint committees granted that function		
Section 82(8)	Welsh Ministers	Regulations	<p>The Welsh Ministers may amend or revoke regulations made under section 82(2) or this subsection.</p> <p>Regulations made by the Welsh Ministers under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.</p>	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.
Section 83(1)	Welsh Ministers	Regulations	<p>Welsh Ministers may, in regulations made under sections 79 or 82:</p> <p>(a) amend, modify, apply (with or without modifications) or disapply any enactment; or</p> <p>(b) repeal or revoke any enactment.</p>	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for corporate joint committees in this part.
Section 83(2)	Welsh Ministers	Regulations	The Welsh Ministers may, for the purposes of or otherwise in connection with this Part, by regulations:	Negative	These will largely be technical / procedural in nature and will only be used where necessary for the purposes of ensuring the effectiveness of regulations for

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			(a) amend, modify, apply (with or without modifications) or disapply any enactment; or (b) repeal or revoke any enactment		corporate joint committees in this part.
Section 93	Welsh Ministers	Regulations	Power to make provision about the appointment of panels to assess the extent to which the council is meeting the performance requirements. These are procedural details that are likely to change over time and so more appropriate for regulations.	Affirmative	The requirement for a principal council to arrange for a performance assessment panel is set out clearly and in detail on the face of the Bill. Welsh Ministers intend to issue guidance on panel assessments. Regulations under this section could set out procedural detail around representation on the panel and remuneration should these be required to support the guidance. As these Regulations could include provision in respect of fees and remuneration, the affirmative procedure is deemed more appropriate.
Section 106(3)	Welsh Ministers	Regulations	Power to apply any relevant statutory provision (with or without modification), or to disapply any statutory provision, for the purposes of its application in respect of functions exercisable by the Welsh Ministers or their nominee by virtue of a	Affirmative	It is technical/procedural in nature in that the power will only be used where necessary for the purposes of ensuring the effectiveness of a direction under this section. However, as provision to be made under that power may substantially affect provisions of Acts of the Senedd or UK Parliament, even if

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			direction under this section that specified functions of a principal council be exercised by the Welsh Ministers or a person nominated by them. The circumstances in which an intervention takes place will be different in each case and so it cannot be foreseen what application of statutory provision might be required.		for a limited time only, the affirmative procedure is deemed more appropriate.
Section 108	Welsh Ministers	Regulations	A power to add to lists of persons to whom certain reports must be sent (including self-assessment reports, report of panel performance assessment, report of special inspection, etc.)	Negative	The power enables Welsh Ministers to add / amend / remove a body / person to/from the list (should the person listed change its name or be abolished) or make changes to accommodate adding a newly established body / person or an existing body / person.
Section 109(1)	Welsh Ministers	Regulations	Power of Welsh Ministers to make provision amending, repealing, revoking, modifying or excluding the application of enactments that obstruct compliance by principal councils with the requirements of Part 6	Affirmative	Because the power will enable the Welsh Ministers to amend, repeal, dis-apply or modify provisions of Acts of the Senedd or UK Parliament, the affirmative procedure is deemed more appropriate.
Section 109(2)	Welsh Ministers	Regulations	Power of Welsh Ministers to confer new powers on principal councils that they consider necessary or	Affirmative	Because the power will enable the Welsh Ministers to confer new powers on principal councils, the



Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			expedient to permit or facilitate compliance with the requirements of Part 6.		affirmative procedure is deemed more appropriate.
Section 119(3)	Welsh Ministers	Regulations	Power of the Welsh Ministers to remove or add new regulators and/or new functions for the purposes of the co-ordination duties between the Auditor General for Wales and the relevant regulators.	Negative	The power enables Welsh Ministers to add or remove relevant regulators as may be required. The power is relatively minor in that it does not affect the co-ordination duties themselves only those who may be captured by it.
Section 123(1)	Welsh Ministers	Regulations	Power to make voluntary merger regulations for the constitution of a new principal area by merging, to create a new principal area, the principal areas of two or more principal councils.	Affirmative	The power to make merger regulations to abolish existing principal local government areas and constitute a new principal local government area in their place is significant. The Regulations will give effect to the will of the merging areas, with the approval of their councils. The formal application made by the councils will have been subject to extensive local consultation. It is therefore considered that the affirmative procedure is appropriate.
Section 130	Welsh Ministers	Regulations	Power to make restructuring regulations for the abolition of an existing principal local government area and its	Affirmative (enhanced procedure –	The power to make restructuring regulations, which could entail the abolition of a principal local government area and the

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			council. The Regulations may provide for part or parts of the abolished area to be transferred to other principal local government areas and / or for the constitution of a new principal local government area by merging part or all of the abolished area with other principal local government area or areas.	see section 147)	consequential restructuring of local government in that area is significant.  There would have implications for at least some of the contiguous principal local government areas, including the possible constitution of a new principal local government area. It is therefore considered that an enhanced affirmative procedure is appropriate. The enhanced procedure is set out in section 147 of the Bill.
Section 137(6)	Welsh Ministers	Regulations	Power to enable the Welsh Ministers to make regulations to reset the start date for the Local Democracy and Boundary Commission's next 10-year electoral arrangements review period, following the making of merger or restructuring regulations.	Negative	The re-setting of the start date is a technical detail that may be needed to ensure the Commission's work programme is able to accommodate periodic reviews for any new councils established by merger or restructuring regulations. Merely re-setting the start date for periodic review will not affect the principle or the application of the provisions in section 29 of the 2013 Act.
Section 146(2)	Welsh Ministers	Regulations	Provides the power for the Welsh Ministers to make supplementary, incidental,	Affirmative	Such regulations will enable provision to be made by the Welsh Ministers to deliver detailed provision which will give effect to a

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			consequential, transitional or saving provision.		merger or a restructuring provided for by regulations under sections 123 and 130 respectively.  It is therefore considered that the affirmative procedure is appropriate.
Section 146(3)	Welsh Ministers	Regulations	Provides the power for the Welsh Ministers to make regulations of general application to make supplementary, incidental, consequential, transitional, transitory or saving provision in respect of merger or restructuring regulations.	Affirmative	Such regulations will enable provision to be made by the Welsh Ministers to deliver detailed provision which could apply to all or several mergers and restructurings which were provided for by regulations made under sections 123 and 130 respectively. It is therefore considered that the affirmative procedure is appropriate.
Section 146(10)	Welsh Ministers	Regulations	Provides the power for the Welsh Ministers to make regulations to amend or revoke merger or restructuring regulations, regulations under section 146(2), section 146(3) or section 146(10) and for merger or restructuring regulations to make such amendment or revocation.	Affirmative	Such regulations will enable provision to be made by the Welsh Ministers to make such amendment or revocation as may be necessary should the circumstances of a merger or a restructuring evolve.  It is therefore considered that the affirmative procedure is appropriate.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 150(2)	Welsh Ministers	Regulations	Power for a billing authority to request information to assist it in administering non-domestic rates. Regulations enable the Welsh Ministers to make provision about the notices served.	Affirmative	The Bill amends an existing power. The procedure is currently affirmative.
Section 151(2) & (6)	Welsh Ministers	Regulations	The Welsh Ministers may make regulations to require the supply of information by persons to billing authorities in relation to non-domestic rates. Regulations must specify the persons, the nature of the information to be supplied, the circumstances and the period within which the information must be supplied. The Regulations also enable the Welsh Ministers to require those persons not complying with the Regulations to pay a penalty.	Affirmative	Failure to comply with the Regulations could result in a financial penalty on a person (or in some cases a criminal conviction). The Welsh Ministers also have powers to vary the level of the penalty.
Section 153(2)(d)	Welsh Ministers	Regulations	Power for Welsh Ministers to prescribe figures B and C (these are measures of inflation) for the non-domestic rates multiplier on a permanent basis.	Affirmative	The Bill amends an existing power. The procedure is currently affirmative.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			Amends the existing regulations under Schedule 7 of the Local Government Finance Act 1988.		
Section 155	Welsh Ministers	Regulations	<p>Amends Schedule 1 to the Local Government Finance Act 1992 to enable the Welsh Ministers to specify in Regulations that classes of persons disregarded for the purposes of a council tax discount are also not to be jointly or severally liable for council tax in relation to a chargeable dwelling.</p> <p>The Regulations may also specify how the council tax liability for such a dwelling is to be determined.</p>	Negative	The Bill broadens an existing power. The procedure is currently negative.
Section 158(6) and (7)	Welsh Ministers	Regulations	Power of the Welsh Ministers to remove or add new regulators and/or functions to the table in this section for the purposes of the sharing of information between the Welsh Ministers, Auditor General for Wales and the relevant regulators.	Affirmative	The power enables Welsh Ministers to add or remove relevant regulators and/or functions as may be required. However because it also includes a power to amend, modify, repeal or revoke any enactment in consequence of, or for the purposes of giving full effect to, any amendment made to the table,

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					it is considered appropriate for this to be affirmative.
Section 165(2)	Welsh Ministers	Regulations	Power to require a fire and rescue authority in Wales to make a plan in relation to the exercise of the authority's functions, and impose requirements in relation to such a plan.	Affirmative	Regulations under this power would set out new performance and governance arrangements for fire and rescue authorities in Wales, and would impose important duties on those authorities, replacing those in the Local Government (Wales) Measure 2009.
Section 173(6)	Welsh Ministers	Order	Power to commence certain Bill provisions by order to enable coming into force and implementation to be appropriately timed.	None	This is a power to set a coming into force date for provisions already agreed in the Bill, it is considered appropriate that this does not require a Senedd procedure.
Schedule 1 paragraph 9	Welsh Ministers	Regulations	In the circumstances where the Local Democracy and Boundary Commission has submitted recommendations, a power for the Welsh Ministers to make regulations to give effect to the electoral arrangements necessary for first ordinary elections to take place (i) for the council for a new local government area created by merger or restructuring regulations; or (ii) for an existing council	None	These are local regulations for which no procedure is provided for – as is the case for all such electoral arrangements regulations under the Local Government Act 1972 and the Local Democracy (Wales) Act 2013.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			which has resolved to change its voting system.		
Schedule 1 paragraph 10	Welsh Ministers	Regulations	In the circumstances where the Local Democracy and Boundary Commission has not submitted recommendations by the required deadline, a power for the Welsh Ministers to make regulations to give effect to the electoral arrangements necessary for first ordinary elections to take place (i) for the council for a new local government area created by merger or restructuring regulations; or (ii) for an existing council which has resolved to change its voting system.	No procedure	These are local regulations for which no Senedd procedure is provided for, as is the case for all such electoral arrangements regulations under the Local Government Act 1972 and the Local Democracy (Wales) Act 2013.
Schedule 2 paragraph 2(4)	Welsh Ministers	Regulations	Replicates section 36 of the Representation of the People Act 1983 by inserting new section 36B to require the ordinary election/by-election of councillors of a Welsh principal council and the ordinary election/by-election of councillors of a Welsh community council to be	Affirmative	This would amend existing legislation in relation to local government elections enabling the Welsh Ministers to prescribe rules for local government elections that impacts on how an election is conducted. Therefore, the affirmative procedure is appropriate.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			<p>combined if they are held on the same day.</p> <p>A power is given to the Welsh Ministers to make provision in connection with the combination of such elections.</p>		
Schedule 4 paragraph 6	Welsh Ministers	Regulations	Power to repeal provisions inserted by this Bill which have the effect that other provisions inserted into the 1972 Act by this Bill, which require notices of meetings to be published on a council's website, don't apply to National Park Authorities (NPAs) and Fire and Rescue Authorities (FRAs) (so repeal would mean the requirements to publish notices on a website would apply to NPAs and FRAs).	Affirmative	The power enables the Welsh Ministers to amend provisions in primary legislation.
Schedule 4 paragraph 10(3)	Welsh Ministers	Regulations	Power to amend paragraph 17 of Schedule 7 to the Environment Act 1995 for the purpose of making NPAs subject to a requirement to publish public notices electronically.	Affirmative	The power enables the Welsh Ministers to amend provisions in the Environment Act 1995.



<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Schedule 4 paragraph 10(4)	Welsh Ministers	Regulations	Power to amend section 232 of the 1972 Act for the purpose of making FRAs subject to a requirement to publish public notices electronically.	Affirmative	The power enables the Welsh Ministers to amend provisions in the 1972 Act.
Schedule 7 paragraph 2(c)	Welsh Ministers	Regulations	Power to provide for different maximum numbers of members of an executive, provided they do not exceed the maximum numbers of members set out in section 11(8) and (8ZA) of the Local Government Act 2000.	Negative	The power currently contained in section 11(9) of the Local Government Act 2000, which the provision extends, is subject to the negative procedure.
Schedule 8 paragraph 3	Welsh Ministers	Regulations	<p>New section 69F empowers the Welsh Ministers to amend Chapter 3 of the Local Government Act 2000 to make further or different provision about the investigation by the Public Services Ombudsman for Wales of alleged breaches of the local government member code of conduct.</p> <p>This provision forms part of the repeal and restatement, in modified form, of equivalent existing powers in section 70 of the 2000 Act in</p>	Affirmative	The power enables the Welsh Ministers to amend provisions on the face of the 2000 Act.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			<p>order to improve the accessibility and clarity of the law.</p> <p>The power enables the Welsh Ministers to respond speedily to unanticipated problems that arise with the practical operation of the investigation provisions.</p>		
Schedule 12 paragraph 6(8)	Welsh Ministers	Regulations	Power for the Welsh Ministers to amend the threshold amounts to reflect changing circumstances.	Negative	The amendment of the thresholds to reflect changing local circumstances is a technical detail that will not affect the principle of applying the restraints on transactions by merging or restructuring councils.
Schedule 13 paragraph 6(5)	Welsh Ministers	Regulations	Power to make provisions about the conduct of community governance polls.	Negative	The subject matter of these regulations is a relatively minor detail within the overall legislative provisions.

**Table 5.2: Summary of powers to make directions and to issue guidance in the provisions of the Local Government and Elections (Wales) Bill**

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 11(1)	Welsh Minsters	Direction	Power to direct the Local Democracy and Boundary Commission to conduct a review of a principal area following a principal council resolving to change its voting system.	No Senedd procedure	The Direction will be local in nature applying to a specific principal council. The Direction will be triggered by notice of a successful resolution from the council in question. The Direction will instruct the Local Democracy and Boundary Commission as to when to submit final recommendations. The procedure for the review is set out in Schedule 1 to this Bill. As such, a Senedd procedure is not considered appropriate.
Section 28(5)	Welsh Ministers	Guidance	Requires principal councils and eligible community councils to have regard to guidance issued by the Welsh Ministers when exercising the general power for a commercial purpose	No Senedd procedure	The guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.
Section 37	Welsh Ministers	Guidance	Requires eligible community councils to have regard to guidance issued by the Welsh Ministers exercising the general power of competence.	No Senedd procedure	The guidance is intended to facilitate the application of the primary legislation.  This guidance is largely concerned with process and, as such, to apply

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					a Senedd procedure is not considered appropriate.
Section 45	Welsh Minister	Guidance	Requires principal councils to have regard to guidance issued by the Welsh Ministers, when taking steps to promote access to local government.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 47	Welsh Ministers	Guidance	Requires principal councils to have regard to guidance issued by the Welsh Ministers when making arrangements in connection with the electronic broadcast of meetings.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>The guidance is mainly process related, and as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 49	Welsh Ministers	Guidance	Requires community councils to have regard to guidance issued by the Welsh Ministers in relation to participation at meetings of community councils.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 51(2)	Welsh Ministers	Guidance	Requires community councils to have regard to guidance issued by the Welsh Ministers in connection with the	No Senedd Procedure	The guidance is intended to facilitate the application of the primary legislation.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			preparation of annual reports by community councils.		This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.
Section 58(3)	Welsh Ministers	Guidance	Requires principal councils to have regard to guidance issued by the Welsh Ministers in connection with improving diversity.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 59(5)	Welsh Ministers	Guidance	Requires principal councils to have regard to guidance issued by the Welsh Ministers in connection with any regulations facilitating, or enabling, the sharing of specified principal council offices	No Senedd procedure	<p>The guidance is intended to facilitate the application of the Regulations made under this section.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 61(2)	Welsh Ministers	Guidance	Requires leaders of political groups to have regard to guidance issued by the Welsh Ministers in connection with promoting and maintaining high standards of conduct by members of political groups.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 66(7)	Welsh Ministers	Guidance	Requires community councils to have regard to guidance issued by the Welsh Ministers in respect of community council training plans.	No Senedd procedure	The guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.
Section 68(1)	Welsh Ministers	Guidance	Requires a principal council to have regard to guidance issued by the Welsh Ministers in connection with the exercise of its functions in collaboration with another principal council.	No Senedd procedure	<p>The guidance is intended to support collaboration between local authorities –arrangements for leaving and possibly entering collaborations and governance of collaborations.</p> <p>The guidance will support local government efforts to develop voluntary arrangements and a voluntary code of practice. The intention would be to issue guidance only if voluntary approaches were not effective.</p>
Section 84	Welsh Ministers	Direction	Power to direct a principal council, National Park authority or corporate joint committee to provide any information appropriate for the purpose of, or in connection with, regulations under Part 5.	No Senedd procedure	The power is intended to ensure that Welsh Ministers have the information required for the purpose of or in connection to regulations under Part 5.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 85	Welsh Ministers	Guidance	Requires principal councils, National Park authorities and corporate joint committees to have regard to guidance issued by the Welsh Ministers for the purposes of Chapters 3 to 5 of Part 5.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation and the implementation of the legislation or regulations.</p> <p>This guidance is largely concerned with process and, as such, a Senedd procedure is not considered appropriate.</p>
Section 88(3)	Welsh Ministers	Guidance	Requires principal councils to have regard to guidance issued by the Welsh Ministers about the performance requirements and the exercise of their functions under Part 6 of the Bill.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 102(1)	Welsh Ministers	Direction	Power to direct a principal council to provide another principal council with such support and assistance as the Welsh Ministers consider appropriate.	No Senedd Procedure	The power is intended to enable the Welsh Ministers to provide a principal council that is not, or may not be, meeting its performance requirements with support and assistance from another principal council. This is largely concerned with responding to the performance of individual councils, as such, to apply a Senedd procedure is not considered appropriate.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Sections 103 to 106	Welsh Ministers	Direction	<p>Power to give an intervention direction under sections 103 to 106 in relation to a principal council. Interventions include directions to co-operate with the provision of support and assistance by the Welsh Ministers or another principal council; directions to take, not to take or cease taking a specified step; and directions that a specified function of a principal council be exercised by the Welsh Ministers or a person nominated by them.</p> <p>Before exercising this power the Welsh Ministers must</p> <ul style="list-style-type: none"> <li>(a) provide or attempt to provide support and assistance to the council;</li> <li>(b) consult with such persons as the Welsh Ministers consider appropriate, and</li> <li>(c) notify the council that they intend to give the direction.</li> </ul> <p>This requirement does not apply if the Welsh Ministers consider that there is an</p>	No Senedd Procedure	The power is intended to ensure that Welsh Ministers are able to intervene where Welsh Ministers consider that a principal council is not meeting the performance requirements. This power is largely concerned with responding to the performance of individual councils, as such, to apply a Senedd procedure is not considered appropriate.



Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			urgent need to give the direction.		
Section 110(1)	Welsh Ministers	Guidance	Requires a person who has functions under Part 6 of the Bill (except principal councils and the Auditor General for Wales) to have regard to guidance issued by the Welsh Ministers about the exercise of those functions.	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 122(1)	Welsh Ministers	Guidance	Requires principal council to have regard to guidance issued by the Welsh Ministers about merger applications	No Senedd procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 126(4)	Welsh Ministers	Direction	Power to enable the Welsh Ministers to direct a principal council as to the appointment of a returning officer.	No Senedd procedure	<p>Power will be used only if merging councils have themselves failed to appoint a returning officer for the first elections to the new council. The appointment will be a matter of priority and a Senedd procedure is not considered appropriate.</p>
Section 127(2)	Welsh Ministers	Direction	Power to direct a principal council to take action to facilitate the effective transfer of staff, property etc. in the circumstances of a merger.	No Senedd procedure	<p>Power will be used only if merging councils are themselves failing to take effective action to facilitate the effective transfer of staff, property etc. to a new council to be established under already</p>

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					approved merger regulations. As such, a Senedd procedure is not considered appropriate.
Section 133(2)(d)	Welsh Ministers	Direction	Power to give directions to persons specified in restructuring regulations for purposes connected to a restructuring.	No Senedd procedure	Power will be used to give effect to restructuring regulations. The persons directed (and the purpose of their being directed) must be specified in the restructuring regulations, which will be subject to an enhanced affirmative procedure. Accordingly, a Senedd procedure is not considered appropriate.
Section 134(4)	Welsh Ministers	Direction	Power to direct a principal council to take action to facilitate the effective transfer of staff, property etc. in the circumstances of a restructuring.	No Senedd procedure	Power will be used only if restructuring councils are themselves failing to take effective action to facilitate the effective transfer of staff, property etc. to another council in the event of restructuring provided for under already approved restructuring regulations. As such, a Senedd procedure is not considered appropriate.
Section 137(1)	Welsh Ministers	Direction	Power to direct the Local Democracy and Boundary Commission to conduct an initial review after receiving an application for voluntary merger or where the Welsh Ministers have given notice	No Senedd Procedure	The Direction will be local in nature applying to specific principal councils. The Direction will be triggered by an abolition request or the giving of notice under section 128(6) that the Welsh Ministers propose to make restructuring

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			under section 128(6) that they propose to make restructuring regulations in respect of specified principal areas.		regulations. The Direction will instruct the Local Democracy and Boundary Commission as to when to submit final recommendations. The process for the review is set out in Schedule 1 to this Bill. As such, a Senedd procedure is not considered appropriate.
Section 138(1)	Welsh Ministers	Direction	Power to direct a merging council or a restructuring council that it must not take any further steps to change its form of executive.	No Senedd Procedure	The Direction will be local in nature applying to specific principal councils. It is concerned with putting on hold an entirely local process which has been overtaken by the merger or the restructuring being considered elsewhere. As such, to apply a Senedd procedure is not considered appropriate.
Section 139(1)	Welsh Ministers	Direction	Power to direct a principal council A to provide information to the Welsh Ministers with any information appropriate to the transfer of functions from council A to another principal council B or a new principal council and for council B to provide the Welsh Ministers with any information that they consider appropriate for the purposes mentioned.	No Senedd Procedure	The Direction will be local in nature. It will be used if a principal council does not provide the Welsh Ministers with specified information that would enable the Welsh Ministers to make an informed decision about a voluntary merger application or a potential restructuring. The exercise of the power is entirely dependent on individual councils, as such, to apply a Senedd procedure is not considered appropriate.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Section 140(1)	Welsh Ministers	Direction	Power to direct a principal council A to provide information to any relevant body with any information appropriate to the transfer of functions from council A to another principal council B or a new principal council and for council B to provide council A or any relevant body with any information which the Welsh Ministers consider appropriate for the purposes mentioned.	No Senedd Procedure	The Direction will be local in nature. It will be used if a principal council does not cooperate with other relevant bodies in sharing specified information that would facilitate or make proper preparation for a voluntary merger or a restructuring. The exercise of the power is entirely dependent on individual councils, as such, to apply a Senedd procedure is not considered appropriate.
Section 141(1)	Welsh Ministers	Direction	Power to direct the Independent Remuneration Panel for Wales in relation to the performance of its functions in relation to shadow councils and new principal councils.	No Senedd Procedure	The Direction will be local in nature. It will apply to a shadow council and provide for new principal council procedures that are established and practised elsewhere in local government in Wales. As such, to apply a Senedd procedure is not considered appropriate.
Section 143	Welsh Ministers	Guidance	Requires the Independent Remuneration Panel for Wales to have regard to guidance issued by the Welsh Ministers in connection with the exercise of the Panel's functions in	No Senedd Procedure	The issue guidance is intended to facilitate the application of the primary legislation.  The guidance would be concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			accordance with sections 141 and 142.		
Section 145	Welsh Ministers	Guidance	Requires the bodies specified in section 145 to have regard to guidance issued by the Welsh Ministers for the purposes of Part 7 of the Bill.	No Senedd Procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>The guidance would be concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>
Section 161(5)	Welsh Ministers	Guidance	Requires the Local Democracy and Boundary Commission for Wales to have regard to guidance issued by the Welsh Ministers about the appointment of its chief executive.	No Senedd Procedure	<p>The guidance is intended to facilitate the application of the primary legislation</p> <p>The guidance would be concerned with the process to be adopted when appointing a chief executive, as such a Senedd procedure is not considered appropriate.</p>
Schedule 1, paragraph 4(3)	Welsh Ministers	Direction	Power to give general directions to the Local Democracy and Boundary Commission about the conduct of initial reviews.	No Senedd Procedure	The power will enable the Welsh Ministers to issue directions that might apply to several or all reviews being undertaken by the Commission at a certain time or of a certain type. The directions will facilitate the application of the review process and, as such, to apply a Senedd procedure is not considered appropriate.

<b>Section or Schedule of Bill</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Schedule 1, paragraph 4(5)	Welsh Ministers	Direction	Power to direct the Local Democracy and Boundary Commission to stop conducting an initial review.	No Senedd Procedure	The power will enable the Welsh Ministers to respond to changed circumstances in respect of a merger or restructuring, for example a decision not to proceed with a prospective voluntary merger, in which case the Commission's initial review would need to be stopped as soon as possible and, as such, to apply an Senedd procedure is not considered appropriate.
Schedule 1, paragraph 4(6)	Welsh Ministers	Direction	Power to direct the Local Democracy and Boundary Commission, following the publication of an interim report by the Commission, to undertake a further initial review of the same area	No Senedd Procedure	The power will enable the Welsh Ministers to respond to changes in circumstances or issues arising in connection with a merger or restructuring, following an initial report by the Local Democracy and Boundary Commission, and as such it is not considered appropriate to use one of Senedd procedures.
Schedule 1, paragraph 4(7)	Welsh Ministers	Guidance	Requires the Local Democracy and Boundary Commission to have regard to guidance issued by the Welsh Ministers about the conduct of initial reviews.	No Senedd Procedure	This guidance is intended to facilitate the application of the legislation. Such guidance will be concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.
Schedule 1, paragraph 5(3)	Welsh Ministers	Direction	Power to direct a principal council for an area under review or a council for a	No Senedd Procedure	The power is intended to enable the Commission to make recommendations on the basis of

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
			community in an area under review to provide the Commission, for the purposes of an initial review, with any information that the Welsh Ministers consider appropriate.		relevant information and, as such, to apply a Senedd procedure is not considered appropriate.
Schedule 1, paragraph 11(1)	Welsh Ministers	Direction	Power to direct a principal council for an area under review or a council for a community in an area under review to provide the Welsh Ministers, for the purposes of making electoral arrangements regulations following an initial review, with any information that the Welsh Ministers consider appropriate.	No Senedd Procedure	The power is intended to enable the Welsh Ministers to make regulations on the basis of relevant information and, as such, to apply a Senedd procedure is not considered appropriate.
Schedule 11, paragraph 3 (1)(c) and (2)	Welsh Ministers	Direction	Power to direct a transition committee to give advice and recommendations to merging councils and shadow councils on such other matters as the Welsh Ministers may direct (paragraph (1)(c)) and to the Welsh Ministers (paragraph 2).	No Senedd Procedure	<p>Directions will be local in nature. Directions under sub-paragraph (1)(c) will require a transition committee to consider a matter relevant to the merger in question which the transition committee may have overlooked or ignored.</p> <p>Those under sub-paragraph (2) will be used to ensure the provision of information to the Welsh Ministers that may be needed to inform a</p>

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					<p>decision relevant to the merger in question.</p> <p>This is concerned with responding to the specific circumstances of an individual transition committee, as such, to apply a Senedd procedure is not considered appropriate.</p>
Schedule 11, paragraph 4(1)	Welsh Ministers	Direction	Power to direct restructuring councils to establish a transition committee.	No Senedd Procedure	The Direction will be local in nature. It will enable the Welsh Ministers to apply the requirements in respect of transition committees tailored to meet the specific circumstances of the areas included in the proposed restructuring. This is concerned with responding to the specific circumstances of an area, as such, to apply a Senedd procedure is not considered appropriate.
Schedule 11, paragraph 7(1)	Welsh Ministers	Direction	Power to direct a transition committee to exercise its functions.	No Senedd Procedure	The Direction will be local in nature. It will be used to require a transition committee to exercise its functions where it is considered that the transition committee has been negligent or tardy in exercising a given responsibility. This is concerned with responding to the specific circumstances of an individual transition committee; as



Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					such, to apply a Senedd procedure is not considered appropriate.
Schedule 12, paragraph 1	Welsh Ministers	Direction	Power to direct that a merging or restructuring authority may not carry out a restricted activity without considering the opinion of and obtaining the consent of a specified person or persons.	No Senedd Procedure	The Direction will be local in nature. It may be used to establish an opinion and consent regime, to guard against the potential for negative and damaging behaviour by merging or restructuring principal councils. If the councils are collaborating and sharing relevant information, the Welsh Ministers may not need to direct, but if councils are not working together, the Welsh Ministers will require the ability to act swiftly within the framework provided by this Schedule to prevent damaging behaviour; as such, to apply a Senedd procedure is not considered appropriate.
Schedule 12, paragraph 1(3)	Welsh Ministers	Direction	Power to direct a merging or restructuring council to appoint or designate a person to a restricted post to comply with specified requirements about the appointment or designation.	No Senedd Procedure	The Direction will be local in nature. It may be used to require merging or restructuring councils to comply with specific requirements regarding the appointment/designation to restricted posts and so guards against the potential for negative and damaging behaviour by merging or restructuring councils. If the councils are collaborating

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
					with the process, the Welsh Ministers may not need to direct, but if councils are not so working together, the Welsh Ministers will require the ability to act swiftly within the framework provided by this Schedule to prevent damaging behaviour; as such, to apply a Senedd procedure is not considered appropriate.
Schedule 12, paragraph 9(1)	Welsh Ministers	Guidance	Requires any person specified in the direction under paragraph 1 of Schedule 12 to have regard to guidance issued by the Welsh Ministers.	No Senedd Procedure	<p>The guidance is intended to facilitate the application of the primary legislation.</p> <p>This guidance is largely concerned with process and, as such, to apply a Senedd procedure is not considered appropriate.</p>

## Addendum 1: Resilient and Renewed White Paper Annex 1 – Status of proposals consulted on as part of the Draft Bill consultation

**Table 1**

Policy Proposal	Included in new Bill	Commentary
<b>Part 1: Local Government Areas and Councils</b>		
Local government areas ( <i>Compulsory Mergers</i> )	Omit	Compulsory mergers are no longer Government policy.
County Councils	Retain	These sections are mainly intended to update and make clearer the language used to express the basic constitutional arrangements for Local Authorities in Wales. Retention is part of a long-term process to make the ancient and sometimes complex law of Local Authority constitutions more open and transparent. Section 12 (change of name of Council) will be retained but amended to refer to county boroughs also, since county borough status will not be abolished as originally proposed.
Establishing the Councils for the new counties	Omit	Proposal was consequential upon compulsory mergers.
<b>Part 2: General Power of Competence</b>		
The general power	Include	There was widespread support for a general power of competence. This proposal will be included in the new Bill.
Eligibility for the general power for Community councils	Amend	Basic proposal remains, some changes to the community councils that meet the requirements and pass a resolution are referred to: and how long councils continue to hold the status after passing a resolution.
<b>Part 3: Promoting Access to Local Government</b>		
Public participation in local government	Retain	This proposal will be included in the new Bill. It would place a duty on Local Authorities to encourage local people to participate in the Council's decision-making processes, input their views and have them taken into account. would also require Councils will be required to consult widely on their budget proposals.
Community area committees	Amend	Omit requirement to have Area Committees of the kind expressed in previous provisions.

Policy Proposal	Included in new Bill	Commentary
		The White Paper seeks views as to whether, for those local authorities that might wish to operate or continue to operate area committees, any changes are required to the current provisions.
Improvement requests	Omit	There was not sufficient support for this proposal.
Access to meetings etc.	Amend	Duty on Leaders/mayors to address public meetings to be modified to enable flexibility about how Leaders engage with the public. This will include a requirement to publish how they intend to do this and report on how successful their initiatives have been. Other proposals in this section retained for inclusion in the new Bill.
Duty to publish a constitution guide	Retain	This proposal will be included in the new Bill. It will require Councils to produce an easy-to-read summary of their constitution, enabling people to see how decisions are made and by whom.
<b>Part 4: Functions of County Councils and Their Members</b>		
Duties on members of county Councils	Amend	Retain in principle but make some minor amendments such as the duty to hold surgeries to be changed to one of facilitating discussion of constituents' issues with them in private; annual reports duty to be replaced by one requiring Councillors to say how they have carried out communications with their electorate. In response to consultation responses, we intend to extend the period of time from two to three weeks for Councillors to respond to correspondence.
Breaches of duties	Amend	A Member receiving a sanction from a standards committee can become subject to a petition which, if receiving sufficient signatures (at least 20% of the local electorate), would trigger a by election.
Further provisions about duties on members	Retain	Leaders of political groups to be required to promote good standards of conduct amongst their Members. This proposal will be included in the new Bill. The provisions relating to the role of standards committees in providing advice and training on the new duties of members will also be retained.
Executives of county Councils	Amend	We will retain the need for leaders to agree objectives with their Cabinet Members, but allow flexibility about the regularity of review.
Appointment of certain chief officers	Retain	This proposal will be included in the new Bill. It will require leaders to make arrangements to manage the performance of the chief executive and also provide that the Head of Democratic Services become a chief officer position.

Policy Proposal	Included in new Bill	Commentary
Overview and scrutiny committees and standards committees	Retain	This proposal will be included in the new Bill and will require the establishment of joint overview and scrutiny committees where services are being delivered collaboratively.
Minor amendments to other legislation	Retain	These will be included in the new Bill.
<b>Part 5: County Councils: Improvement of Governance</b>		
Duty to make arrangements to secure good governance	Retain	This proposal will be included in the new Bill.
Corporate plans	Omit	The WFG Act in effect already asks local authorities to produce a corporate plan.
Assessments of governance arrangements	Retain	This proposal will be included in the new Bill. Local Authorities will be required to secure good governance; this will be tested through regular self-assessment and period peer review.
Governance reviews and intervention	Retain	This proposal will be included in the new Bill.
Co-ordination between regulators	Amend	This proposal will be included in the new Bill but amended following feedback from regulators.
Corporate governance and audit committees	Retain	This proposal will be included in the new Bill.
<b>Part 6: Community Councils</b>		
Review of Community Council arrangements	Omit	An independent review to take a more comprehensive look at the future of the community council sector is being commissioned,
Members of Community Councils to complete training	Amend	Rather than require Community Councillors to undertake specific training community councils will be placed under a duty to consider their training needs and prepare and publish a plan setting out how it proposes to respond to the training needs identified.
Community Council election dates	Amend	The proposal to change the term of office from four years to five years is retained but the change no longer needs to be linked to the timescales for introducing compulsory mergers and will be linked to the introduction of five year terms for principal authorities generally.
<b>Part 7: Workforce Matters</b>		
Guidance on workforce matters	Amend	Consideration will be given to retaining a statutory guidance power, enabling Welsh Ministers to issue guidance about workforce matters.

Policy Proposal	Included in new Bill	Commentary
Public Services Staff Commission	Omit	The Staff Commission will not be put on a statutory footing but will continue until April 2018.
<b>Part 8: General and Schedules</b>		
<b>General</b>		
Interpretation	Amend	Will need to reflect final content of Bill on introduction.
Application of Act in relation to counties and county boroughs until 1 April 2020	Omit	Provision was consequential upon compulsory mergers.
Powers to make consequential etc. provision / regulations and orders	Amend	Will need to reflect final content of Bill on introduction.
Coming into force	Amend	Will need to reflect final content of Bill on introduction.
<b>Schedules</b>		
Counties in Wales	Omit	Provision was consequential upon Part 1, Chapter 1
New Councils: first ordinary elections	Omit	Provision was consequential upon Part 1, Chapter 1
New Councils: finance	Omit	Provision was consequential upon Part 1, Chapter 1
Transitional etc. provision	Omit	Provision was consequential upon Part 1, Chapter 1
The 1972 Act: amendments and transitional provision	Retain with some omitted	Most of these provisions are linked to the intention to update and make clearer the language used to express Local Authorities' constitutional arrangements and these will be retained. County borough status will continue so the provisions which removed the status are not needed and will be omitted. Omit the provisions which removed the options to have elections by halves and thirds. Principal authorities will continue to have the options available to them.
Assistants to Local Authority executives	Retain	Enables appointment of deputy cabinet members.
Consequential amendments: chief executive	Retain	Council Leaders will be required to set objectives for chief executives.

Policy Proposal	Included in new Bill	Commentary
Community area committees: further amendments and repeals	Omit	Consideration now being given to amending existing legislation which provides for local authorities to have area committees, rather than replacing it.
Renaming of county Council audit committees	Retain	Broadens power of audit committees and renames as Audit and Corporate Governance Committees

**Table 2**

Policy Proposal	Included in new Bill	Commentary
<b>Part 1: Local Government Areas and Councils</b>		
Accounts and Audit Requirements	Include	If there are any changes required to the existing framework as a result of mandatory and systematic regional working, these will need to be reflected in the new Bill.
Council Tax	Exclude	Linked to Local Authority merger proposals.
Non-Domestic Rates	Include	Additional powers for Billing Authorities to require information from non-domestic rate payers and inspect non-domestic properties, where necessary for the investigation of potential fraud or avoidance of rates.
<b>Part 3: Promoting Access to Local Government</b>		
Conduct of business (review of schedule 12, LGA 1972)	Include	This will enable notices of meetings and other papers to be produced electronically only, if so desired.
Removal of the restriction on having community council meetings in licensed premises	Include	This will enable community councils to hold meetings in licensed premises. There is no longer an intention to propose that community councils adopt standing orders prohibiting the consumption of alcohol at meetings.
<b>Part 4: General Power of Competence</b>		
Delegation of functions to third parties	Include	It is proposed to reform Part 2 of the Deregulation and Contracting Out Act 1994 to provide for a new regime that will allow Local Authorities to delegate the exercise of certain of their functions to third parties, by order made by the Welsh Ministers.

Policy Proposal	Included in new Bill	Commentary
Electoral Qualifications – ‘serving on more than one council	Exclude	Consideration of whether an elected member of a principal council should be able to serve on a Community Council, or a community Councillor should be able to serve more than one community council, will form part of the review of the community council sector.
Remote attendance at meetings	Include	This will make it a requirement for Local Authorities to have arrangements for remote attendance.
Remuneration of members: power for WMS to guide the IRP to review model of remuneration.	Exclude	Welsh Ministers can provide view to IRP in the remit letter if so desired.
Powers to dismiss Senior Officers	Exclude	No enthusiasm to follow English route of dispensing with role of Independent Person.
Transfer of Local Authority assets / community asset transfer	Exclude	Existing guidance on community asset transfers was updated in March 2016 and will continue to be kept under review.
<b>Part 5: County Councils: Improvement of Governance</b>		
State of Local Government Report	Omit	We do not intend to pursue powers in this area.
Single Information Portal	Omit	Legislation would not be required to create an information portal
Complaints	Omit	Complaints handling would be considered under the broader ‘good governance’ requirement
<b>Part 6: Community Councils</b>		
Community councils: publication of annual report	Omit	No longer proceeding with this requirement.
Performance Management of Community Councils	Omit	Consultation on the previous draft bill showed general support for performance management but confirmed this was already happening as part of good employment practices and did not need to be further legislated for.
Review of Community Council legislation	Omit	Consideration is being given to potential for consolidation of existing legislation but any proposed changes to the provisions in the Local Government Act 1972 would need to be informed by the review of the community council sector.



Policy Proposal	Included in new Bill	Commentary
Community Polls	Omit	Provisions in relation to polls conducted for the purpose of forming or dissolving a community council will stay in place pending the review of the community council sector and any legislative reform which follows.

## Chapter 6 Regulatory Impact Assessment Summary

- 6.1 A Regulatory Impact Assessment has been completed for the Bill and it follows below.
- 6.2 There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.
- 6.3 The following table presents a summary of the costs and benefits for the Bill as a whole. The table has been designed to present the information required under Standing Order 26.6 (viii) and (ix).

### Local Government and Elections (Wales) Bill

**Preferred option:** Introduce legislation to –

- Reform and improve electoral arrangements for local government, including:
  - extending the local government franchise to 16 and 17 year olds and foreign citizens legally resident in Wales
  - enabling the addition of people to the electoral register without application where the ERO is satisfied they have reliable information the individual is eligible for registration
  - allowing principal council employees and officers who wish to stand for election to resign from their post once they were elected, rather than when declaring candidacy
  - implementing a 5-year election cycle for local government
  - preventing returning officers from claiming a personal fee for running elections
- provide principal councils and eligible community councils with a general power of competence;
- place duties on principal councils to encourage local people to participate in local government; develop a petitions scheme; publish official addresses for members and publish their constitution and constitution guide.
- Put the role of chief executive on a statutory footing
- Enable principal councils to appoint assistants to their executive
- make provision about job-sharing by certain offices in principal councils;
- clarify the entitlement of members of local authorities to various kinds of family absence;
- require leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees;
- place a duty on standards committees to produce an annual report

<ul style="list-style-type: none"> <li>• give the Welsh Ministers an enabling power to require local authorities to appoint joint overview and scrutiny committees;</li> <li>• place a duty community councils to publish an annual report and to develop a training plan for its members</li> <li>• provide a framework and powers to facilitate more consistent and coherent regional working mechanisms</li> <li>• establish a new system for improving performance and governance based on self-assessment and peer review, including the consolidation of the Welsh Ministers' support and intervention powers</li> <li>• give Welsh Ministers an enabling power to facilitate voluntary mergers of principal councils and restructuring a principal area</li> <li>• provide principal councils with powers to help address avoidance of non-domestic rates and make minor technical changes to local government finance arrangements.</li> </ul>		
<b>Stage:</b> Post Stage 2	<b>Appraisal period:</b> 2020-21 – 2029-30	<b>Price base year:</b> 2020-21
<b>Total Cost</b> <b>£16,094,000</b>	<b>Total Benefits</b> <b>£-</b>	<b>Net Present Value (NPV)</b> <b>Total:</b> <b>-£13,417,000</b>
<b>Present value:</b> <b>£13,417,000</b>	<b>Present value:</b> <b>£-</b>	

## Administrative Costs

<b>Costs</b> <p>There will be transitional costs to the Welsh Government of approximately £1,062,000. These are opportunity costs relating to the deployment of staff resources to prepare the guidance and secondary legislation necessary to implement the provisions of the Bill.</p> <p>The transitional costs to local government are approximately £2,415,000, primarily comprising opportunity costs relating to the deployment of staff resources to implement the requirements of the Bill.</p> <p>There will also be transitional costs incurred by the Electoral Commission of approximately £140,000.</p> <p>There will be recurrent costs to local government of approximately £12,567,000 during the 10 year appraisal period of this Regulatory Impact Assessment.</p>			
<b>Transitional:</b> <b>£3,617,000</b>	<b>Recurrent:</b> <b>£12,567,000</b>	<b>Total:</b> <b>£16,184,000</b>	<b>PV:</b> <b>£13,490,000</b>
<b>Cost-savings</b> <p>Removing the necessity of making annual regulations to provide for the indexation of the non-domestic rates multiplier will result in an opportunity saving for the Welsh Government. Over the appraisal period, this will total approximately £90,000.</p>			

It is anticipated there will be long-term non-cash savings to the Welsh Government and local government as a consequence of the Bill's provisions. However, the considerations to be taken into account will vary greatly according to local circumstances and, therefore, the cost-savings are unknown.

<b>Transitional:</b> <b>£-</b>	<b>Recurrent:</b> <b>£90,000</b>	<b>Total:</b> <b>£90,000</b>	<b>PV:</b> <b>£74,000</b>
<b>Net Administrative Cost: £16,094,000</b>			

## Compliance Costs

Compliance costs will be incurred by local government in respect of some of the provisions of this Bill. Local government may incur some costs in respect of provisions which are non-mandatory, which would be a decision for each council. These costs are unknown at this time.

There are not expected to be any direct costs to the businesses arising from the Bill.

<b>Transitional:</b> <b>£</b>	<b>Recurrent:</b> <b>£</b>	<b>Total:</b> <b>£</b>	<b>PV:</b> <b>£</b>
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## Other Costs

No other costs have been identified

<b>Transitional:</b> <b>£-</b>	<b>Recurrent:</b> <b>£-</b>	<b>Total:</b> <b>£-</b>	<b>PV:</b> <b>£-</b>
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## Unquantified costs and disbenefits

The Bill will provide the tools needed to strengthen local democracy and equip principal councils with the powers and flexibilities they need to improve outcomes for their communities.

Reducing the voting age so as to include 16 and 17 year olds should increase and maintain engagement with young people; leading to a greater interest in democratic politics.

The Bill seeks to contribute to the creation of a more diverse, representative and transparent local government, which will positively and openly involve all members of the community.

Having an enabling power to create Corporate Joint Committees will ensure that Welsh Ministers are able to support local government to deliver a more simplified, coherent and consistent approach to strategic regional governance, planning and service delivery. Such a mechanism will support the drive within principal councils for more economic, effective and efficient delivery of services.

The Bill proposes to provide Welsh Ministers with an enabling power for voluntary merger of principal councils. However, the initiative would rest with the principal councils concerned. The potential costs and savings associated with a voluntary merger are likely to be a key consideration in any decision by two or more principal councils considering merger.

Any merger proposal will be required to explore the costs, savings and any disbenefits in detail and, in each case; these will be subject to the individual circumstances of the merging councils at the time.

It is not possible to predict how many, if any, principal councils will bring forward proposals for voluntary merger. These costs are therefore unknown.

## **Benefits**

No financial, environmental or social benefits have been quantified.

## **Key evidence, assumptions and uncertainties**

There has been extensive consultation on the proposals with four consultation papers published since 2014 and a draft Regulatory Impact Assessment prepared to accompany the draft Bill published in 2015. In addition, 'Electoral Reform in Local Government Wales' was issued July 2017. Similarly, measures to tackle avoidance of non-domestic rates have been consulted upon twice.

Meetings have also been held with:

- principal councils,
- local health boards,
- NHS trust chairs and chief executives,
- police and police and crime commissioners,
- North Wales Regional Leadership Board,
- Wales Council for Voluntary Action,
- Electoral Reform Society Cymru,
- Building Communities Trust and Third Sector Support Wales,
- Federation of Small Businesses and Confederation of British Industry,
- Public Services Ombudsman for Wales,
- Welsh Revenues and Benefits Managers Working Group,
- Welsh Ratepayers Forum,
- Valuation Tribunal for Wales,
- Valuation Office Agency
- Fire and Rescue Authorities.

There has also been extensive engagement with all principal council leaders, both individually and through the Partnership Council for Wales. Welsh Local Government Association (WLGA) group leaders have also been consulted

through the Local Government Reform Reference Group, and subsequently through the independently chaired Local Government Working Group.

The assumptions made in preparing the Regulatory Impact Assessment and the key areas of uncertainty are outlined in the analysis.

## Chapter 7 Options

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- 7.1 A number of options have been considered for the delivery of each of the policy intentions within this Bill by means of four public consultations on local government reform, a consultation on electoral reform and two consultations on measures to tackle avoidance of non-domestic rates. Extensive stakeholder engagement has also been undertaken and a draft Regulatory Impact Assessment was published with the draft Bill in November 2015.
- 7.2 Responses to these consultations have generally expressed support for the proposals, and have been influential in refining the final proposed policy options. Some of the options considered, but ultimately not pursued, include:
- Term limits for elected members of principal councils
  - Performance duties of elected members
  - Member recall
  - Voting rights for independent members of overview and scrutiny committees
  - Community area committees
  - Some of the requirements which were to be met for community councils to be eligible for the general power of competence
  - A range of different configurations for merging principal councils
  - Combined regulator assessments
- 7.3 Following the consultations and stakeholder engagement held over the past five years, we are now proposing two options for consideration in this Regulatory Impact Assessment.

### **Option 1: Business as usual**

- 7.4 There will be no change to the current franchise for local government elections in Wales. Ministers will not have the powers to give effect to a joint application from principal councils wanting to merge voluntarily and there would be no change to the powers or constitutional arrangements of principal councils in Wales.

### **Option 2: Introduce a Local Government and Elections (Wales) Bill**

- 7.5 The Bill will take forward a range of electoral reform proposals including reducing the voting age to 16 and extending the franchise to legally resident foreign nationals. The Bill will enable the Welsh Ministers to give effect to joint applications from principal councils for voluntary merger. The Bill will also take forward a range of other important changes to local government legislation, including providing the general power of competence, provisions to improve public participation in local government, introduction of a new governance regime and the establishing a consistent mechanism for collaborative working.

## Chapter 8     Costs and Benefits

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- 8.1     This Regulatory Impact Assessment has been informed by a previous draft Regulatory Impact Assessment published with the draft Bill in 2015. The draft Regulatory Impact Assessment set out a range of options considered for each policy intention and assessed their potential costs and benefits. Having undertaken the draft Regulatory Impact Assessment as well as extensive consultation and stakeholder engagement, this Regulatory Impact Assessment focuses on two options only - a 'business as usual' option and the preferred option.
- 8.2     The costs and benefits associated with the options have been assessed over a ten-year period, 2020-21 to 2029-30. A 10-year planning horizon has been used throughout the Regulatory Impact Assessment unless there is a clear rationale for an alternative period. If such a rationale exists, it has been explained within the relevant section.
- 8.3     Where appropriate, the costs and benefits are presented in Present Value terms using a discount rate of 3.5%. This is in line with the guidance in HM Treasury's Green Book. The base year for all Present Value calculations is 2020-21.
- 8.4     Each option has been assessed using the best available information to the Welsh Government. The costs and benefits are calculated at an all-Wales level. Throughout the Regulatory Impact Assessment, costs and benefits are estimated on an annual basis and then collated over a ten-year period.
- 8.5     Summary cost tables for the whole Bill can be seen at Appendix A.
- 8.6     Welsh Government staff costs have been based on the average pay band costs for 2020-21, which were calculated on the basis of the 2019-20 average pay band costs with an uplift of 1%, and use a 52-week year and five-day working week. The standard working week is considered 37 hours a week as per the National Agreement 'Green Book'. Staff costs include on costs.
- 8.7     Local Government staff costs are based on the April 2020 costs set out in the National Joint Council for Local Government Services (NJC) agreement April 2020-21. 30 per cent has been added to account for on costs. Appendix B includes further details on staff costs.
- 8.8     Figures have been rounded throughout the impact assessment to a level of precision that is considered appropriate for the relevant calculations. In some tables, rows and columns may not sum up to the total column due to this rounding process.
- 8.9     The benefits identified are largely discussed in qualitative terms, and have not been quantified or monetised, due to the nature of the provisions. Any costs included are forecasts.



- 8.10 In terms of costing voluntary mergers, this Regulatory Impact Assessment does not attempt to predict or quantify the possible decisions existing principal councils could make if they opted to merge voluntarily. If principal councils come forward for voluntary merger, they will be required, as part of the application process, to undertake further impact assessments on the potential implications in respect of their areas and services. Voluntary merger regulations will be required to give effect to a voluntary merger application; relevant impact assessments, including cost benefit analyses will be published at the appropriate time in support of voluntary merger regulations. The considerations to be taken into account will vary according to the local circumstances, not least the number and sizes of principal councils involved, and are beyond the scope of this Regulatory Impact Assessment.
- 8.11 This assessment has been prepared following engagement with key stakeholders. There has been continuous stakeholder engagement and public consultation since 2014, including four White Papers, consultations on the draft Bill in 2015, detailed proposals for electoral reform and a Green Paper in March 2018. These consultations have elicited over 2,300 responses, and in excess of 40 stakeholder events attended by over 600 individuals. An online opinion poll generated 3,166 responses from a wide age demographic from across Wales.
- 8.12 There has also been extensive engagement with all principal council leaders, both individually and through the Partnership Council for Wales. Welsh Local Government Association (WLGA) group leaders have also been consulted through the Local Government Reform Reference Group, and subsequently through the independently chaired Local Government Working Group.
- 8.13 All costs and benefits quantified are based on information and data available to the Welsh Government leading up to publication.

## **Chapter 9 Costs and benefits of Part 1: Elections**

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### **Background**

- 9.1 A consultation paper 'Electoral Reform in Local Government in Wales' was issued on 18 July 2017. The consultation sought views on a broad range of proposals for electoral reform in local government and produced a high level of responses.
- 9.2 Following the consultation, in January 2018, the then Cabinet Secretary for Local Government gave an oral statement announcing the Welsh Government would move forward with proposals for electoral reform in local government including:
- extending the local government franchise to 16 and 17 year olds
  - extending the local government franchise to foreign citizens legally resident in Wales
  - enabling Electoral Registration Officers to add people to the local government electoral register without application, where they are satisfied that they have reliable information that an individual is eligible for registration
  - implementing a five-year election cycle for local government
  - restating that returning officers cannot claim a personal fee for running local elections
  - allowing principal council employees and officers who wish to stand for election to resign from their post once they were elected, rather than when declaring candidacy

### **Extend the local government electoral franchise**

#### **Options**

- 9.3 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Extend the local government franchise to 16 and 17 year olds and foreign citizens legally resident in Wales

#### **Option 1: Business as usual**

##### **Description**

- 9.4 Option 1 would introduce no change. The local government franchise would continue to exist in its current form

## Costs

### Cost to the Welsh Government and local government

9.5 Option 1 would introduce no additional costs.

## Benefits

### Benefits to the Welsh Government and local government

9.6 This option would not deliver any additional benefits.

## **Option 2: Extend the local government franchise to 16 and 17 year olds and foreign citizens legally resident in Wales**

### **Description**

9.7 In keeping with commitments in Taking Wales Forward 2016-21 and Prosperity for All: the national strategy, option 2 would reduce the minimum voting age in local government elections in Wales to 16.

9.8 The majority of young people would be able to learn about the importance of voting while still at school; receiving information about the implication and impact of being able to vote through their participation in the *Active Citizenship* theme of *Personal and Social Education*. Evidence from the Scottish Referendum of 2014 suggests that there is a high level of political understanding amongst this age group.

9.9 In addition, this option would allow citizens of any nationality who are legally resident in Wales to register to vote at local government elections and to stand as a candidate for election at local government elections. This will be subject to age and residence criteria being met and their having a right to enter or remain in the UK.

## Costs

### Cost to local government

9.10 There would be additional costs for local government due an increased electorate at local government elections. For the purposes of calculating the total costs involved, we have estimated the notional additional costs incurred when additional electors exercise their right to vote.

9.11 'The cost of electoral administration in Great Britain' indicates that the election expenditure per elector in Wales in 2010-11 was £1.96. This includes the costs of mounting the election and counting the votes. Again, figures that are more recent are unavailable. For the purposes of this Regulatory Impact Assessment, we have uprated this cost to £2.40 to account for inflation, for the purposes of this Regulatory Impact Assessment it is assumed the fixed costs remain the same.

- 9.12 The additional cost of newly enfranchised young people and foreign citizens is set out in table 1 and would be incurred during the election years of 2022 and 2027.
- 9.13 The Office of National Statistics mid 2019 population estimates suggests that there are 33,112 16 year olds resident in Wales and 32,992 17 year olds. The figures estimate that 34,075 qualifying foreign citizens are resident in Wales who are not yet able to vote through other franchises (e.g. excluding Commonwealth and EU citizens).

*Table 1: Cost to local government, per election, for increased local government electorate*

<b>Cost of additional voters</b>	<b>Population estimate (mid-2019)</b>	<b>Cost per elector (£)</b>	<b>Total (£)</b>
Increased electorate (16 and 17 year olds) at elections	66,104	2.40	158,650
Increased electorate (foreign citizens) at elections	34,075	2.40	81,780
<b>Total</b>			<b>240,000</b>

*Awareness raising among relevant young people*

- 9.14 Principal councils would be subject to a duty to promote awareness among relevant young people of the electoral registration arrangements that apply to them and to assist them in registering. This duty extends to young people who are not resident in the area of the principal council and are care leavers for whom the principal council has responsibilities under section 109 of the Social Services and Well-being (Wales) Act 2014.
- 9.15 Young people will be able to vote while they are still at school and, therefore, awareness raising can be increased through their participation in the Active Citizenship theme of Personal and Social Education. Evidence from the Scottish Referendum of 2014 suggests that there is a high level of political understanding amongst this age group. The aim will be to introduce this knowledge before young people are 16 in order to avoid additional pressure while young people are taking exams.
- 9.16 Table 2 below sets out the estimated annual cost for each principal council, of raising awareness. This is based on the assumption each council would allocate approximately 50% of an officer at grade 43 to undertaking the relevant activities. It is anticipated this cost will be incurred during 2021-22.

*Table 2: Local Government Costs for awareness raising with young people regarding electoral registration and support to register.*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>%'age requirement</b>	<b>Total (£)</b>
Officer (Grade 43)	60,899	50	30,449
Events & Materials	-	-	10,000
<b>Total cost per principal council</b>			<b>40,449</b>
<b>Total cost for all 22 principal councils</b>			<b>890,000</b>

### Cost to the Electoral Commission

#### *Awareness Raising*

- 9.17 The Electoral Commission carry out awareness raising activities as part of their responsibilities in relation to elections. Whilst principal councils would be subject to a duty promote awareness among relevant young people, which would largely be achieved through schools, there will also be young people who are not in education, employment or training.
- 9.18 It would be important to ensure public awareness and educational campaigns consider harder to reach groups to ensure they are encouraged to register, understand their rights and have access to the same information as all other young people.
- 9.19 To accommodate the changes to the franchise in Scotland, and in preparation for the Scottish Referendum, the Electoral Commission prepared educational awareness raising material that was available to all young people and the adults who work with them. They also undertook a public awareness campaign. It is intended that a similar approach be taken in Wales.
- 9.20 In their written evidence<sup>23</sup> to the Expert Panel on Assembly Reform the Electoral Commission confirmed that a figure of *'around £120,000 would be an appropriate estimate for the additional public awareness costs for the Scottish Parliament elections arising from the [Scottish Elections] Bill'*. ONS data<sup>24</sup> indicates there were 115,844 16 and 17 year olds in Scotland in 2016, which means the Electoral Commission spent approximately £1.04 per elector on awareness raising activities.
- 9.21 Taking into consideration inflation, we have assumed an indicative cost of £1.10 per elector for public awareness raising in respect of both 16 and 17 year olds and newly enfranchised foreign citizens. Table 3 sets out the indicative costs we anticipated the Electoral Commission would incur across 2020-21.

<sup>23</sup> [Senedd Cymru | Written submissions to the Expert Panel](#)

<sup>24</sup> [Office of National Statistics | Estimates of the population for the UK, England and Wales, Scotland and Northern Ireland](#)

*Table 3: costs to Electoral Commission for awareness raising activities.*

<b>Electoral commission awareness raising</b>	<b>Population estimate (mid-2019)</b>	<b>Cost per elector (£)</b>	<b>Total (£)</b>
16 and 17 year olds	66,104	1.10	72,714
Foreign citizens legally resident in Wales	34,075	1.10	37,482
<b>Total</b>			<b>110,000</b>

- 9.22 The Electoral Commission also produce a range of guidance documents which will have to be reviewed and amended in light of the changed franchise. No costs have been included to cover this work as it is envisaged the updates would be completed as part of the standard review of this material.

*Re-design of invitation to vote forms*

- 9.23 The extension to the franchise would require the re-design of the invitation to register forms; any re-designed form would also require user testing.
- 9.24 The Electoral Commission would need to re-design the standard invitation to register form (and other related forms, such as the Household Enquiry Form) to provide for the newly enfranchised 16 and 17 year olds and foreign citizens, and to ensure the form was clear and easy to understand. Any re-designed form would also be subject to user testing.
- 9.25 Substantial changes were made the standard invitation to register and canvass forms as a result of the change to the franchise included in the Senedd and Elections (Wales) Act. However, further changes will need to be made to make clear that qualifying foreign citizens and 16 and 17 year olds will be able to register and vote in local government elections. The Electoral Commission have submitted an estimated cost of £30,000 for this work, it is anticipated this cost will be incurred in 2020-21.

## **Benefits**

### Benefits to local government

- 9.26 Extending the local government franchise will enable more people to participate in the democratic process, providing for a local government which is more responsive to the diverse communities it serves.
- 9.27 Engaging young people in democracy while the majority are still in a school setting could over the longer term encourage them to stay engaged with democracy and thus result in higher turnouts at future elections and more people from wider backgrounds being interested in standing as candidates in local elections.
- 9.28 Engaging young people in the democratic process enables them to participate and be involved in the decisions which impact on their lives

both now and in the future this will broaden the local political debate beyond current communities of interest and support the principles of the Well-being of Future Generations Act.

### Benefits to other people

#### *Extending the franchise to 16 and 17 year olds*

- 9.29 Most 16 and 17-year-olds are still in school, making them far more exposed to political education of some sort than was the case in previous generations. Use of social media and electronic media sites is high amongst this age group and discussion of major political events is common.
- 9.30 Citizenship and civic awareness are important parts of the curriculum and learners currently have the opportunity to study politics and current affairs through Personal and Social Education, Education for Sustainable Development and Global Citizenship (ESDGC) and the new Welsh Baccalaureate.
- 9.31 The Personal and Social Education (PSE) framework, the key document schools and colleges should use to review and develop PSE provision for 7 to 19 year olds, includes an 'Active Citizenship' theme. This enables learners to develop their knowledge of politics and their rights in a democratic society that reflect the United Nations Convention on the Rights of the Child. This should mean a more politically aware section of the population.
- 9.32 The 2014 Scottish referendum – where votes at 16 were made available for the first time in the UK – gives some indication of likely rates of registration. 109,533 16 and 17 year-olds registered, estimated at 89 per cent of those eligible.
- 9.33 Turnout of 16 and 17 year-olds at the 2014 referendum was estimated at 75%, compared with 54% of 18-24 year olds and 72% of 25-34 year olds, though it was lower than for the electorate as a whole (85%). This supports an argument in favour of extending the franchise, as an early experience of voting could well lead to maintained engagement, which would hopefully lead on to a greater interest in democratic politics more generally, including standing as a candidate. The lowering of the voting age would require a concerted drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and, as stated earlier, attending school.

#### *Extending the franchise to foreign citizens legally resident in Wales*

- 9.34 The enfranchisement of foreign citizens legally resident in Wales for local government elections will enable anyone from any nationality who resides legally in Wales (and who meets other qualifying criteria such as age) to play a part in our inclusive democracy. It will make clear that people from all nations and nationalities who have made their homes here should be able to participate fully in making our local democracy vibrant and relevant.

- 9.35 As service users and contributors to the funding of principal councils, Welsh Government consider that foreign citizens legally resident in Wales should be able to help appoint those who represent them and make decisions on their behalf at a local level. Welsh Government wishes to promote diversity and wider representation at local government level and enfranchising the widest possible group of people will have the benefit of supporting this aim.

### **Preferred Option**

- 9.36 Option 1 would maintain the status quo. The opportunity to increase democratic involvement will be lost, including increasing participation rates in elections.
- 9.37 Option 2 would deliver a broad range of benefits as set out above. Broadening the franchise for local government elections will enable more people to participate in the democratic process.
- 9.38 Option 2 is the preferred option.



## Summary Cost Tables

*Table 4 - Summary of transitional costs to local government (all Wales – 22 principal councils) - Elections*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Awareness raising with young people regarding electoral registration and support to register	0	890,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>890,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 5 - Summary of recurrent costs to local government (all Wales – 22 principal councils) - Elections*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Increased electorate (16 and 17 year olds and eligible foreign citizens) at elections	0	0	240,000	0	0	0	0	240,000	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>240,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>240,000</b>	<b>0</b>	<b>0</b>

*Table 6 - Summary of Costs to the Electoral Commission - Elections*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Awareness Raising	110,000	0	0	0	0	0	0	0	0	0
Re-design, and user testing, of invitation to register forms	30,000	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>140,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## **Allow principal councils to choose between two forms of voting systems**

### **Options**

- 9.39 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Include provisions allowing principal councils to choose between two forms of voting systems

### **Option 1: Business as usual**

#### **Description**

- 9.40 Option 1 would introduce no change. The local government electoral system would continue to exist in its current form and function as at present.

#### **Costs**

##### Cost to the Welsh Government and local government

- 9.41 Option 1 would introduce no additional costs.

#### **Benefits**

##### Benefits to the Welsh Government and local government

- 9.42 Option 1 would introduce no additional benefits.

### **Option 2: Allow principal councils to choose between two forms of voting systems**

- 9.43 Under this option, principal councils would be able to choose their preferred voting system, choosing between the existing 'first-past-the-post' system and the 'single transferable vote'.
- 9.44 Any proposal to change the voting system would require the support of councillors from at least two-thirds of all council seats in the relevant council; and any change would apply for at least the following two ordinary elections. Principal councils would continue with the existing system (i.e. 'first-past-the-post') until they decided to change.

## **Costs**

### Cost to local government

- 9.45 Should a principal council choose to exercise the option of changing their voting system, there would be additional costs. These costs are currently unknown.

## **Benefits**

### Benefits to local government

- 9.46 Providing principal councils with the ability to choose between first past the post and single transferrable vote will allow councils to flexibility to select a voting system that best reflects the needs of their local people and communities.

## **Preferred Option**

- 9.47 Option 1 would make no changes to the status quo.
- 9.48 Option 2 would allow principal councils the freedom to choose which voting system best reflects the needs of their local people and communities. Option 2 is the preferred option.

## **Local government candidacy reforms**

### **Options**

- 9.49 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Reform the qualification requirements and disqualification criteria for standing as a candidate in a local government election in Wales

### **Option 1: Business as usual**

#### **Description**

- 9.50 Option 1 would introduce no change. The local government electoral system would continue to exist in its current form and function as at present.

## Costs

### Cost to the Welsh Government and local government

9.51 Option 1 would introduce no additional costs.

## Benefits

### Benefits to the Welsh Government and local government

9.52 Option 1 would introduce no additional benefits.

## **Option 2: Reform the qualification requirements and disqualification criteria for standing as a candidate in a local government election in Wales**

*Allow foreign citizens legally resident in Wales to stand as a candidate for, and be a member of, a local authority in Wales*

- 9.53 Enabling foreign citizens legally resident in Wales to stand as a candidate at local government elections will enable anyone from any nationality who resides legally in Wales to play a part in our inclusive democracy. It will make clear that people from all nations and nationalities who have made their homes here should be able to participate fully in making our local democracy vibrant and relevant.
- 9.54 Welsh Government wishes to promote diversity and wider representation at local government level and extending the qualification requirements to encompass foreign citizens legally resident in Wales will have the benefit of supporting this aim.

*Allow principal council employees to resign their post when elected rather than when declaring candidacy*

- 9.55 Under this option, provisions in respect of the disqualification of certain principal council employees and officers from membership of an authority would be altered to take effect if they were elected, rather than when declaring candidacy.
- 9.56 Employees and officers of principal councils who wished to stand as candidates for election as members of the same principal council would only become disqualified at the time they make a declaration of acceptance of office in accordance with section 83 of the 1972 Act. Alternatively, the members could choose to resign from their paid office or employment before making the declaration.
- 9.57 Officers in politically sensitive posts would remain subject to the current disqualification provisions and would be required to resign when declaring candidacy.

*Reform the disqualification criteria for standing as a candidate for, or being a member of, a local authority in Wales*

- 9.58 This option would amend the disqualification provisions in Wales to disqualify individuals from standing for election, or being a member of a

local authority, if they are subject to the notification requirements of, or an order under, the Sexual Offences Act 2003.

## **Costs**

### Cost to the Welsh Government and local government

- 9.59 Option 2 would simply introduced more categories of people who were able to stand, or were disqualified from standing, as a candidate at a local government elections. As such it would introduce no additional costs to the Welsh Government or local government.

## **Benefits**

### Benefits to local government and other people

- 9.60 Increasing the range or people able to stand as a candidate at a local government election could lead to a local authority which is more representative of the people and communities it serves, increasing diversity in democracy and supporting a broader cross section of the community to participate in local politics.

## **Preferred Option**

- 9.61 Option 1 would make no changes to the status quo. The opportunity to increase democratic involvement and to address the deficiencies of the current system will be lost.
- 9.62 Option 2 would provide for a simplified disqualification regime which will include broadening the range of people able to stand for election before having to give up their roles. Option 2 is the preferred option.

## **Welsh Government Staff Costs**

- 9.63 The implementation of electoral reform would be taken forward by Welsh Government officials including policy development and the preparing and making of secondary legislation and managing the preparation and deployment of new policies. Consequently, staff costs will form a significant element of the costs incurred.
- 9.64 Welsh Government staff costs are based on the deployment of the following staff for the period 1 August 2020 to 31 March 2022. The costs are based on the pay scale grade of the resources, and include policy, legal, legislation management and translation resources as follows:
- 0.5 full time equivalent at Deputy Director
  - 1.75 full time equivalent at Grade 7
  - 3 full time equivalent at SEO

- 3 full time equivalent at HEO

9.65 It has been assumed that staff costs prior to 1 August 2020 would be absorbed as part of the appropriate divisional running costs (DRC) and that this will be the case after 31 March 2022. A 1% uplift has been applied to the 2021-22 costs.

*Table 7: Welsh Government staff costs of developing and making the subordinate legislation necessary to implement the local government electoral reforms*

	<b>Annual salary plus on costs (£)</b>	<b>Total 2020-21 (£)</b>	<b>Total 2021-22 (£)</b>
Deputy Director x 0.5fte	115,383	38,461	58,268
G7 x 1.75fte	81,696	95,312	114,397
SEO x 3fte	63,305	126,690	191,814
HEO x 3fte	49,142	98,284	148,900
<b>Total</b>		<b>359,000</b>	<b>513,000</b>

## Summary Cost Table

*Table 8 - Summary of transitional costs to the Welsh Government – Elections*

	<b>2020- 21 (£)</b>	<b>2021- 22 (£)</b>	<b>2022- 23 (£)</b>	<b>2023- 24 (£)</b>	<b>2024- 25 (£)</b>	<b>2025- 26 (£)</b>	<b>2026- 27 (£)</b>	<b>2027- 28 (£)</b>	<b>2028- 29 (£)</b>	<b>2029- 30 (£)</b>
Staff costs to develop policy and make subordinate legislation	359,000	513,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>359,000</b>	<b>513,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Chapter 10 Cost and benefits of Part 2: General Power of Competence

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### Background

- 10.1 The role of principal and community councils is not set out in any single piece of legislation, but is defined by the functions and duties conferred upon them over time. These powers and duties are set out in and defined by statutory provisions and authorities may not act if they cannot identify a statutory power or duty that enables or requires them to do so. Activity carried out in the absence of statutory powers would be deemed *ultra vires* – unlawful.
- 10.2 Over time, there have been calls for more general powers and, in response, the LGA 2000 introduced a power, the well-being power, for principal councils in Wales (referred to as county and county borough councils in LGA 2000).
- 10.3 The well-being power enables principal councils to act in any way that they consider would promote or improve the economic, social or environmental well-being of their area or people in their area, as long as they are not otherwise prohibited from doing so by other legislation.
- 10.4 The well-being power was extended to community councils by the 2011 Measure. For community councils, the well-being power is subject to the financial limit that applies under the related general power to incur expenditure under section 137 of the 1972 Act.
- 10.5 Principal councils report that they have sometimes found it challenging to exercise the well-being power, with uncertainty as to its scope and potential interaction with existing legislation. The financial limit imposed on community councils' use of the power by section 137 of the 1972 Act appears to have led to a degree of reluctance amongst community councils to use it.
- 10.6 As a result, there has been a tendency amongst principal councils in Wales to seek the assurance of reliance on a specific power rather than relying on the well-being power. Similarly, there is little evidence that it has empowered authorities to innovate or take more transformative action to address the challenges of decreasing resources and rising demand for services.
- 10.7 Research by the UK Government's Department for Communities and Local Government in 2008 suggested only around 15% of authorities had used the power and, for reasons such as risk aversion, tended to rely more on specific powers to do things.



## **General Power of Competence**

### **Options**

10.8 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual.
- Option 2 – Replace the well-being power with a general power of competence.

### **Option 1 – Business as usual**

#### **Description**

10.9 Principal councils would retain the existing well-being power in the LGA 2000, with all community councils' use of that power remaining subject to the financial limit under section 137 of the 1972 Act.

#### **Costs**

##### Cost to the Welsh Government and local government

10.10 This option would impose no additional costs on the Welsh Government or local government.

#### **Benefits**

##### Benefits to the Welsh Government and local government

10.11 This option would deliver no additional benefits

### **Option 2 – Replace the well-being power with a general power of competence**

#### **Description**

10.12 This option would provide qualifying authorities (i.e. a principal council or an eligible community council) with a general power of competence. The power would be sufficiently broad as to enable qualifying authorities to do anything that individuals generally may do provided they are acting rationally, other than those activities that are specifically prohibited by other legislation. An authority could not, for example, create an army or build a nuclear bomb: in both cases, it would be prevented from doing so by existing legislation.

- 10.13 In addition to doing all the things they can currently do under the well-being power, qualifying authorities would also be able to use a general power to:
- act in their own financial self-interest on behalf of citizens;
  - provide indemnities and guarantees;
  - charge for discretionary service(s);
  - trade more flexibly through a company;
  - engage in financial or speculative activities;
  - fund activities via existing taxation, levying and borrowing regimes; and
  - incur expenditure on contributions to the funds of charitable bodies.
- 10.14 In each instance, authorities' decision-making process would have to be rational and comply with public law principles.
- 10.15 The case for change that led to a general power of competence being introduced in England was the complicated landscape caused by the number of pieces of legislation that attempted to give local authorities broader powers to act more freely.
- 10.16 The courts generally construed such general powers narrowly, which frustrated the policy intent behind the attempts at conferring general powers. The Local Government Association and English local authorities argued they could not operate effectively in the modern world if they had to rely on government passing new legislation each time the external circumstances change. The UK Government accepted this argument.
- 10.17 A general power of competence will not, however, permit qualifying authorities to do anything that is specifically prohibited in legislation; to raise taxes; or to alter the political management of a principal council. It will also not expand qualifying authorities' powers to make bylaws.
- 10.18 There are, at present, no known examples in England where the validity of relying on the general power has been successfully challenged in the courts. The risk to core services (education, social services etc.) of introducing such a power is limited due to prohibitions in pre-existing legislation that limit or restrict particular kinds of activity.
- 10.19 Using such a power in other (discretionary) policy areas, such as economic development or speculative activities such as guaranteeing the mortgages of first time buyers etc., will present a degree of risk, in particular financial risk to the authority. However, in such circumstances there will be a need for authorities to take account of this risk in any decisions they make on using a general power, as well as being mindful of their statutory duties in respect of accountability for spending public money and of their public duties to act rationally and for a proper purpose. Therefore, it is considered, in practical terms, to be a manageable risk.

- 10.20 In addition, where a qualifying authority wishes to use the power to engage in financial service activities, it will need to abide by all relevant regulatory regimes, such as those governed by the Financial Services Authority, and any relevant legislation in relation to audit and related financial regimes and, where trading is involved, company law.
- 10.21 Community councils would need to demonstrate that they could meet a number of criteria relating to professionalism, good governance and financial controls before being eligible to use the general power. It is considered that providing them with this opportunity will empower them to take a more prominent community leadership role and be more ambitious in responding to local need and opportunity.

#### Case studies of the use of General Power of Competence in England<sup>25</sup>

##### *Newark and Sherwood District Council*

- 10.22 At the time the case study was prepared (see footnote), Newark and Sherwood was a growing community, with 14,000 new homes planned. It had many smaller businesses, which the council wanted to help realise their growth potential. Consultation with local businesses and other stakeholders identified the availability of finance as a key challenge. Using the general power of competence, as provided for in the Localism Act, the council, established a £2million fund called 'Think BIG' (Business Investment in Growth). The fund aimed to loan finance to local businesses, with growth potential, which had not been able to secure the funding elsewhere, such as from the banks.
- 10.23 Acting on the advice of an independent panel of experts, following 20 applications, four loans had been made (at the time the case study was prepared) worth £285,000 in total. The average turnover of businesses supported was £672,500. These loans safeguarded 40 jobs and there was potential to create 43 further new jobs.

##### *Stoke on Trent City Council*

- 10.24 Stoke on Trent City Council relied on the general power of competence to develop a range of initiatives to take forward the green energy agenda through a council owned holding company and to promote regeneration. It saw access to sustainable energy at predictable prices as a powerful factor in attracting and sustaining employment including the development of a new central business district. The general power of competence gave greater confidence to both the council and potential partners from the private sector and elsewhere when entering into long term agreements.

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<sup>25</sup> *Empowering councils to make a difference, Local Government Association, 2013*

## Costs

### Cost to the Welsh Government

- 10.25 It is expected the Welsh Government will incur costs preparing regulations to give full effect to the provisions enabling qualifying authorities to establish a company to do things for a commercial purpose. This cost is set out in table 9 below and it is anticipated it will be incurred in 2020-21.

*Table 9: Producing regulations relating to the power to do things for a commercial purpose*

<b>Staff Costs</b>	<b>Annual salary with on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	2	962
Grade 7	81,696	340	3	1,020
SEO	63,305	264	8	2,112
Lawyer (Grade 7)	81,696	340	15	5,100
Translation (SEO)	63,305	264	3	792
<b>Total</b>				<b>10,000</b>

- 10.26 It is anticipated the Welsh Government will also incur costs preparing guidance in relation to eligible local authorities using the general power of competence for a commercial purpose. This cost is set out in table 10 below and it is anticipated it would be incurred in 2021-22.

*Table 10: Costs to the Welsh Government of producing guidance in respect of using the general power of competence for a commercial purpose*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily costs (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	3	1,020
SEO	63,305	264	10	2,640
Lawyer (Grade 7)	81,696	340	4	1,360
Translation (SEO)	63,305	264	5	1,320
<b>Total</b>				<b>7,000</b>

### Cost to local government

- 10.27 The proposed legislation does not entail any direct costs as it is an enabling power, giving qualifying authorities the discretion to use the general power if they wish to do so.
- 10.28 It is possible qualifying authorities could incur particular costs if engaging in a new activity in reliance on the new power, but it is

impossible to predict what these costs would be. The cost to local government is, therefore, unknown at this stage.

- 10.29 Any costs associated with using a general power would need to be considered by individual authorities on a case-by-case basis to see if the benefits of exercising the new power outweighed those costs.

## **Benefits**

### Benefits to local government

- 10.30 Providing qualifying local authorities with a general power of competence would enable them to act in their communities' best interests, generate efficiencies and secure value for money outcomes.
- 10.31 Qualifying authorities would be able to use the power to raise money by charging for discretionary services and to trade in line with existing powers. It would also enable authorities to engage in activities potentially judged to be outside the existing well-being power or existing specific powers, such as providing certain indemnities and guarantees.
- 10.32 As such, Option 2 would enable qualifying authorities to be more innovative and to move away from the existing position where they question whether they have the power to undertake a particular activity. The new position would allow authorities to assume they can undertake something unless there is a statutory restriction preventing it. The power could significantly increase the confidence of qualifying authorities, enabling them to consider more transformative approaches to service delivery and efficiency savings, thus helping them to deliver 'more for less'.
- 10.33 Successful examples of implementation (and the cited case studies in England evidence this) could further increase the confidence of qualifying authorities to make greater use of the power.

## **Preferred Option**

- 10.34 Option 1 would not change the current system and uncertainties over the ambit of the well-being power will continue to deter authorities from relying on it. It would not meet the objective of providing qualifying authorities with a general power.
- 10.35 Option 2 is the preferred option, as it would give qualifying authorities (i.e. principal councils and eligible community councils) a broad general competence and the scope to respond innovatively to the severe financial and demographic pressures they face.

## **Eligible Community Councils**

### **Background**

- 10.36 There are approximately 735 community and town councils ('community councils') in Wales. Their capacities and capabilities are often limited, which can have a direct impact on their ability to adapt in the future.
- 10.37 The Bill aims to empower this tier of local government, so it is better placed to be part of the Welsh public service in the future, improving communities. This involves building capacity and capability and strengthening governance. The intention is that community councils, which meet certain criteria specified by legislation, will be deemed 'eligible community councils'.
- 10.38 Eligible community councils would be able to use the general power of competence, a significant power which will allow them to be more ambitious and innovative.
- 10.39 In light of enabling eligible community councils to exercise the general power of competence, it is intended to repeal chapter 9, Part 7 of the 2011 Measure. The Measure provided Welsh Ministers with the power to provide for a scheme under which the Welsh Ministers may grant accreditation to a community council if they met criteria set out in the regulations. This power has not been used to date, as it was deemed preferable for the local government sector to retain control of determining 'quality', rather than being dependent on the Welsh Ministers for the conferral of that status.
- 10.40 The criteria for becoming an eligible community council have been developed following consideration of the criteria for accreditation of quality in community government envisaged in the 2011 Measure. The need for community councils to resolve themselves eligible against an objective set of criteria will still provide a means of assuring quality and incentivising improvement.

### **Options**

- 10.41 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual.
  - Option 2 – Provide for community councils to be capable of becoming eligible to exercise the general power of competence.

## **Option 1 – Business as usual**

### **Description**

- 10.42 This option would entail no change from current arrangements; consequently, community councils would be unable to use the general power of competence.

### **Costs**

#### Cost to Welsh Government and local government

- 10.43 This could result in an opportunity cost for the Welsh Government if community councils do not improve and are unable to play a more active role in communities. This cost is not known.

### **Benefits**

#### Benefits to Welsh Government and local government

- 10.44 This option would deliver no additional benefits to local government or the Welsh Government. Moreover, it could inhibit principal councils' potential for further delegation or transfer of assets and services to community councils.

## **Option 2 – Provide for community councils to be capable of becoming eligible to exercise the general power of competence**

### **Description**

- 10.45 Option 2 would provide for conditions that community councils must meet in order to be considered an eligible community council able to use the general power of competence.
- 10.46 The conditions are such that some community councils would be able to meet the conditions immediately after the legislation comes into force. All other community councils, regardless of their current capacity and capability, would be able to strive to meet the conditions in the future. It would be for each community council to be pro-active in determining its stance towards meeting the conditions of an 'eligible community council'. It would not be a requirement.
- 10.47 To be eligible to exercise the general power, community councils would need to achieve higher standards of governance and financial management, professional capability, and greater democratic accountability. This would improve consistency and the professionalism of the sector.

10.48 The proposed conditions are:

- a minimum proportion of councillors on the community council must have been declared elected;
- the community council's clerk must hold relevant qualifications as specified by the Welsh Ministers in regulations; and
- the council's accounts must not have been qualified in the two most recent audit opinions.

10.49 To support community councils to achieve these criteria, Welsh Ministers would issue guidance to community councils. Community councils would be required to have due regard to the guidance. Prior to making the general power available to eligible community councils the Welsh Government would also make provision to specify the 'relevant professional qualifications' of a clerk.

## Costs

### Cost to the Welsh Government

10.50 It is expected Welsh Government will incur costs preparing guidance to community councils on the use of the general power and making regulations specifying the 'relevant professional qualifications' for a clerk. These costs are set out in tables 11 and 12 below and it is anticipated these costs will be incurred in 2021-22.

*Table 11: Producing guidance to community councils on the use of the general power*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	2	962
Grade 7	81,696	340	10	3,400
SEO	63,305	264	30	6,600
Lawyer (Grade 7)	81,696	340	5	1,020
Translation (SEO)	63,305	264	10	2,640
<b>Total</b>				<b>15,000</b>

*Table 12: Producing regulations specifying the 'relevant professional qualifications' for a community council clerk*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	2	962
Grade 7	81,696	340	3	1,020
SEO	63,305	264	8	2,112
Lawyer (Grade 7)	81,696	340	15	5,100
Translation (SEO)	63,305	264	3	792
<b>Total</b>				<b>10,000</b>



### Cost to local government

- 10.51 Community councils will not be obliged to resolve themselves eligible to exercise the general power, even if they meet the eligibility criteria, so it is difficult to anticipate how many, and the pace at which councils may resolve themselves as eligible community councils.
- 10.52 There may not necessarily be any additional costs for some council's if they already meet the criteria; incurring costs for audit for example, are part of statutory 'business as usual'. There may be additional costs for clerks to gain the necessary qualifications but this is unlikely to be a cost for all councils.
- 10.53 Holding the status of eligible community council would not in itself impose any additional costs on a community council. Any costs arising from using the greater powers afforded to eligible community councils would be appraised by community councils themselves.
- 10.54 It is anticipated that many community councils would strive to meet the conditions and in doing so may incur costs in order to meet them. While these costs have been estimated below, it is important to note that this proposed scheme would be voluntary and no costs need necessarily be incurred by community councils.

*Condition 1: a minimum proportion of councillors on the community council must have been declared elected*

- 10.55 *This condition would not impose any additional cost on community councils.* Election costs are primarily part of the natural five-year electoral cycle, and are existing costs to councils. Should any vacancies arise in between elections, community councils may choose, or be required, to hold a by-election. This cost would not be related to the general power of competence.

*Condition 2: The community council's clerk must hold relevant qualifications as specified by Welsh Ministers in regulations*

- 10.56 These costs are based on training existing clerks to a professional CiLCA qualification level (Certificate in Local Council Administration), as recognised by the Society of Local Council Clerks.
- 10.57 The Welsh Government has funded the Society of Local Council Clerks for some years to promote, administer and deliver training in CiLCA for clerks in Wales. The costs calculated within this section are in addition to the funding currently provided to the CiLCA from the Welsh Government.
- 10.58 It has been assumed that the cost of training existing clerks would be spread over a 3-year period. The peak period for undertaking training for the 'relevant professional qualifications' would be in the first three years and, thereafter, there would be a smaller residual number to take account of staff turnover. It has also been estimated that, over the initial

3-year peak period, a minimum of 350 clerks and a maximum of 550 clerks would seek the qualification.

10.59 According to the Society of Local Council Clerks, the total cost for each qualification is approximately £700. This includes an initial registration cost of £350, and four days optional training at £340.

10.60 An estimated cost to local government, which is dependent on the number of clerks requiring training, is set out below in table 13. It is anticipated this cost would be incurred from 2021-22 onwards.

*Table 13: Cost to local government of training clerks in relevant professional qualifications so as to becoming eligible community councils.*

<b>Years</b>	<b>Anticipated number of clerks</b>	<b>Projected minimum cost (£)</b>	<b>Projected maximum cost (£)</b>
2021-22	20 to 35	14,000	25,000
2022-23	180 to 275	126,000	192,000
2023-24	150 to 240	105,000	168,000
2024-25	10 to 20	7,000	14,000
2025-26	10 to 20	7,000	14,000
2026-27	10 to 20	7,000	14,000
2027-28	5 to 10 per year	3,500	7,000
2028-29	5 to 10 per year	3,500	7,000
2029-30	5 to 10 per year	3,500	7,000
<b>Totals</b>		<b>276,500</b>	<b>448,000</b>

10.61 It is anticipated that the initial peak demand will reduce from 2027-28 onwards with approximately 5 – 10 clerks undertaking the necessary qualification each year.

*Condition 3: The council has received an unqualified auditor's opinion on its accounts for two consecutive years*

10.62 This condition would not impose any additional cost to community councils, as they are already required to have their accounts audited. Recommendations made by auditors should be resolved as part of business as usual.

## **Benefits**

### Benefits to Community Councils

10.63 Enabling community councils to achieve the eligible status and therefore use the general power would help ensure they are suitably equipped to handle current and future challenges.

10.64 Achieving the status of eligible community council should give them both confidence to negotiate effectively with principal councils and provide those principal councils greater assurance to delegate or transfer assets and services delivery.

- 10.65 It is expected that community councils who achieve eligible status would have the capability to realise greater democratic and community participation, greater accountability and transparency, and by lifting restraints through the 'power to trade' make better use of public funds.

#### Benefits to other people

- 10.66 The general power of competence will enable eligible community councils to provide communities with more capable and ambitious community councils, increasing public confidence in them including in the delivery of services.
- 10.67 The public's increased confidence in community councils could help to strengthen local democracy and encourage more people could become involved in determining the priorities for their local area.

#### **Preferred Option**

- 10.68 Option 2 is the preferred option because it would enable community councils to be more ambitious and innovative and give greater confidence in community councils.

## Summary Cost Tables

*Table 14: Summary of transitional costs to the Welsh Government – General Power of Competence*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2028-29 (£)
Producing regulations – commercial purpose	10,000	0	0	0	0	0	0	0	0	0
Producing regulations – community councils	0	10,000	0	0	0	0	0	0	0	0
Producing guidance (principal councils)	0	7,000	0	0	0	0	0	0	0	0
Produce guidance (community councils)	0	15,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>10,000</b>	<b>32,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 15: Summary of transitional costs to local government – (all Wales – 735 community councils - General Power of Competence for eligible community councils*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Training for clerks	0	25,000	192,000	168,000	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>25,000</b>	<b>192,000</b>	<b>168,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 16: Summary of recurrent costs to local government – (all Wales – 735 community councils - General Power of Competence for eligible community councils*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Training for clerks	0	0	0	0	14,000	14,000	14,000	7,000	7,000	7,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>14,000</b>	<b>14,000</b>	<b>14,000</b>	<b>7,000</b>	<b>7,000</b>	<b>7,000</b>

## **Chapter 11 Cost and benefits of Part 3: Promoting access to local government**

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### **Encouraging local people to participate in local government**

#### **Background**

- 11.1 It is recognised good practice that political decision-making takes place within the public eye, with citizens being kept informed of policy developments and provided the opportunity to be consulted on policy changes.

#### **Options**

- 11.2 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Require principal councils to encourage participation in local government by producing a Public Participation Strategy

#### **Option 1: Business as usual**

##### **Description**

- 11.3 Option 1 would maintain the status quo.

##### **Costs**

##### Cost to the Welsh Government and local government

- 11.4 Option 1 would introduce no additional costs.

##### **Benefits**

##### Benefits to the Welsh Government and local government

- 11.5 Option 1 would introduce no additional benefits.

#### **Option 2: Require principal councils to encourage participation in local government by producing a Public Participation Strategy**

##### **Description**

- 11.6 Option 2 would require principal councils to develop their public engagement activity by placing a duty on them to produce a Public Participation Strategy.

11.7 The strategy would address how the principal council intends to:

- promote awareness among local people of the council's functions.
- promote awareness of how to become a member of the council.
- enable people to access information about decisions made, or to be made, and make representations to the council.
- make arrangements for the views of the public to be brought to the attention of overview and scrutiny committees.
- promote awareness among members of the council of the benefits of using social media to communicate with local people.

## Costs

### Cost to the Welsh Government

11.8 The anticipated costs to the Welsh Government in respect of Part 3 of the Bill are set out in paragraph 11.114 to 11.117 below.

### Costs to local government

#### *Duty to encourage local people to participate in local government*

11.9 Local government staff resource would be required to pro-actively promote the ideals of democracy and public participation within their councils. We have assumed that a team of two principal council officers would be nominated to work with colleagues and, potentially, members of the public to encourage public participation, attending staff meetings and local community events, giving presentations and providing advice. The costs for an individual council are set out in table 17 below. It is anticipated this cost will be initially incurred in 2022-23 and be recurrent for the following three years with an evaluation of the impact in 2026-27. The anticipated costs for subsequent years have not been calculated, as they would be influenced by the outcome of the evaluation.

*Table 17: Local government staff resource required to pro-actively promote democracy*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Officer (Grade 43)	60,899	254	25	6,350
Officer (Grade 33)	47,999	200	25	5,000
Translation (Grade 43)	60,899	254	2	508
<b>Total cost per principal council</b>				<b>11,858</b>
<b>Total cost for all 22 principal councils</b>				<b>261,000</b>

#### *Strategy on encouraging participation*

11.10 Local government staff resource would also be required to produce a public participation strategy. Each principal council would be required to produce its own public participation strategy, tailored in order to meet identified local needs. We have assumed that publication will be online and that costs will be limited to staff and translation.

11.11 The costs are set out in table 18 below. It is anticipated these costs would be incurred in 2022-23.

*Table 18: Local government staff resource required to produce a new public participation strategy (including consultation and analysis of responses)*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Senior Officer	78,143	325	12	3,900
Officer (Grade 43)	60,899	254	25	6,350
Lawyer (Senior Officer equivalent)	78,143	325	4	1,300
Translation (Grade 43)	60,899	254	7	1,778
<b>Total cost per principal council</b>				<b>13,328</b>
<b>Total cost for all 22 principal councils</b>				<b>293,000</b>

*Duty to review public participation strategy*

11.12 Principal council would be required to review the strategy as soon as practicable after each ordinary election and, where necessary, update. Again, we have assumed that costs would be limited to the local government resources necessary to undertake the review, including the necessary consultation and analysis of response, and the subsequent translation of the strategy.

11.13 The costs are set out in table 19 below. It would be for each principal council to decide how and when they updated their strategies. For the purposes of the Regulatory Impact Assessment, it is assumed that the cost would be incurred after each ordinary election, with the first occurrence therefore being in 2027-28.

*Table 19: Local government staff resource required to review the council's public participation strategy (including consultation and analysis of responses)*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Senior Officer	78,143	325	2	650
Officer (Grade 43)	60,899	254	4	1,016
Lawyer (Senior Officer equivalent)	78,143	325	0.5	163
Translation (Grade 43)	60,899	254	1	254
<b>Total cost per principal council</b>				<b>2,083</b>
<b>Total cost for all 22 principal councils</b>				<b>46,000</b>

## **Benefits**

### Benefits to local government

- 11.14 Developing a public participation strategy would enable principal councils to increase their engagement with the public. This would ensure greater transparency and democracy, meaning that services could be more targeted to local needs, demand more effectively managed and resource allocation improved.
- 11.15 Scrutiny could also be strengthened by greater public participation, which could improve the quality of decision-making and service delivery. Better public engagement in relation to decision-making would also help councils and connected authorities to raise awareness of the difficult choices they need to make each year.

### Benefits to other people

- 11.16 Local communities could benefit from a more transparent and open local government allowing them to become more closely involved in decision-making and service delivery. In particular, easy access to information about how to become a member of the council would create a stronger sense of involvement and trust in local government. Creating easier access to information could also increase the number and diversity of candidates. The public would be better educated in relation to the decision making of their council and would be more likely to understand the reasons behind its priorities.

## **Preferred Option**

- 11.17 Option 2 is the preferred option.



## Summary Cost Tables

*Table 20: Summary of transitional costs to local government (all Wales – 22 principal councils) – Public Participation*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Produce public participation strategy	0	0	293,000	0	0	0	0	0	0	0

*Table 21: Summary of recurrent costs to local government (all Wales – 22 principal councils) – Public Participation*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Pro-actively promote democracy	0	0	261,000	261,000	261,000	261,000	0	0	0	0
Review public participation strategy	0	0	0	0	0	0	0	46,000	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>261,000</b>	<b>261,000</b>	<b>261,000</b>	<b>261,000</b>	<b>0</b>	<b>46,000</b>	<b>0</b>	<b>0</b>

## **Duty to prepare petition schemes and abolition of Community Polls**

### **Background**

- 11.18 Petitions are an established feature of government at all levels in the UK, with the UK Government, the Scottish Parliament and the Senedd all having processes in place for handling petitions.
- 11.19 Petitions are widely used and initial research has shown that the Welsh public makes extensive use of third party e-petition facilities such as Facebook, [www.38degrees.org.uk](http://www.38degrees.org.uk) and [www.change.org](http://www.change.org). These petitions often relate to matters that are the responsibility of a principal council. Some principal councils in Wales make provision for petitions in their constitution, but we wish to enable greater, and more effective, use of petitions within local government, with principal councils being required to actively manage and respond to petitions. We also wish, in line with the digital agenda, to encourage the use of electronic petitions.
- 11.20 The majority of the respondents to the consultation on the draft Bill and Explanatory Memorandum published in 2015 supported the proposal to introduce a petition system. This fits in with our view on the need to modernise the mechanisms by which communities can raise their concerns and register their views.
- 11.21 The current system of Community Polls as governed by the 1972 Act is expensive and restrictive. They are non-binding on a principal council and can only be enacted if a sufficient number of electors support one at a community meeting. This mechanism is not reflective of the growing use of social media and other means by which electors and communities exchange views, gather support and call for changes.

### **Options**

- 11.22 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Abolish community polls and introduce a duty on principal councils to produce a petition scheme

#### **Option 1: Business as usual**

##### **Description**

- 11.23 Option 1 would introduce no change. Principal councils would continue to allow community polls and follow any process they currently use in relation to petitions.

## **Costs**

### Cost to the Welsh Government and local government

- 11.24 Option 1 would introduce no additional costs.
- 11.25 However, there is considerable cost attached to the running of a community poll. Recent polls on Flint Community Hospital and Rhiwbina Library have cost £3,000 and £5,000 respectively.
- 11.26 Community turnout at the polls make these particularly costly, evidence suggests that turnout ranges between 37% down to 9% at the 2012 poll on the closure of the paddling pool at Ynysangharad park.

## **Benefits**

### Benefits to the Welsh Government and local government

- 11.27 Option 1 would introduce no additional benefits.

## **Option 2 – Place a statutory duty on principal councils to introduce a petition scheme**

### **Description**

- 11.28 Option 2 would repeal the provisions in the 1972 Act relating to community polls and replace it with an alternative approach requiring principal councils to establish a petitions scheme.
- 11.29 The scheme would address how:
- a petition may be submitted;
  - the principal council will acknowledge and respond to a petition; including circumstances in which it will take no further action;
  - the principal council will make its response publically available;
  - the principal council will review and revise its scheme.
- 11.30 It is anticipated these provisions would be commenced following the 2022 local government ordinary elections in order to provide local authorities with sufficient time to make the necessary arrangements in preparation for complying with this new duty.

## **Costs**

### Cost to the Welsh Government

- 11.31 The anticipated costs to the Welsh Government in respect of Part 3 of the Bill are set out in paragraph 11.114 to 11.117 below.

### Costs to local government

- 11.32 The costs to local government would be variable, largely depending on whether the principal council decided to operate an e-petitions facility.

#### *Preparing a petition scheme*

- 11.33 The main cost to the majority of principal councils would relate to the preparation, management and review of their petition scheme. The costs for producing the initial petition scheme are set out in table 22 below, it is anticipated these would be incurred in 2022-23.

*Table 22: Prepare a petitions scheme and webpage*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Officer (Grade 33)	47,999	200	13	2,600
Translation (Grade 43)	60,899	254	2	508
<b>Total cost per principal council</b>				<b>3,108</b>
<b>Total cost for all 22 principal councils</b>				<b>68,000</b>

#### *Managing and monitoring a petition scheme*

- 11.34 Once the petition scheme was established there would be an ongoing cost for managing the scheme and monitoring the petitions subsequently received.
- 11.35 A sample of local government websites indicates that principal councils receive up to 20 petitions per year.
- 11.36 For the purposes of calculating these costs, it has been assumed these numbers will remain static. It has been assumed that a single officer would spend an average of 1 day per week monitoring and managing the petitions site, collating petitions and their subsequent submission to the appropriate lead official/council lead.
- 11.37 It is not anticipated that the rate at which petitions are submitted will remain constant and as such the 1 day a week estimated for this work includes a degree of flex to allow for fluctuations in demand.
- 11.38 The costs are set out in table 23 below and are anticipated to be incurred from 2022-23 onwards.

*Table 23: Managing and monitoring petition scheme*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days required</b>	<b>Total (£)</b>
Officer (Grade 33)	47,999	200	48	9,600
<b>Total cost per principal council</b>				<b>9,600</b>
<b>Total cost for all 22 principal councils</b>				<b>211,000</b>

- 11.39 Whilst petitions are already reasonably well used across the local government sector, it is feasible that the establishment of a petition scheme may lead to an increase in the volume of petitions being submitted to principal councils. It is estimated that there would need to be a 25% increase in the number of petitions before there would be an impact on the time demands on the local government office.
- 11.40 If the number of petitions were to increase by 25% to 25 petitions per year it is estimated that the time required would increase to 1.2 days per week increasing the annual estimated cost for all 22 principal council to £253,440.

#### *Establishing an e-petition system*

- 11.41 Whilst this option would not introduce an obligation on principal councils to establish an e-petitions facility, the expectation is the majority would choose to do so.
- 11.42 The majority of principal councils already have an electronic management system, with 21 using a single provider whose package includes an e-petition programme they could choose to activate at no additional cost.
- 11.43 Should a principal council decide to establish a standalone system, an estimated cost of £12,500 to set up an appropriate system with an ongoing maintenance cost of £4,000 per annum has been provided by a current provider. If all 22 principal councils established an e-petition system, the estimated cost would be £275,000, for the purposes of this Regulatory Impact Assessment it has been assumed the cost could be to be incurred in 2022-23. The estimated ongoing maintenance cost for all 22 principal councils would be £88,000 per year.

#### Savings for local government

- 11.44 Repealing the provisions of LGA 1972 in respect of community polls would result in savings for principal councils as they would no longer be liable for costs associated with the running of these polls. Due to the infrequency of community polls being called it is not known at this time what these savings may be and it is not possible to accurately offset the costs of establishing and running a petitions scheme against the savings of not needing to provide for community polls.

### **Benefits**

#### Benefits to local government

- 11.45 Introducing a duty to prepare a petitions scheme would enable communities to express their views on matters that concern them, and allow the principal council to better explain its policies and decisions in its response. Together with the provisions on a public engagement strategy, the provisions will provide a framework to enable councils to engage openly with the public.

### Benefits to other people

- 11.46 The abolition of community polls would make public access to petitions quicker and easier which in turn could have a more timely impact on principal council decision-making. It may facilitate additional communication channels to increase interest and involvement in the council's policies, to engage supporters and influence decision making. It would harness the positive social benefits of the internet to bring about more transparent decision-making.

### **Preferred Option**

- 11.47 Option 1 would maintain the status quo. How councils respond to petitions would not be immediately obvious to the public. The ability of the public to make its views known on a variety of subject matters would be variable, according to individual council practice.
- 11.48 Option 2 would increase transparency by informing members of the public about how individual principal councils will deal with petitions that are submitted, whether in hard copy or electronically.
- 11.49 Option 2 is the preferred option.

## Summary Cost Tables

*Table 24: Summary of transitional costs to local government (all Wales – 22 principal councils) – Petitions Scheme*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Prepare petition scheme	0	0	68,000	0	0	0	0	0	0	0
E-petition facility purchase	0	0	275,000	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>343,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 25: Summary of recurrent costs to local government (all Wales – 22 principal councils) – Petitions Scheme*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Manage petition scheme	0	0	211,000	211,000	211,000	211,000	211,000	211,000	211,000	211,000
E-petition facility maintenance	0	0	0	88,000	88,000	88,000	88,000	88,000	88,000	88,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>211,000</b>	<b>299,000</b>	<b>299,000</b>	<b>299,000</b>	<b>299,000</b>	<b>299,000</b>	<b>299,000</b>	<b>299,000</b>

## **Duty to Publish Constitution and Constitution Guide**

### **Background**

- 11.50 Principal councils are required, under section 37 of LGA 2000 to adopt a constitution that sets out their standing orders and rules relating to procedures. Its purpose is, in part, to describe how the council makes decisions and who is responsible for those decisions.
- 11.51 The result is principal council constitutions in Wales, which range from around 250 pages to over 450. While principal council constitutions may need to be lengthy to fulfil the requirements of LGA 2000, it is doubtful whether documents of this length help citizens understand local government decision-making, or help communicate the values of the organisation to the people they serve.
- 11.52 Principal councils, as well as producing their full constitution, will therefore be required to publish a simple guide to these arrangements that is easily accessible and understandable for the general public, using ordinary language. In doing so, councils will be required to have regard to any guidance issued by Welsh Ministers issued under section 38 of LGA 2000. The constitution guide would need to be published prominently on the council's website and it is hoped that the maximum possible numbers of electors would be made aware of how to access the guide.

### **Options**

- 11.53 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Require councils to produce and publish a guide to their constitution

#### **Option 1: Business as usual**

##### **Description**

- 11.54 Principal councils would continue to be required to publish a full constitution. This is often a lengthy, detailed, document, which may be unwieldy to some members of the public, making it difficult to find out about the council's decision-making processes and procedures.



## Costs

### Cost to the Welsh Government and local government

11.55 Option 1 would impose no additional costs on either the Welsh Government or local government.

## Benefits

### Benefits to the Welsh Government and local government

11.56 Option 1 would introduce no additional benefits.

## **Option 2 – Require councils to produce a guide to their constitution.**

### **Description**

11.57 Under this option, LGA 2000 would be amended to require principal councils to publish a constitution guide explaining the content of their constitution in ordinary language, place it on their website and, on request, to provide a copy either free of charge or at a charge representing no more than the cost of providing the copy.

## Costs

### Cost to the Welsh Government

11.58 The anticipated costs to the Welsh Government in respect of Part 3 of the Bill are set out in paragraph 11.114 to 11.117 below.

### Cost to local government

#### *Develop and publish constitutional guide*

11.59 Local government would incur costs developing their constitutional guide. The anticipated costs, set out in table 26, are based on the costs to Welsh Government of producing similar guides. It is anticipated this costs would be incurred in 2022-23.

*Table 26: Cost to local government to publish a constitution guide*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Senior Officer	78,143	325	6	1,950
Officer (Grade 43)	60,899	254	15	3,810
Lawyer (Senior Officer equivalent)	78,143	325	4	1,300
Translation (Grade 43)	60,899	254	7	1,778
<b>Total per principal council</b>				<b>8,838</b>
<b>Total for all 22 principal councils</b>				<b>194,000</b>

*Requirement to update constitutional guide*

11.60 Each principal council would be required to update their constitutional guides. Again, we have assumed that costs would be limited to the local government resources necessary to undertake the review and the subsequent translation of the strategy.

11.61 The costs are set out in table 27 below. It would be for each principal council to decide how and when they updated their strategies. However, for the purposes of this Regulatory Impact Assessment, it is assumed that the cost would be incurred after each ordinary election, with the first occurrence therefore being in 2027-28.

*Table 27: Local government staff resource required to update the council's constitutional guide*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Senior Officer	78,143	325	1	325
Officer (Grade 43)	60,899	254	3	762
Lawyer (Senior Officer equivalent)	78,143	325	2	650
Translation (Grade 43)	60,899	254	2	508
<b>Total cost per principal council</b>				<b>2,245</b>
<b>Total cost for all 22 principal councils</b>				<b>49,000</b>

**Benefits**

Benefits to local government

11.62 A guide to the constitution would be of benefits to new members and officers of principal councils, where, for example, it could be used as part of the induction to councils for both.

Benefits to other people

11.63 The scale and volume of content of existing council constitutions arguable makes it more difficult for members of the public to easily obtain information about the proceedings and decision-making powers of the different parts of the council. Despite it now being some 18 years since the introduction of executive arrangements, there is much confusion as to what decisions lie with the executive, rather than the council. It is also often unclear how the scrutiny arrangements work. The guide should provide an easier means for the public to obtain this information. Including the young people who will be enfranchised by this Bill.

### **Preferred Option**

11.64 The production of an easily understood guide is likely to help achieve a greater public understanding of the affairs of local government – and hence make it easier to follow them and engage with local government.

11.65 Option 2 is the preferred option.

## Summary Cost Tables

*Table 28: Summary of transitional costs to local government (all Wales – 22 principal councils) – Constitution Guide*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2019-20 (£)</b>
Publish constitution guide	0	0	194,000	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>194,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 29: Summary of recurrent costs to local government (all Wales – 22 principal councils) – Constitution Guide*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2019-20 (£)</b>
Review constitution guide	0	0	0	0	0	0	0	49,000	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>49,000</b>	<b>0</b>	<b>0</b>

## **Electronic broadcasts of meetings**

### **Background**

- 11.66 An increasing number of principal councils broadcast their meetings, although there is no requirement upon them to do so. In recent years, some 18 out of 22 principal councils are either regularly broadcasting meetings or have done so.
- 11.67 The Welsh Government has encouraged principal councils to promote broadcasting in the interests of transparency in decision-making. In 2012, the then Minister for Local Government and Communities awarded a grant to principal councils, in part to promote broadcasting. Broadcasting of meetings takes the form of live web streaming, accessible through the council's website and archiving of the recording for future viewing.
- 11.68 There has been increasing public interest in the public right to access and obtain information about council meetings. A majority of the respondents to the consultation on the draft Bill agreed that electronic broadcasting of meetings should take place.

### **Options**

- 11.69 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Require councils to broadcast their meetings

#### **Option 1: Business as usual**

##### **Description**

- 11.70 Principal councils would continue to have the discretion to broadcast their meeting.

##### **Costs**

###### Cost to the Welsh Government and local government

- 11.71 Option 1 would impose no additional costs on either the Welsh Government or local government.

##### **Benefits**

###### Benefits to the Welsh Government and local government

- 11.72 No additional benefit has been identified.

## **Option 2 – Require councils to broadcast their meetings.**

### **Description**

- 11.73 All principal councils would be required to make arrangements to broadcast their meetings (including meetings of their committees and sub-committees) and to make the broadcast available electronically for a reasonable period after the meeting. Welsh Ministers would have a regulation-making power enabling them to specify proceedings that should not be broadcast.
- 11.74 Welsh Ministers would also have a regulation making power to extend the broadcasting duty to fire and rescue authorities and National Park authorities in Wales. Welsh Ministers would have a power to issue guidance to local authorities about how they make arrangements for the broadcast of meetings and local authorities must have regard to it.
- 11.75 It is anticipated that these provisions would take effect following the 2022 local government elections to allow for preparatory time and procurement.

### **Costs**

#### Cost to the Welsh Government

- 11.76 The anticipated costs to the Welsh Government in respect of Part 3 of the Bill are set out in paragraph 11.114 to 11.117 below.

#### Cost to local government

- 11.77 In 2012-13, a £40,000 grant was made available to local government to support principal councils to arrange for the broadcast of council meetings and the enabling of remote attendance at council meetings. It was also intended to assist community councils to publish information on the internet and to be contactable via the Internet. Eighteen principal councils have broadcast their meetings to some extent following this grant.
- 11.78 Subsequently, discussions held with principal councils, the company providing the broadcasting service and the WLGA identified that a single broadcasting contract for Wales would result in costs to a principal council for an average broadcasting package of circa £12,000 per annum. This results in an estimated total cost of £264,000 per annum across the 22 principal councils
- 11.79 It may be necessary to implement this policy in an incremental way, potentially starting with the requirement to broadcast full council. This would enable the current dialogue with local authorities to continue,

including about whether an all Wales contract is something local government would wish to see established.

- 11.80 An iterative approach would also enable a dialogue with the public in terms of future broadcasting to gauge views about future arrangements and provide an opportunity to learn lessons from the events of Covid -19 about the practical application of technology to support virtual / semi virtual meetings alongside broadcasting.
- 11.81 If the above approach is adopted further discussions will take place to identify the level of funding required for the provisions in the Bill and the separate funding requirements that would be associated with any future regulations.
- 11.82 On this basis, the original figures are retained while discussions continue.

## **Benefits**

### Benefits to local government

- 11.83 Broadcasting meetings makes principal council business more accessible to a wider range of people. This could improve the strength of engagement with local communities and lead to more informed and pluralistic decision-making.

### Benefits to other people

- 11.84 Likewise, broadcasting meetings would make it easier for local people to understand council business, to influence policies and decisions, and to hold councillors to account.

## **Preferred Option**

- 11.85 Option 1, business as usual, would leave engagement between principal councils and local communities as it is currently.
- 11.86 Option 2 will require the electronic broadcasting of meetings, which could significantly improve engagement, increase and improve the interest in local democracy and improve public perception of the value of local democratic decision-making.
- 11.87 The preferred option is option 2, providing for the electronic broadcasts of meetings.

## Summary Cost Tables

*Table 30: Summary of recurrent costs to local government (all Wales - 22 principal councils) – Electronic Broadcasting*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Provision of electronic broadcasting	0	0	264,000	264,000	264,000	264,000	264,000	264,000	264,000	264,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>



## Conditions for Remote Attendance

### Background

- 11.88 Remote attendance at council meetings was a reform introduced through the provisions of the Local Government (Wales) Measure 2011, intended to support the membership of principal councils and promote diversity. Its enactment built on the proposals of the Councillors Commission Expert Panel for Wales, whose report “*Are we Being Served?*” said:

*Many councils in Wales are already introducing ‘paperless’ systems but the Panel believe that more could be done to make it easier for working people in particular to contribute, for example, by considering attendance at meetings via video conferencing and remote voting.*

- 11.89 The provisions of Section 4 of the 2011 Measure make clear that a meeting need not take place only at one location. A councillor can attend at a different venue to the normal meeting place, provided:
- they can be seen and heard by the members at the main meeting place and, similarly, they can see and hear the other members.
  - they can be seen and heard by any members of the public attending and speaking at the meeting, and also can see and hear them.
  - they can be seen and heard by any other members of the public attending.
  - if there is more than one remote location, each remote attendee can hear the others.
  - the use of facilities enabling the conditions to be met are not ruled out by the council’s standing orders.
- 11.90 A principal council’s standing orders should provide that at least 30% of those entitled to attend must be at the main meeting place, although a higher percentage may be set. The council must have regard to guidance from the Welsh Ministers in relation to remote attendance at meetings.
- 11.91 Guidance produced by the Welsh Ministers accepted it would not always be easy for principal councils to comply with the requirements of the 2011 Measure in respect of remote attendance at council meetings.
- 11.92 Councils would need to have the technical capability and may also need to have officer support at more than one location. Complying with Welsh language requirements also presented challenges, with a need to ensure that translation could be picked up at different locations and that alternative locations had disabled access.
- 11.93 Local government lawyers have expressed fears that other persons might be present at remote locations without the knowledge of those at

the main meeting and if the meeting went into closed session to discuss confidential matters, they might be able to follow proceedings. The guidance made clear that any councillor who knew this was happening would be subject to disciplinary proceedings under the code of conduct.

- 11.94 The guidance also covered the possibility of the electronic link being lost during the meeting between the relevant parties, disenfranchising those attending remotely, which could be particularly problematic if urgent decisions were required. In urgent cases, the guidance suggested that standing orders could either prevent remote attendance or state that the remote attendees carried the risk of losing their vote.
- 11.95 Finally, the guidance recognised that voting could be problematic if councils had adopted electronic voting which could not function for the remote attendees. It recommended that standing orders should cover this, possibly by saying that remote attendees would have to vote by show of hands.
- 11.96 Remote attendance, although piloted in a few councils, has proved to be very difficult to introduce. In most councils, members have decided there is no need for it as they would always intend being at the council's offices. Powys has noted a desire to hold meetings at different locations within their council, linking Llandrindod Wells with Brecon and Montgomery.
- 11.97 Even with the advent of web streaming of council meetings, contractors have been reluctant to attempt to provide for remote attendance because of the technical challenges posed by the specific requirements of the 2011 Measure.
- 11.98 Despite this, remote attendance is seen as a potentially important reform, particularly in the encouragement of diversity, with hopefully more employed councillors and more with caring responsibilities.

## **Options**

- 11.99 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Change the legal provisions of the 2011 Measure in respect of remote attendance to make them more effective

### **Option 1: Business as usual**

#### **Description**

- 11.100 This would leave the provisions of the 2011 Measure in place. As well as maintaining the existing requirements which principal councils must

meet in order for remote attendance to operate in accordance with the legislation – which local government consider onerous - it would retain the right of councils to choose not to operate it, if it was excluded by their standing orders.

## **Costs**

### Cost to the Welsh Government and local government

11.101 Option 1 would introduce no additional costs.

## **Benefits**

### Benefits to the Welsh Government and local government

11.102 Option 1 would introduce no additional benefits.

## **Option 2 – Change the legal provisions of the 2011 Measure in respect of remote attendance to make them more effective**

## **Description**

11.103 It is recognised that local authorities should retain flexibility in their arrangements for remote attendance at meetings. However, it is proposed that local authorities should set out in their standing orders the conditions which should apply if someone is attending a meeting remotely. A new duty is also introduced which requires a local authority to ensure that any facility necessary to satisfy the requirements of standing orders for remote attendance is in place. Whilst this option would requirement principal councils to have arrangements in place for remote attendance, it will also give greater leeway as to how they design those arrangements. Whether the arrangements were made use of would be a matter for the elected members to decide upon.

11.104 The 2017 local government elections resulted in an increase in female councillors and a significant increase in councillors under the age of forty. Both these groups are considered more likely to include councillors who may have trouble in attending certain meetings given that, statistically, they tend to have more caring responsibilities or be in full time employment. This could result in increased demand for remote attendance.

## **Costs**

### Cost to the Welsh Government

11.105 The anticipated costs to the Welsh Government in respect of Part 3 of the Bill are set out in paragraph 11.114 to 11.117 below.

### Cost to local government

- 11.106 The costs to principal councils would vary from council to council, depending on the arrangements they put in place and the extent to which those arrangements were used. This could mean zero costs for one council, but a need for investment in hardware in another.
- 11.107 It is highly unlikely that any additional staff would be required, but there could be a need to hire rooms, provide a translation service to a remote location and other miscellaneous possibilities.
- 11.108 An overall annual cost to each principal council of £10,000 might be realistic. An annual cost of £220,000 is therefore assumed from 2022-23. It should be borne in mind that there are potential savings from the reduced travelling required by councillors using the facility, these savings will be different for each council and it is not possible to calculate at this time. These savings are therefore unknown.

### **Benefits**

#### Benefits to local government

- 11.109 The more diverse a principal council, with more councillors with employment or caring responsibilities, the more likely it is that remote attendance would be beneficial for them. This would also apply to those councils, particularly though not exclusively in rural areas, where councillors face long journeys to attend meetings.

#### Benefits to other people

- 11.110 Councillors being able to attend meetings that they otherwise might not be able to should improve the service provided to their constituents.

### **Preferred Option**

- 11.111 Option 1 would make no change to the current situation, which involves processes which councils find cumbersome. It is also a facility, which is rarely used at present.
- 11.112 Option 2 would make it simpler for councils to operate and provide them with flexibility of arrangements, but would require the facility to be made available by all councils, potentially making it much easier for some councillors to attend meetings.
- 11.113 Option 2 is preferred. It allows principal councils to design systems with which they are comfortable, while still meeting minimum standards, and makes the provision of facilities compulsory, enabling councillors to call on it if required.

## Summary Cost Tables

*Table 31: Summary of recurrent costs to local government (all Wales – 22 principal councils) – Remote Attendance*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Annual cost of operating remote attendance	0	0	220,000	220,000	220,000	220,000	220,000	220,000	220,000	220,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>

## Welsh Government Staff Costs

11.114 It is intended to prepare guidance to principal councils in respect of the following provisions of Part 3 of the Bill:

- Remote Attendance
- Public Participation
- Petition Scheme
- Guide to Constitution
- Electronic broadcasting

11.115 It is anticipated this cost will be incurred in 2020-21 and 2020-22 with a majority of the cost falling in the second year.

*Table 32: Welsh Government staff costs of preparing guidance in respect of Part 3 of the Bill*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	5	2,405
Grade 7	81,696	340	25	8,500
SEO	63,305	264	60	15,840
Lawyer (Grade 7)	81,696	340	20	6,800
Translation (SEO)	63,305	264	20	5,280
<b>Total</b>				<b>39,000</b>

11.116 It is intended to support the publication of the guidance with engagement events held by Welsh Government staff to raise awareness and offer support to local government staff.

11.117 The costs are set out in table 33 and it is anticipated these would be incurred during 2021-22.

*Table 33: Welsh Government staff costs for organisation of engagement/ training events in respect of Part 3 of the Bill.*

<b>Event organisation costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Grade 7	81,696	340	5	1,700
HEO	49,142	205	10	2,050
EO	38,153	159	10	1,590
Travel and accommodation costs	-	-	-	900
<b>Total</b>				<b>6,000</b>

## Summary Cost Tables

*Table 34: Summary of transitional costs to the Welsh Government – Promoting access to local government*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Preparation of guidance	8,000	39,000	0	0	0	0	0	0	0	0
Engagement & training events	0	6,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>8,000</b>	<b>45,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

# Community Council Annual Reports

## Background

11.118 The proposal to require community councils to produce annual reports builds on a set of provisions originally prepared following the consultation on the draft Bill in 2015, together with the findings of the Independent review on panel on community and town councils in Wales<sup>26</sup>, which reported in October 2018.

11.119 Following publication of the Independent Review Panel's findings, the Welsh Government published its proposed actions for helping to build capacity and capability within the community council sector. The set of actions include:

- Requiring all community councils to prepare an annual report;
- Requiring community councils to set out how they have engaged, and intend to engage, their communities as part of the annual report;
- Exploring whether the annual report could be used to as mechanism for community councils to report on how they have taken account of the 'ways of working'.

## Options

11.120 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Require all community councils to publish an annual report setting out council's priorities, activities and achievements during that year.

### Option 1 – Business as usual

#### Description

11.121 Option 1 would maintain the status quo. This option would entail no change from current arrangements and community councils would continue to have complete discretion as to whether they produce and publish an annual report.

11.122 This would not affect the requirement for community council's falling under the duty under Section 40 of the WFG Act to report on the

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<sup>26</sup> [Welsh Government | Independent Review Panel on Community and Town Councils in Wales: Final Report](#)



progress made in meeting the local objectives in the local well-being plan that has effect in its area.

## **Costs**

### Cost to the Welsh Government and local government

11.123 Option 1 would introduce no additional costs to the Welsh Government or local government.

## **Benefits**

### Benefits to the Welsh Government and local government

11.124 Option 1 would introduce no additional benefits.

## **Option 2 – Require community councils to prepare and publish an annual report setting about the council's priorities, activities and achievements during that year.**

## **Description**

11.125 This option would require a community council, at the end of each financial year, to prepare and publish a report about its priorities, activities and achievements during that year.

11.126 It is intended that the report include a focus on particular aspects of reporting such as how they have engaged, and intend to engage their communities as part of the annual report. This option would include a power for Welsh Minister to issue statutory guidance, which would set out these expectations.

11.127 Community councils are not subject to the five ways of working set out in the WFG Act. However, it is envisaged that they would be expected, as part of looking at their priorities, activities and achievements, to reflect and report on *how* they had acted as well as what they achieved. It is anticipated this would be covered in guidance issued by the Welsh Ministers.

## **Costs**

### Cost to the Welsh Government

11.128 It is expected the Welsh Government would incur costs preparing guidance for community councils on preparing their annual report. This cost is set out in table 35 below and it is anticipated it would be incurred in 2021-22.

*Table 35: Costs to the Welsh Government of producing guidance for community councils on preparing their annual report*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily costs (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	7	2,380
SEO	63,305	264	15	3,960
Lawyer (Grade 7)	81,696	340	5	1,700
Translation (SEO)	63,305	264	5	1,320
<b>Total</b>				<b>10,000</b>

### Costs to Community Councils

11.129 There would be a cost to councils of considering and compiling an annual report. It is difficult to estimate how long it would take a council to prepare the report, as there are a range of factors that could affect this (including their responsibilities; how priorities, activities and achievements have been recorded previously; the number of councillors and their experience and knowledge).

11.130 For the purposes of this Regulatory Impact Assessment, we have prepared an estimated cost on the broad assumption that the size of a council will determine the extent of the report and therefore the time required for its preparation. In practice, it may take some councils more, or less, time.

11.131 It is anticipated smaller councils will take less time to prepare their annual report, as they are likely to provide fewer services to a smaller group of local communities. Whereas larger community councils may be providing a higher proportion of services to a larger group of communities.

11.132 In calculating the cost of preparing an annual report, it has been assumed that the core cost would be clerk time.

11.133 Whilst councillors will be involved in the preparation of annual reports, it is anticipated this will be undertaken as part of their usual business, including the agreement of the report at a full council meeting.

11.134 The costs are set out in table 36 and it is anticipated these costs would be incurred from 2022-23 onwards.

*Table 36: Costs to community councils in preparing and publishing their first annual report*

<b>Civic Area population</b>	<b>No of councils</b>	<b>Hours to prepare annual report</b>	<b>Clerk est. hourly rate (£)</b>	<b>Cost per council (£)</b>	<b>Total 2020-21 (£)</b>
Under 250	18	4	15	60	1,080
251-500	113	8	15	120	13,560
501-800	120	8	15	120	14,400
801-1,200	124	8	15	120	14,880
1,201-1,800	87	8	18	144	12,528
1,801-2,500	62	10	18	180	11,160
2,501-3,500	53	20	20	400	21,200
3,501-5,000	46	20	25	500	23,000
5,001-7,500	40	20	25	500	20,000
7,501-10,000	25	20	25	500	12,500
10,001-20,000	42	25	25	625	26,250
Over 20,000	7	25	25	625	4,375
<b>Total</b>					<b>175,000</b>

11.135 It is anticipated that preparing subsequent annual reports will take less time after the first year; with a time commit equivalent to 40 per cent of year one used to forecast the cost over subsequent years.

## **Benefits**

### Benefits to local government

11.136 The approach recognises that, as autonomous bodies, community councils should be able to decide themselves how to set priorities and how to engage with their communities.

11.137 Most councils will have experience of reviewing their priorities and achievements. The difference is that it will mean that community councils which have previously not considered preparing an annual report, or only done so on an irregular basis, will now do so on a more structured and consistent approach.

11.138 Community councils are a diverse sector with varying capacity and capability. They will need to be able to justify sums spent on producing the annual report and satisfy themselves that the likely costs are proportionate to the benefits likely to be realised from being in a stronger position to engage their community, and from being held to account more transparently.

11.139 This option will provide community councils with some flexibility and discretion about what they include in their annual report. This approach will also help promote a sense of ownership.

11.140 Requiring community councils to publish an annual report as well as consulting and issuing statutory guidance will generate a greater interest and understanding of the benefits of improved engagement and accountability. This may result in an increase in participation by local communities.

### **Preferred Option**

11.141 Option 2 is the preferred option. This option will result in community councils taking a consistent approach to demonstrating local accountability and could potentially lead to greater engagement and participation with their communities.

## Summary Cost Tables

*Table 37: Summary of transitional costs to the Welsh Government – Community council annual reports*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Producing guidance	0	10,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>10,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 38: Summary of transitional costs to local government (all Wales – 735 community councils) –community council annual reports*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Preparing and publishing annual reports	0	0	175,000	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>175,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 39: Summary of recurrent costs to local government (all Wales – 735 community councils) – community council annual reports*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Preparing and publishing annual reports	0	0	0	70,000	70,000	70,000	70,000	70,000	70,000	70,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>

## **Chapter 12 Costs and benefits of Part 4: Local Authority Executives, Members, Officers and Committees**

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### **Chief Executives**

#### **Background**

- 12.1 LGHA 1989 requires principal councils to designate an officer as its 'head of paid service'. Whilst that officer is often also described as the authority's chief executive officer or, on occasion, the managing director, there is no consistency in this respect.

#### **Options**

- 12.2 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Place a statutory duty on principal councils to appoint a chief executive

#### **Option 1: Business as usual**

##### **Description**

- 12.3 Option 1 would introduce no change. Principal councils would continue to appoint a head of paid service under the present legislative arrangements.

##### **Costs**

###### Cost to the Welsh Government and local government

- 12.4 Option 1 would introduce no additional costs.

##### **Benefits**

###### Benefits to the Welsh Government and local government

- 12.5 Option 1 would introduce no additional benefits.

## **Option 2 - Place a statutory duty on principal councils to appoint a chief executive.**

### **Description**

- 12.6 To ensure clarity of responsibility option 2 would define in law the post of a chief executive. This post would encompass the role of 'head of paid service'.
- 12.7 A principal council would be under a duty to appoint a chief executive.
- 12.8 The chief executive will be responsible for keeping under review:
- the exercise by the council of its functions;
  - the council's arrangements in relation to financial planning, asset management and risk management;
  - the staff requirements of the council which include the organisation, appointment, management and training and development.

### Cost to local government

- 12.9 All principal councils currently have a chief executive (or equivalent) so there would be no additional cost associated with the duty to appoint a chief executive.

### **Benefits**

#### Benefits to local government

- 12.10 Whilst, the post of 'head of paid service' is defined in LGHA 1989, the duties of the post have arisen through custom and practice, and are not consistently, or clearly, defined. The provisions of the Bill will provide clarity as to the responsibilities of the chief executive which should improve consistency across principal councils and support greater understanding of the role of a chief executive.

### **Preferred Option**

- 12.11 Option 1 would offer no changes to the status quo.
- 12.12 Option 2 offers the advantage of ensuring that the role of the most senior officer in managing a council's administration within its wider governance arrangements is clearly provided for in statute
- 12.13 Option 2 is the preferred option. It would ensure principal councils are more open, transparent and accountable.

## **Appointment of Assistants to Executives**

### **Background**

- 12.14 The Welsh Government believes that the membership of principal councils should better reflect the composition of society. While that plainly depends on election results, it is still possible to encourage and facilitate councillor diversity.
- 12.15 The Welsh Government also believes that councils should be enabled to take steps with a view to making the composition of their executives more reflective of the composition of society. However, positions on council executives are often awarded predominantly to senior or long-serving councillors. Any greater diversity in the councillors who are returned may thus not be reflected in the composition of executives for some considerable time, if at all.
- 12.16 Accordingly, the White Paper, “Reforming Local Government: Power to Local People” included a proposal to allow for assistants to executives and provisions were included to that effect in the draft Bill published for consultation in 2015 . These proposals did not attract any adverse representations.
- 12.17 While some principal councils have already experimented with this approach, it is entirely informal and non-statutory. Local government law does not recognise any subordinate type of executive decision-maker akin to a junior or deputy minister. Anyone appointed to such a role at present can neither exercise statutory functions nor receive a senior salary. Conversely, they remain able to act in ways executive members cannot, for example, they can serve on scrutiny committees.

### **Options**

- 12.18 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Empower principal councils to appoint councillors to assist the executive.

#### **Option 1: Business as usual**

##### **Description**

- 12.19 Option 1 would maintain the status quo. Executive arrangements would continue as they are, with all members being full time and having the same status. No councillor could formally be appointed to assist the executive in its work.



## Costs

### Cost to the Welsh Government and local government

12.20 Option 1 would introduce no additional costs.

## Benefits

### Benefits to the Welsh Government and local government

12.21 Option 1 would introduce no additional benefits.

## **Option 2 – Empower principal councils to appoint councillors to assist the executive.**

### **Description**

12.22 Option 2 would allow (but not require) a principal council's executive arrangements to include provision for appointing councillors to assist the executive. Such assistants would not be members of the executive, but could act on their behalf in certain circumstances. The roles would be less onerous than those of full-time executive members, and would be more suited to less experienced councillors and potentially those with caring or employment commitments. The power to appoint assistants could be used to increase the diversity of councillors involved in executive decision-making.

## Costs

### Cost to local government

12.23 Option 2, being a power available to a principal council, would not of itself introduce any additional costs.

12.24 The independent Remuneration Panel is responsible for determining, annually, the level of payments to elected members of councils. Their latest Annual Report<sup>27</sup>, published in February 2020, set the basic salary (payable to all elected members) at £14,218.

12.25 It is possible that the Independent Remuneration Panel for Wales could determine that assistants to the executive should receive a senior salary, such as that paid to executive member. In determining the basic salary for executive members, councils are placed into one of three groups based on the size of the local population:

- Group A – Population 200,000 and above
- Group B – Population 100,001 to 199,999
- Group C – Population up to 100,000

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<sup>27</sup> [Welsh Government | Independent Remuneration Panel for Wales: Annual Report 2020-21](#)

12.26 The 2020 Annual Report determined the following salaries for executive members:

- Group A – £33,450
- Group B – £30,450
- Group C – £27,450

12.27 However, it is not possible to anticipate the Panel's views on this matter. A council proposing to make use of the power would need to consider the implications of any such determination by the Panel. The costs provided in above paragraphs are shown for information only and do not form part of the costs reported in this Regulatory Impact Assessment. These costs are therefore unknown at this time.

## **Benefits**

### **Benefits to local government**

12.28 The benefits would be purely qualitative. Principal councils would benefit from greater executive capacity and greater flexibility to appoint councillors with high potential to senior roles. If this also led to the composition of a council's executive better reflecting the society it serves, that has the potential to improve a council's decision-making processes. In turn, a council could also benefit from greater engagement and credibility with the communities it served.

## **Preferred Option**

12.29 Option 1 would make no changes to the status quo. Executive arrangements would continue as they are.

12.30 Option 2 would allow principal councils to appoint councillors to assist the executive. Option 2 is the preferred option. It would enable councils to strengthen, broaden and diversify their senior executive leadership.

## **Job sharing in Principal Councils**

### **Background**

12.31 The effective operation of principal councils involves the appointment or election of councillors to certain offices such as executive leader, member of the executive, committee chair or presiding member. These offices are usually full time roles. Therefore, in order to promote diversity amongst the members appointed to them, provision is being made in the Bill to allow the Welsh Ministers, by regulation, to enable or facilitate, two or more councillors to be appointed to such offices on a job sharing basis. The aim is to encourage greater diversity amongst

office holders by enabling those elected members who have personal circumstances which prohibit them from considering such roles on a full time basis to be more readily appointed.

- 12.32 The offices of executive leader and member of the executive were introduced by the LGA 2000. All 22 principal councils in Wales operate a leader and cabinet executive model, rather than an elected mayor and cabinet model.
- 12.33 The number of members of a cabinet executive (“executive”) in both an elected mayor or leader model is restricted to 10 (including the mayor/leader). This figure can only be exceeded if a member is appointed to the executive on a temporary basis to cover the absence of an executive member taking family absence. The Bill therefore provides that the limit of 10 members of the executive can be increased to a maximum of 13 provided that at least three of the members in the cabinet are job sharing.

## **Options**

- 12.34 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Legislate to enable and facilitate job-sharing in certain offices within principal councils and for the maximum size of the council executive to be exceeded to cater for job-sharing

### **Option 1: Business as usual**

#### **Description**

- 12.35 This option would maintain the status quo not facilitating job sharing for certain offices and limiting executives to nine members (excluding the leader) including any job-sharing members

#### **Costs**

##### Cost to the Welsh Government and local government

- 12.36 Option 1 would introduce no additional costs.

#### **Benefits**

##### Benefits to the Welsh Government and local government

- 12.37 Option 1 would introduce no additional benefits.

## **Option 2 – Legislate to enable the maximum size of the council to be exceeded to cater for job-sharing**

### **Description**

- 12.38 This option will allow the current maximum size of the executive to be exceeded, up to a maximum of 13, where it is caused by appointments made on a job-sharing basis. Members appointed to the executive above the existing limit of 10 must be job-sharers. This will encourage leaders, including those in the largest councils with the maximum number of executive members, to consider job-shared posts.
- 12.39 This option would also allow the Welsh Ministers to make provision in respect of a range of other offices being undertaken on a job share basis.

### **Costs**

#### Cost to the Welsh Government

- 12.40 There are no costs for the Welsh Government

#### Cost to local government

- 12.41 The Independent Remuneration Panel for Wales is the body responsible for setting the payments that must be made to elected members. At present<sup>28</sup>, executive members are paid according to within which population group their council falls:
- Group A executive members (population 200,000 and above) receive £33,450;
  - Group B executive members (population 100,001 to 199,999) receive £30,450; and
  - Group C executive members (population up to 100,000) receive £27,450.
- 12.42 The 2020 Report of the Panel allows for job sharing where it does not breach the current legislative limit on executive members and their determination is that each ‘sharer’ be paid an appropriate proportion of the executive member salary. The Panel would need to make a determination on the remuneration for job sharers in the future, which takes account of these new legislative provisions. Any potential additional costs are therefore unknown at this time.

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<sup>28</sup> [Welsh Government | Independent Remuneration Panel for Wales: Annual Report 2020-21](#)

- 12.43 Principal Councils are not required to pay chairs of committees any additional salary above their standard salary as a member of the council. It is a matter for each council to decide which, if any, chairs of committees are remunerated, this allows councils to take account of differing levels of responsibility.
- 12.44 Where chairs of committees and presiding members are paid, the remuneration is set by the Independent Remuneration Panel for Wales and was set at £22,918 in the 2020 Report of the Panel. The Panel would need to make further determination on the remuneration for job sharers in the future, which takes account of these new legislative provisions. Any potential additional costs are therefore unknown at this time.

## **Benefits**

### Benefits to local government

- 12.45 The lack of diversity in the membership and leadership of local government in Wales has long been the subject of concern, with women making up less than 30% of council members and providing only a small number of council leaders out of 22. Enhancing the size of the executive in order to accommodate members who are unable to devote themselves full-time to such a role is likely to lead to a council leadership more reflective of the community they represent. Likewise in the other offices of the council.

### Benefits to other people

- 12.46 A council leadership consisting of a more diverse cadre of councillors is more likely to reflect the aspirations of the community they represent. Decision-making is likely to improve as the mix of experiences reflected in the composition of the executive would be greater. It would be a step towards “normalising” the councillor experience.

## **Preferred Option**

- 12.47 Option 1 would make no changes to the status quo. The quality and effectiveness of leadership would not change.
- 12.48 Option 2 would make available to principal council a way of making the composition of their executives and other office holders more reflective of the community they represent without detracting from the capacity of the office holders to perform their functions.
- 12.49 Option 2 is the preferred option. It would assist principal councils’ executives to be more diverse and reflective of society.

## **Duty of Leaders of Political Groups in relation to Standards of Conduct**

### **Background**

- 12.50 Part III of LGA 2000 established a statutory framework to promote and maintain high standards of ethical conduct by members and employees of 'relevant authorities' in Wales. The Act defines a 'relevant authority' as a county or county borough council ('principal councils'), community council, fire and rescue authority or National Park authority.
- 12.51 Engendering a culture that embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.
- 12.52 The White Paper 'Reforming Local Government: Power to Local People' stated that councils must be places where an open culture thrives and people are made to feel welcome and respected, whatever their background, if a more diverse range of people are to be encouraged to seek elected office in local government. The White Paper noted that standards of behaviour were key to this and expressed concern that an overly 'macho' culture in some authorities might be acting as a deterrent to women, in particular, standing for office.
- 12.53 To complement the existing statutory ethical framework, the White Paper proposed that those in positions of leadership and influence within a principal council should have responsibility in respect of the promotion of diversity and to combat bullying and harassment amongst elected members and council staff.

### **Options**

- 12.54 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Place a duty on political group leaders to promote and maintain high standards of conduct by the members of their group

#### **Option 1 – Business as usual**

##### **Description**

- 12.55 Local standards committees would continue to play an important role in supporting members, individually and collectively, to develop and maintain a culture that embraces high standards of conduct. Members who fail to comply with the code of conduct would be open to sanction by the relevant standards committee or an Adjudication Panel for Wales

tribunal, following the investigation of a complaint by the Public Services Ombudsman for Wales.

## **Costs**

### Cost to the Welsh Government and local government

- 12.56 Option 1 would impose no additional costs on either local government or the Welsh Government.

## **Benefits**

### Benefit to the Welsh Government and local government

- 12.57 There would be no additional benefits beyond the promotion of high standards of conduct under the current ethical standards framework.

## **Option 2 - Place a duty on political group leaders to promote and maintain high standards of conduct by the members of their group**

### **Description**

- 12.58 Option 2 would amend Part III of the LGA 2000 to place a duty on political group leaders of principal councils to take reasonable steps to promote and maintain high standards of conduct by the members of their group.
- 12.59 Group leaders would use their influence within political groups to ensure that members of the group developed and maintained proper awareness and understanding of the standards expected and applied this in exercising their day-to-day functions.
- 12.60 Option 2 would also amend LGA 2000 to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty. A standards committee must also provide advice and training for group leaders on the new duty. Group leaders would be expected to co-operate with the council's standards committee in exercising its functions.

## **Costs**

### Cost to the Welsh Government

- 12.61 It is expected the Welsh Government would incur costs producing guidance for group leaders on promoting high standards of conduct by their group members. This cost is set out in table 40 below and it is anticipated it will be incurred in 2021-22.

*Table 40: Producing guidance for group leaders on promoting high standards of conduct by their group members*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	5	1,700
SEO	63,305	264	13	3,432
Lawyer (Grade 7)	81,696	340	3	1,020
Translation (SEO)	63,305	264	5	1,320
<b>Total</b>				<b>8,000</b>

12.62 It is anticipated that Welsh Government would also need to make regulations related to the constitution of political groups for the purpose of this option. This cost is set out in table 41 and it is anticipated it would be incurred in 2021-22.

*Table 41: Cost to the Welsh Government of producing regulations related to the constitution of political groups*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	5	1,700
SEO	63,305	264	15	3,960
Lawyer (Grade 7)	81,696	340	15	5,100
Translation (SEO)	63,305	264	7	1,848
<b>Total</b>				<b>13,000</b>

#### Cost to local government

12.63 No significant costs to local government are anticipated as a consequence of this option.

12.64 Whilst there may be some additional activity required around training for group leaders and monitoring compliance with the duty, this can be considered as forming part of a standards committee's ongoing functions relating to the promotion of high standards of conduct. It is reasonable to expect that any additional cost will be offset by improved standards of conduct leading to less time and cost spent dealing with misconduct issues. The costs associated with this provision are therefore unknown.



## **Benefits**

### Benefits to local government

- 12.65 The benefits to principal councils would be the avoidance of reputational damage through higher standards of conduct, potentially leading to the attraction and retention of a more diverse and representative membership. In turn, this could lead to better decisions and outcomes for communities.

### Benefits to others

- 12.66 Though it is not possible to quantify the direct benefit to others, as an initiative which seeks to promote and maintain high standards of conduct, the new duty could lead to fewer instances of complaints being referred to the Public Services Ombudsman for Wales.

## **Preferred Option**

- 12.67 Option 2 is the preferred option.

## Summary Cost Tables

*Table 42: Summary of transitional costs to the Welsh Government – Duty on political group leaders in relation to standards of conduct*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Produce guidance	0	8,000	0	0	0	0	0	0	0	0
Prepare regulations	0	13,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>21,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Duty of Standards Committee to make an annual report

### Background

- 12.68 A relevant authority (i.e. a principal council, a fire and rescue authority and a national park authority) is required by section 54 of LGA 2000 to establish a standards committee.
- 12.69 The *general functions* of a standards committee are to promote and maintain high standards of conduct by members and co-opted members of the authority and to assist them to observe the code of conduct.
- 12.70 In addition, the *specific functions* of a standards committee are to:
- advise the authority on the adoption or revision of a code of conduct;
  - monitor the operation of the code of conduct; and
  - provide advice and training on the code of conduct for members of the authority.
- 12.71 A principal council's standards committee also exercises these functions in relation to members of community councils in its area.
- 12.72 A relevant authority may also arrange for its standards committee to exercise other functions, such as considering complaints of maladministration.
- 12.73 Standards committees have a key role in promoting high standards of conduct by members of relevant authorities in Wales. However, all members must exercise personal responsibility to act in ways which show they are committed to meeting the high standards expected of those in public office and, together with other members, engender a culture which embraces and fosters high ethical standards across their authority.
- 12.74 The Welsh Government believes, therefore, that it is important relevant authorities receive an annual report by their standards committee. Such a report would set out how the committee had discharged its functions, its assessment of standards of conduct within the authority and any recommendations to the authority for improving standards.

### Options

- 12.75 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Place a duty on a standards committee to make an annual report to the authority.

## **Option 1: Business as usual**

### **Description**

- 12.76 Some standards committees already make non-statutory reports to their authority and this is likely to continue.

### **Costs**

#### Cost to the Welsh Government and local government

- 12.77 Option 1 would impose no additional costs on either local government or the Welsh Government.

### **Benefits**

#### Benefits to the Welsh Government and local government

- 12.78 No additional benefits have been identified over and above the effective promotion of high standards within those authorities whose standards committee already makes an annual report.

## **Option 2: Place a duty on a standards committee to make an annual report to the authority**

### **Description**

- 12.79 Option 2 will amend LGA 2000 to place a duty on a standards committee to make an annual report to its authority. A relevant authority will be required to consider the report and any recommendations by the standards committee within 3 months of receiving it.

### **Costs**

#### Cost to the Welsh Government

- 12.80 No additional costs have been identified.

#### Cost to local government

- 12.81 There would be no additional cost for those authorities who already make an annual report to the council.
- 12.82 There would be a small administrative cost for those authorities whose standards committee do not already make an annual report. However, this is likely to be absorbed within the cost of existing support services for standards committees and is therefore unknown. It is not expected that additional meetings of the standards committee would be required to prepare a report. Similarly, consideration of a committee's report would form part of the business of an ordinary scheduled meeting of the full council.

## **Benefits**

### Benefit to local government

- 12.83 Introducing the duty will ensure there is good practice across all relevant authorities. It will contribute to building and maintaining appropriate standards of ethical conduct in local government. Consideration of standards issues and authorities' response to recommendations made by standards committees will be open and transparent. This should foster public confidence in the actions of elected representatives.

### Benefit to Other People

- 12.84 Though it is difficult to quantify the precise benefit, the publication of annual reports and their consideration by relevant authorities should contribute to higher standards of ethical conduct. This has the potential to reduce the number of complaints to the Public Services Ombudsman for Wales that members had failed to comply with the code of conduct. More fundamentally, engendering a culture of high standards, where people are welcomed and respected, whatever their background, can encourage a more diverse range of people to seek elected office.

## **Preferred Option**

- 12.85 Option 2 is the preferred option.

## **Joint Overview and Scrutiny Committees**

### **Background**

- 12.86 Scrutiny is essential to ensure effective local government. Where services are delivered jointly between two or more principal councils, the Local Government (Wales) Measure 2011 enables them to form Joint Overview and Scrutiny Committees.
- 12.87 However, as outlined in the White Paper Reforming Local Government: Power to Local People, these powers are rarely used. A single service provided to a common standard across more than one council area should be subject to common scrutiny. The lack of effective joint scrutiny means that cross-cutting or overarching service issues may not always be identified or tackled. Scrutiny is essential to identify and realise opportunities for improvement, so this can have an impact on the quality of service delivered. In addition, joint scrutiny provides greater transparency for service users across the whole service area.
- 12.88 Moreover, in some cases, Joint Overview and Scrutiny Committees are set up in addition to, rather than instead of, scrutiny by individual councils. Where services have been jointly commissioned by two or more councils, it can be onerous for regional delivery bodies to be subject to separate scrutiny by each council.

## **Options**

12.89 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual.
- Option 2 – Require the establishment of Joint Overview and Scrutiny Committees.

### **Option 1 – Business as usual**

#### **Description**

12.90 This option would entail no change in the scrutiny arrangements for services jointly commissioned by several principal councils. Each council would continue to determine whether joint services should be subject to joint scrutiny, individual scrutiny procedures or both.

#### **Costs**

##### Cost to the Welsh Government and local government

12.91 Option 1 would not incur any additional costs for the Welsh Government or local government; however, it does have the potential to for opportunity costs where councils duplicate scrutiny procedures.

#### **Benefits**

##### Benefits to the Welsh Government and local government

12.92 Option 1 would deliver no additional benefits to the Welsh Government or local government

### **Option 2 – Require the establishment of Joint Scrutiny Committees**

#### **Description**

12.93 Option 2 proposes to strengthen the provisions in the 2011 Measure. The Welsh Ministers would be empowered to make regulations prescribing the circumstances when Joint Overview and Scrutiny Committees must be established. Regulations could provide that principal councils entering any agreement to deliver a service across a joint area would be obliged to establish a joint scrutiny committee.

## **Costs**

### Cost to the Welsh Government

- 12.94 If the Welsh Minister chose to exercise this power, the cost of doing so would depend on the size and scope of the regulations being made, which is unknown at this time. The cost is therefore unknown.

### Cost to local government

- 12.95 It is anticipated that any costs to local government of joint scrutiny would be offset by the current costs of scrutinising a joint service by two or more councils separately, i.e. by reducing duplication.
- 12.96 The costs of joint scrutiny in individual cases should not be pre-empted here, and would be fully evaluated by principal councils as part of the overall costs and benefits of particular joint services. The costs / cost-savings are therefore unknown at this stage.

## **Benefits**

### Benefits to local government

- 12.97 The policy intent would require that joint scrutiny committees operate where services are jointly commissioned or delivered on a significant scale. Effective joint scrutiny should ensure more effective services, and provide greater transparency to the public over the services concerned. Mandatory joint scrutiny would reduce the possibility of scrutiny being provided by each principal council, thus reducing duplication and reduce the potential burden on delivery bodies.

## **Preferred Option**

- 12.98 Option 1 proposes no change from current arrangements on the scrutiny of joint services.
- 12.99 Option 2 proposes to require joint scrutiny for jointly commissioned and delivered services on a significant scale.
- 12.100 Option 2 is the preferred option because it would promote more efficient and effective scrutiny of jointly commissioned services, leading to better services and public outcomes.

## **Community Council Training Plans**

### **Background**

- 12.101 The number of staff in community councils varies considerably and often a community council will be highly reliant on a small number of staff to advise them on a range of matters.

- 12.102 There has been broad agreement that there are certain core areas (including basic induction, code of conduct, finance and planning) which all community councillors should be trained in to enable them to discharge their roles effectively.
- 12.103 Ensuring that both members and staff of community councils are suitably trained will be key to building the capacity and capability of the sector.
- 12.104 Previous local government reform consultation in 2015, *Power to Local People White Paper* proposed placing duties on community councils to consider the training needs of their members and employees. The proposals also included placing a duty on principal councils to consider whether certain training should be compulsory for members of community councils. Whilst consultation responses were broadly supportive of members receiving training in certain core areas and felt there would be merit in making it compulsory, some concerns were expressed about whether principal councils were the most suitable bodies to determine which training should be compulsory for community councillors with a democratic mandate of their own.
- 12.105 The consultation in 2017 *Reforming Local Government Resilient and Renewed White Paper* reflected on the earlier concerns and proposed that community councils should be placed under an obligation (proportionate to the size and responsibilities of the council) to consider and address training needs of members and staff.

## **Options**

- 12.106 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Require community councils to publish a training plan setting out how it proposes to address the training needs of members and staff.

### **Option 1 – Business as usual**

#### **Description**

- 12.107 Option 1 proposes no change to the status quo. This option would entail no change from current arrangements and community and town councils would continue to have complete discretion as to whether they consider their training needs.



## Costs

### Cost to the Welsh Government and community councils

12.108 Option 1 would introduce no additional costs to the Welsh Government or community councils.

## Benefits

### Benefits to the Welsh Government and community councils

12.109 Option 1 would introduce no additional benefits. Consideration of, and therefore investment in, and uptake of training would continue as present.

## **Option 2 – Require community and town councils to publish a training plan setting out how it proposes to address training needs of members and staff.**

## Description

12.110 This option requires community councils to prepare and publish a training plan setting out how they propose to address the training needs of their members and staff.

12.111 It is envisaged that a handful of core areas, common to the good governance of all community councils, would be prescribed as compulsory for consideration by the council in statutory guidance.

12.112 While this would not *require* councillors, or staff, to undertake training, it would require them to consider their training needs on a regular basis and would put in place a strong statutory emphasis on the importance of capability in certain core areas.

12.113 Training costs would continue to be met by councils themselves, though this can be subsidised through the Welsh Government bursary schemes already in place for members and clerks.

## Costs

### Cost to the Welsh Government

12.114 Issuing guidance to community councils would impose an additional cost on the Welsh Government, as set out below in table 43. It is anticipated these costs would be incurred in 2021-22.

*Table 43: Producing guidance on community council training plans*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	7	2,380
SEO	63,305	264	15	3,960
Lawyer (Grade 7)	81,696	340	5	1,700
Translation (SEO)	63,305	264	5	1,320
<b>Total</b>				<b>10,000</b>

### Costs to community councils

- 12.115 There would be an opportunity cost to councils of considering training needs to inform a training plan. It is difficult to estimate how long it would take a clerk to prepare a training plan as there are a range of factors which could impact on this (including what the council is responsible for; the extent to which training needs have previously been considered, and the number of councillors to consider and their experience and knowledge).
- 12.116 For some smaller councils it would be a matter of a couple of hours, for other larger councils it may take a couple of days. However, we have prepared an estimate based on the broad assumption that the size of a council will determine the scale of their training plan and therefore the time required to prepare it. In practice, it may take some councils more, or less, time.
- 12.117 The time allocated to the development of training plans within smaller councils is reduced as it is assumed smaller councils will require less time as there will be fewer councillors and staff to take account of when preparing training plans. The hourly rate for clerks is likely to vary based on the size of the population the council serves. There is likely to be greater responsibilities for clerks in larger councils and their hourly rate of pay is likely to be more than in smaller councils.

*Table 44: Preparing and publishing initial community council training plans*

<b>Civic Area population</b>	<b>Clerk hours to complete &amp; publish training plan</b>	<b>Est hourly rate (£)</b>	<b>Est cost per council (£)</b>	<b>No of councils in Band</b>	<b>Total estimated cost (£)</b>
Under 250	2	15	30	18	540
251-500	4	15	60	113	6,780
501-800	4	15	60	120	7,200
801-1,200	8	15	120	124	14,880
1,201-1,800	8	18	144	87	12,528
1,801-2,500	10	18	180	62	11,160
2,501-3,500	12	20	240	53	12,720
3501- 5,000	16	25	400	46	18,400
5,001-7,500	16	25	400	40	16,000
7,501-10,000	16	25	400	25	10,000
10,001-20,000	20	25	500	42	21,000
over 20,000	20	25	500	7	3,500
<b>Total</b>					<b>135,000</b>

12.118 This does not reflect costs of undertaking training as this is out of scope of this Regulatory Impact Assessment. However, there is an expectation that producing a plan will result in training being undertaken, including certain core areas such as basic induction, code of conduct, finance and planning. The cost would fall to councillors' time, course costs and travel costs, possibly, all continuing to be met from by councils themselves. This can be subsidised through the Welsh Government bursary schemes already in place for members and clerks.

12.119 Once training plans have been prepared they will need to be kept reviewed and updated; it is assumed that updating training plans will take less time after the initial preparation and have estimated 20 per cent of the original time taken for future years.

## **Benefits**

### Benefits to Community Councils

12.120 The approach recognises that, as autonomous bodies, community and town councils should be able to decide themselves what training is required for their particular needs.

12.121 It will mean that community and town councils which have previously not considered training needs, or only done so on an irregular basis, will now do so on a more structured and consistent approach.

12.122 Community and town councils are a diverse sector with varying capacity and capability. They will need to be able to justify sums spent on training and satisfy themselves that the likely costs of training are

proportionate to the benefits likely to be realised from training being delivered.

12.123 This option will provide community councils with flexibility and discretion in considering training needs and determining how they wish to address them. This approach will also help promote a sense of ownership.

12.124 Requiring community councils to publish a training plan as well as consulting and issuing statutory guidance will generate a greater interest and understanding of what training is relevant and available for the sector. This may result in an increase in training undertaken.

### **Preferred Option**

12.125 Option 1 proposes no change from the status quo.

12.126 Option 2 is the preferred option because it could lead to community and town councils with greater capacity and capability to support their communities.

## Summary Cost Tables

*Table 45: Summary of transitional costs to the Welsh Government – community council training plans*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Produce guidance	0	10,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>10,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 46: Summary of transitional costs to local government (all Wales – 735 community councils) – community council training plans*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Preparing and publishing initial training plans	0	0	135,000	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>135,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 47: Summary of recurrent costs to local government (all Wales – 735 community councils) – community council training plans*

	2020-21 (£)	2021-22 (£)	2022-23 (£)	2023-24 (£)	2024-25 (£)	2025-26 (£)	2026-27 (£)	2027-28 (£)	2028-29 (£)	2029-30 (£)
Updating and publishing training plans	0	0	0	27,000	27,000	27,000	27,000	27,000	27,000	27,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>27,000</b>	<b>27,000</b>	<b>27,000</b>	<b>27,000</b>	<b>27,000</b>	<b>27,000</b>	<b>27,000</b>

## **Chapter 13 Costs and benefits of Part 5: Collaborative working by principal councils**

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### **Corporate joint committees**

#### **Background**

- 13.1 Supporting local authorities to continue to deliver effective and sustainable public services is a shared priority for the Welsh Government and local government.
- 13.2 The Williams Commission, in its January 2014 report, examined public service provision in Wales and noted that complexity in arrangements can inhibit service improvements and accountability and that change was needed to ensure the longer-term sustainability of public services in Wales. The Welsh Government has subsequently consulted on a number of potential approaches to support local government to respond to the challenges it faces in the delivery of public services now and in the future.
- 13.3 Following the conclusion of the Strengthening Local Government: Delivering for People Green Paper consultation in 2018, the Welsh Ministers established an independently chaired Local Government Working Group comprising representative of the Welsh Government, local government and other sectors. The Group's core task was to develop a shared agenda for reform, which ensured the sustainability of local service provision through appropriate structures and processes, whether through collaboration, shared services or voluntary mergers.
- 13.4 On 18 June 2019, the Minister for Housing and Local Government gave an oral statement to the Senedd on the outcome and recommendations of the Local Government Working Group. A key recommendation of the Working Group was the need for more consistent approaches, mechanisms and structures to encourage and support regional working and collaboration between principal councils.

#### **Options**

- 13.5 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as Usual
  - Option 2 – Provide an enabling power for the creation, by regulations, of corporate joint committees

## **Option 1 – Business as Usual**

### **Description**

- 13.6 The Local Government Working Group identified significant levels of joint working or collaboration across principal councils in Wales showing that councils can, and do, collaborate in the delivery of some of their functions. This voluntary approach to collaboration would continue under a business as usual approach.
- 13.7 It is clear however that there is no consistency of approach to collaboration, what functions are being considered for collaboration or which authorities are participating in collaborative delivery. There is also no guarantee that the levels of collaboration will remain the same or increase and indeed may decrease, so reducing the benefits collaboration can bring. It is also clear that such collaborations are delivered through a number of different and varied approaches that lack consistency and have to be separately negotiated on each occasion.
- 13.8 This ad-hoc and individually negotiated approach limits the potential opportunity for the benefits a more systematic mechanism for collaborative service delivery can bring to the principal councils and the citizens of Wales. The business as usual approach will not respond to the recommendations of the Local Government Working Group for a more consistent and simplified collaboration mechanism.
- 13.9 In addition, legislation exists for the creation of separate regional working mechanisms for specific functions. To date none of these bodies have been established, however in the absence of a single consistent mechanism, such as corporate joint committees, they could be established, further complicating the landscape.
- 13.10 Under the Planning and Compulsory Purchase Act 2004, as amended by the Planning (Wales) Act 2015, Local Planning Authorities are able to put forward proposals for the establishment of Strategic Planning Panels for the purpose of preparing a Strategic Development Plan (SDP). Welsh Ministers are also able to designate a strategic planning area and establish a Strategic Planning Panel for the purpose of preparing a SDP.
- 13.11 Welsh Ministers may, under section 5 of the Transport (Wales) Act 2006 make Regulations establishing Joint Transport Authorities for the purpose of delivering transport functions on a collaborative basis.

### **Costs**

#### Cost to the Welsh Government and local government

- 13.12 There are no costs associated with this option.
- 13.13 Under option 1 the existing legislation in respect of collaborative / regional working mechanisms for planning and transport will remain providing the Welsh Ministers with the option to put in place separate

regional collaboration approaches for those specific functions. For example the South East Wales region were undertaking discussions to progress with an application to the Welsh Ministers to form a Strategic Planning Panel for their region. The Improving Public Transport White paper<sup>29</sup> also proposed to establish Joint Transport Authorities for the delivery of certain transport functions on a regional basis.

- 13.14 Should these separate regional arrangements be established there would likely be additional costs as detailed (in relation to planning) in the Regulatory Impact Assessment which accompanied the Planning (Wales) Act 2015<sup>30</sup> and set out the anticipated costs of undertaken Strategic Development Planning. These costs have not been explored as part of this Regulatory Impact Assessment, as it is not possible to predict the final scale and scope of such arrangements.
- 13.15 The costs and benefits of establishing corporate joint committees as a single consistent mechanism as opposed to establishing Strategic Planning Panels and Joint Transport Authorities will be considered as part of the Regulatory Impact Assessment accompanying any Regulations made by the Welsh Ministers to establish corporate joint committees.
- 13.16 This option would also offer limited opportunities for realising the potential savings that a single consistent mechanism offers, for example in removing the need for separate negotiation and agreement of each individual collaborative agreement.
- 13.17 For those areas identified for Welsh Ministers to create a corporate joint committee, the availability of a single mechanism responsible for multiple functions would also offer the opportunity to align a number of collaborative approaches already in statute, reducing the need for (and therefore the costs associated with servicing) multiple separate boards etc. The business as usual approach would not realise the benefits such a rationalisation of mechanisms could deliver.

## **Benefits**

### **Benefits to the Welsh Government**

- 13.18 This option would not provide any additional benefits to the Welsh Government. The business as usual option would miss the opportunity to deliver the more regularised and consistent collaboration and joint working the Welsh Government considers essential for a continued efficient and sustainable local government sector in Wales.
- 13.19 The 'business as usual' option offers few benefits to principal councils. Whilst it preserves the status quo it would limit any potential benefit that a single consistent mechanism for collaborative service delivery,

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<sup>29</sup> [Welsh Government | Improving Public Transport Consultation](#)

<sup>30</sup> [Welsh Government | Planning \(Wales\) Act 2015 Explanatory Memorandum](#)



including being part of a 'body corporate', could bring to principal councils.

## **Option 2 - an enabling power for the creation, by regulations, of Corporate Joint Committees**

### **Description**

- 13.20 Under this option, Welsh Ministers would, in responding to the recommendations of the Working Group, be provided with a power to create a new form of joint working vehicle (referred to as 'corporate joint committee') which will provide a consistent approach under which principal councils can work together to deliver specified functions. A corporate joint committee would be a body corporate comprising of elected members of its constituent principal councils. It would be capable of employing staff and holding assets and funding.
- 13.21 This option would enable Regulations to be made establishing a corporate joint committee from constituent principal councils in order to exercise specified functions and set out the framework for how those powers can be used. The specified functions could be functions relating to a single service area or a number of service areas.
- 13.22 Principal councils would be able to request the Welsh Ministers establish, through Regulations, a corporate joint committee where they wish to work together because of shared interests and mutual benefit. This can be in relation to any service that the principal councils believe can be delivered more efficiently and effectively in this way.
- 13.23 The Welsh Ministers will also be able to require principal council functions to be delivered by a corporate joint committee for certain service areas. The intention is to focus on those areas where the Welsh Government has already put in place regional arrangements (either voluntary or statutory), or where legislation to make regional arrangements already exists. This includes areas such as the function of preparing a strategic development plan, transport, improving education and economic development.
- 13.24 It is important to note that whilst there is an intention for Welsh Ministers to create corporate joint committees in the areas specified on the face of the Bill, the intention is to work with local government to co-design corporate joint committees. The cost therefore of making Regulations establishing corporate joint committees will depend on the scale and scope (relevant functions and number of principal councils involved) of any proposed corporate joint committee(s). This cannot be stated at this time as the constituent principal councils and scope of functions are still being agreed in partnership with local government.
- 13.25 The Bill will also repeal legislation providing for collaboration in two key areas, that of Strategic Development Planning and Transport. The repeal of this legislation at the same time as putting the corporate joint committee mechanism in place is largely consequential and aims to

ensure the consistency of approach which the Bill is seeking to achieve and to enable the transfer of functions to any future corporate joint committees when established.

- 13.26 There has been no consideration of any costs / savings of such a repeal as of yet no arrangements have been established under the legislation to be repealed. As above it is likely that the costs and benefits of any corporate joint committee mechanism which might replace Joint Transport Authorities or Strategic Planning Panels will consider the differences between the regional mechanisms as part of any Regulatory Impact Assessment accompanying the establishing Regulations and when the scale and scope of those corporate joint committee arrangements are known.

## Costs

### Cost to the Welsh Government

- 13.27 It is expected Welsh Government will incur costs in preparing guidance to principal councils on the implementation of powers on collaborative working by principal councils in this Part. This cost is set out in table 48 below and it is anticipated it will be incurred in 2020-21.

*Table 48: Producing guidance to support principal councils on collaborative working by principal councils*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	7	2,380
SEO	63,305	264	15	3,960
Lawyer (Grade 7)	81,696	340	5	1,700
Translation (SEO)	63,305	264	5	1,320
<b>Total</b>				<b>10,000</b>

### *Regulations establishing a corporate joint committee following a request from two or more principal councils*

- 13.28 This Regulatory Impact Assessment does not define any costs to the Welsh Government for making regulations to establish a corporate joint committee following a request from two or more principal councils.
- 13.29 This option would provide the Welsh Ministers with an enabling power only. It is not possible to predict whether any applications to Welsh Ministers to create a corporate joint committee are likely to come forward, when they might arise or the number of councils involved in each prospective collaboration. This cost is, therefore, unknown at this stage.

- 13.30 Any proposed regulations will include a detailed Regulatory Impact Assessment, which will reflect the scale and scope of the proposed corporate joint committee.

*Regulations establishing corporate joint committees in respect of the service areas specified by Welsh Ministers*

- 13.31 Option 2 would allow Welsh Ministers, through regulations, to require principal council functions in respect of certain service areas to be delivered by a corporate joint committee. The cost of making such regulations would depend on their scale and scope, i.e. relevant service areas and functions and number of principal councils involved.
- 13.32 The Welsh Government intends to adopt an approach based on co-design, working with principal councils to define the scale and scope of regulations; as such, it is not possible to define these costs at this time. These costs are therefore unknown.

Cost to local government

*Regulations establishing a corporate joint committee following a request from two or more principal councils*

- 13.33 As with the Welsh Government costs above, this Regulatory Impact Assessment does not define any direct costs for local government, as it is an enabling power, giving principal councils the option to utilise the corporate joint committee mechanism should they wish to do so.
- 13.34 It is not possible to predict whether any applications to Welsh Ministers to create a corporate joint committee are likely to come forward, when they might arise or the number of councils involved in each prospective collaboration. This cost is, therefore, unknown at this stage.
- 13.35 The potential costs and savings associated with using a consistent and coherent mechanism for collaboration are likely to be a key consideration in any decision by two or more principal councils to request a corporate joint committee be created.
- 13.36 Any proposal will be required to explore the economic and efficiency case for utilising the corporate joint committee mechanism for collaboration and these will be subject to the individual circumstances of the relevant councils at the time.

*Regulations establishing corporate joint committees in respect of the service areas specified by Welsh Ministers*

- 13.37 The cost of establishing a corporate joint committee where instigated by Welsh Ministers, will depend on the scale and scope (relevant functions and number of principal councils involved) of any proposal and cannot be stated at this time. The cost is therefore unknown.
- 13.38 Any proposed regulations establishing a corporate joint committee will include a detailed Regulatory Impact Assessment, which will reflect the scale and scope of the proposed corporate joint committee.

- 13.39 It is envisaged there may be some cost to local government in engaging with the Welsh Government to co-develop any regulations made pursuant to the Welsh Ministers power to require principal council functions to be delivered by a corporate joint committee for certain service areas. As the scale and scope of any potential corporate joint committee is not known at this stage, no costs have been included for this activity. This cost is therefore unknown.

## **Benefits**

### Benefits to the Welsh Government

- 13.40 Having an enabling power will ensure that Welsh Ministers are able to support local government to deliver a more simplified, coherent and consistent mechanism for collaborative and regional working. Such a mechanism will support the drive within principal councils for more economic, effective and efficient delivery of services.
- 13.41 The corporate joint committee mechanism (including for those specified areas where Welsh Ministers can create a corporate joint committee) can provide a more consistent approach by local government for strategic regional governance, planning and service delivery. Such an approach would provide benefits in terms of more coherent engagement, planning and delivery of services with local government at a regional level, reducing duplication of effort and increasing potential impact. This proposed corporate joint committee model also provides the opportunity to simplify and streamline existing legislation that provides for Welsh Ministers to create regional collaboration arrangements.

### Benefits to local government

- 13.42 The provisions will provide local government with a powerful tool to respond to future challenges and deliver councils' own ambitions – improving services for the public and simplifying partnerships. This will also provide an opportunity to bring more coherence and less complexity in the approach to regional governance arrangements and to strengthen local democratic accountability, ensuring that local elected members continue to central to decisions about local government services.
- 13.43 Such a mechanism can be used to:
- enable planning and service delivery at a scale which maximises benefits for service users;
  - realise the potential of collective effort in tackling common challenges and deliver innovative solutions;
  - enable collaboration to build the specialist skills needed in key service areas;
  - rationalise current arrangements, reduce duplication and focus on a consistent way of democratically governing collaborative arrangements;

- strengthen collective local leadership, accountability and democracy.
- 13.44 Currently, considerable time and effort is absorbed in creating and recreating the practical working arrangements for joint working. For example, identifying which authority will lead on the finance, which will be the employer and which partners need to be involved. There are also challenges in developing arrangements that are clear about respective roles, responsibilities and governance of collaborative approaches. Significant leadership time and corporate overhead is also invested in developing and running each of the individual collaboration approaches and in dealing with the complexity that separate approaches bring.
- 13.45 This proposed corporate joint committee mechanism provides principal councils the opportunity to create its own arrangements, where it determines this would be the most appropriate approach, and to simplify and streamline existing collaboration arrangements; thus providing the clarity and consistency they are seeking and reducing the complexity and duplication of effort and resource.

#### Benefits to other people

- 13.46 Allowing for the creation of a single consistent mechanism for collaboration provides an additional option for principal councils to ensure the sustainability and quality of the services delivered to their citizens.
- 13.47 A more simplified and consistent model for collaboration amongst principle councils provides an opportunity to simplify collaborative working across the public sector. Public service bodies sit on multiple boards and mergers will provide an opportunity to reduce the number of interactions; which have been consistently called for across the public sector. There is an opportunity in the design of the regulations to provide for a wider membership of the corporate joint committee sub committees including other public service bodies or organisations. Such an approach might offer benefits in terms of the engagement of partners and the evolution of existing and future structures such as the City / Growth deals.

#### **Preferred Option**

- 13.48 Option 1 proposes no change from the status quo. The benefits of a single coherent and consistent mechanism for collaboration will not be realised.
- 13.49 Option 2 would deliver a single coherent and consistent mechanism for collaboration responding to the recommendations of the Local Government Working Group.
- 13.50 Option 2 is the preferred option.

## Summary Cost Tables

*Table 49: Summary of transitional costs to the Welsh Government – collaborative working*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Producing guidance	10,000	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>10,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

## Chapter 14 Costs and benefits of Part 6: Performance and Governance of Principal Councils

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### Background

- 14.1 It is essential that principal councils are able to identify and make the most of opportunities for improvement, particularly when facing serious challenges. The public has high expectations of how principal councils should perform. 88 per cent of online respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed that responsibility for effective performance and delivery rests with the councils themselves. Identifying and acting on opportunities to reform, transform and improve services is a key part of ensuring high-quality outcomes for people and communities.
- 14.2 The Commission on Public Service Governance and Delivery highlighted wide variations in service performance. It suggested '*governance and scrutiny were not operating effectively enough to support and drive improvement or change delivery*'.<sup>31</sup> The White Paper *Reforming Local Government: Power to Local People* noted sound corporate governance is likely to become increasingly relevant given the financial and demographic pressures facing local government. Moreover, in 2009, the *Learning to Improve* report raised a range of concerns about improvement arrangements, finding that generally, councils relied too greatly on external assessment rather than local accountability.<sup>32</sup>

### Performance

#### Background

- 14.3 Currently, the 2009 Measure places a 'general duty in relation to improvement' upon principal councils. Continuous improvement should be achieved by setting 'improvement objectives' in each financial year. The Auditor General for Wales is responsible for determining whether councils have achieved continuous improvement each year, whether they have the capacity to improve further and whether either the principal council or the Welsh Ministers should take action.
- 14.4 Strengthening local governance arrangements could benefit principal councils' accountability and improve performance and, therefore, outcomes for people and communities.
- 14.5 Improvement processes are likely to be most effective if they are integral to the way a council operates, with the primary responsibility for identifying and acting on opportunities for improvement lying with the principal councils, rather than with auditors or the Welsh Government.

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<sup>31</sup> [Welsh Government | Commission on Public Service Governance and Delivery](#)

<sup>32</sup> *Learning to Improve: An Independent Assessment of the Welsh Assembly Government's Policy on Local Government*, Cardiff Business School, July 2009

## **Options**

14.6 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Require principal councils to keep their performance under review

### **Option 1 – Business as usual**

#### **Description**

14.7 Option 1 would introduce no change from the status quo.

#### **Costs**

##### Cost to Welsh Government and local government

14.8 Option 1 would introduce no additional costs. However, the benefits of strengthening improvement processes would not be realised. Opportunities to improve principal council's performance could be missed, which could be particularly problematic given financial and demographic pressures. In consultation, principal councils and other stakeholders have been supportive of the proposed change of regime.

#### **Benefits**

##### Benefits to Welsh Government and local government

14.9 Option 1 would introduce no additional benefits performance requirements.

### **Option 2 – Require principal councils to keep their performance under review**

#### **Description**

14.10 The new performance and governance framework aims to support cultural and organisational change within local government. The aim is to build on existing strengths and create a more innovative, open, honest, transparent and ambitious sector, challenging itself and collectively driving up service delivery outcomes and standards across Wales.

14.11 Option 2 would require each principal council to keep their performance under review. This is defined in terms of exercising their functions effectively; using their resources economically, efficiently and effectively; and ensuring their governance is effective for securing those matters. These are referred to as the 'performance requirements'. At the same



time, the Bill proposes to remove principal councils from the existing improvement regime in Part 1 of the 2009 Measure.

## **Costs**

### Cost to local government

- 14.12 It is not considered that the proposed provisions would incur any new costs on principal councils.

## **Benefits**

### Benefits to the Welsh Government and local government

- 14.13 Option 2 would strengthen existing governance and performance arrangements and ensure councils are better placed to meet the performance requirements. Crucially, responsibility for improvement would remain within the local government sector so that governance and improvement becomes embedded within principal councils' ways of working. This would result in better outcomes for the public.

## **Preferred Option**

- 14.14 Option 1 proposes no change from the status quo. The benefits of strengthening improvement processes are unlikely to be realised.
- 14.15 Option 2 would strengthen principal councils' governance and performance arrangements. Option 2 is the preferred option.

## **Self-Assessment and Panel Assessment**

- 14.16 The performance and governance provisions within the Local Government and Elections (Wales) Bill are part of a broad framework designed to support strong, sustainable local government. Together with a sector-led approach to improvement support, the provisions aim to support a culture where councils actively embrace challenge, are inquisitive, innovative, and ambitious in driving better service delivery.
- 14.17 The Local Government and Elections Bill requires each council to keep under review the extent to which it is fulfilling the 'performance requirements', that is the extent to which it is:
- exercising its functions effectively;
  - using its resources economically, efficiently and effectively;
  - has effective governance in place for securing the above.
- 14.18 The proposed mechanism for this review is self-assessment, with a report setting out the conclusions of the self-assessment once in a financial year. Self-assessment will be complemented by a panel performance assessment once in an electoral cycle, providing an opportunity to seek external insights (other than from auditors,

regulators or inspectors) on how the council is meeting the performance requirements.

## **Options**

14.19 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Introduce statutory self-assessments and panel assessments.

### **Option 1 – Business as usual**

#### **Description**

14.20 Option 1 would introduce no change from the status quo.

#### **Costs**

##### Cost to the Welsh Government and local government

14.21 Option 1 would introduce no additional costs.

#### **Benefits**

##### Benefits to the Welsh Government and local government

14.22 Option 1 would introduce no additional benefits.

### **Option 2 – Require self-assessments and panel assessments**

#### **Description**

14.23 Under this option principal councils would be required to assess and take action to strengthen their governance arrangements in two regards:

- carrying out an annual self-assessment of the extent to which they are meeting the performance requirements; and
- arranging for assessments of whether they are meeting the performance requirements to be undertaken by panels appointed by the council at least once in every election cycle.

14.24 Option 2 would see self-assessments commencing from the 2021-22 financial year. The requirement to undertake panel assessments would come into effect after the next ordinary election to principal councils.

14.25 A self-assessment would be a formal, annual, assessment of the extent to which a council is meeting its performance requirements, conducted by the principal council itself. Principal councils would be required to act to address any issues which emerge as a result of the assessment.

- 14.26 Principal councils would also be required to arrange a periodic panel assessment. Panel assessments would provide external challenge, support and possibly, validation of a principal council's own self-assessments, while ensuring responsibility for improvement remains with the council. Principal councils would be required to publish and respond to the findings of both self-assessments and panel assessments. Governance and Audit Committees would be required to consider the council's draft self-assessment report and the draft response to the panel assessment report and make any recommendations, which the council would have to take into account in its final report. Welsh Ministers could issue guidance on undertaking self-assessments and panel assessments.
- 14.27 75 per cent of respondents to the White Paper 'Power to Local People' consultation agreed assessment by a panel of external appointees is an appropriate mechanism for organisations to challenge their self-assessment of their governance and performance. However, there was a consensus that panel assessments should not be undertaken too frequently, to avoid imposing too great a burden. Welsh Ministers propose a panel assessment is carried out at least once each electoral cycle.

## **Costs**

### Cost to Welsh Government

- 14.28 Producing guidance to support self-assessments and panel assessments would introduce an additional staff and translation cost to the Welsh Government.
- 14.29 This guidance will require a number of months to prepare as it will be co-produced with local government to ensure it is fit for purpose and delivers the policy intention. Due to the time it will take to consult on the guidance, the cost is significantly higher than other provisions requiring guidance within this Regulatory Impact Assessment.
- 14.30 The intention is that statutory guidance on self-assessment will be prepared in advance of the provisions on self-assessment coming into force. The panel performance assessment provisions will come into force in time for the next ordinary local government elections and statutory guidance on panel performance assessments will be prepared in advance of that date.
- 14.31 The anticipated costs are set out in table 50 below, it is expected these will be incurred in 2020-21 and 2021-22. Costs have been allocated evenly across both years.

*Table 50: Producing guidance on self-assessments and panel assessments*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	5	2,405
Grade 7	81,696	340	25	8,500
SEO	63,305	264	50	13,200
Lawyer (Grade 7)	81,696	340	10	3,400
Translation (SEO)	63,305	264	10	2,640
<b>Total</b>				<b>30,000</b>

### Costs to local government

14.32 It is not considered that the requirements to review performance will impose any significant new costs on principal councils, but rather codifies what all councils should already be doing. The consequential costs of assessing the governance arrangements (self-assessment and panel assessments) are dealt with in turn within this Regulatory Impact Assessment.

### *Panel Assessments*

14.33 Table 51 below sets out the estimated cost per panel assessment. The reference period of this Regulatory Impact Assessment covers the entire 2022 electoral cycle (as provided for in the Local Authorities (Change to the Years of Ordinary Elections) (Wales) Order 2019, which came into force on 6 November 2019) and the first three years of the 2027 electoral cycle. In order to calculate the total cost for the reference period an average annual cost has been assumed and profiled evenly across each year.

*Table 51: Panel Assessments costs per principal council*

<b>Panel Assessment calculations</b>	<b>Weekly Cost (£)</b>	<b>Weeks Required</b>	<b>Total (£)</b>
Chair Panel Reviewer – Independent*	5,000	3	15,000
Panel Reviewer - serving local authority senior officer - equivalent to Welsh Government Director	3,236	2	6,472
Panel Reviewer – serving political Peer from within local government**	1,500	2	3,000
Coordination of Panel review process – equivalent to WG Grade 7	1,702	0.5	851
Coordination of Panel review process – equivalent to WG SEO	1,319	0.5	660
<b>Total cost for each principal council per electoral cycle</b>			<b>25,983</b>
<b>Total cost for all 22 principal councils per electoral cycle</b>			<b>572,000</b>
<b>Average annual cost (based on 5-year electoral cycle)</b>			<b>114,000</b>

\*Based on recent work with SOLACE an average rate for an independent adviser is circa. £1,000 per day.

\*\*Reciprocal arrangements – costs based on nominal subsistence rate of £300 / day

- 14.34 These costs are based on the Welsh Government's recent experience of supporting principal councils to undertake similar assessments. This estimate may be somewhat higher than the cost of current comparable assessments as the proposal includes a wider range of senior external reviewers. The cost is also estimated based on a full cost basis for each panel member. It may be possible to work with the wider Local Government support structures at a UK level to utilise reciprocal Peer based approaches which would possibly reduce the costs.
- 14.35 Each principal council would be required to undertake a panel assessment at least once per electoral cycle. Panel assessments would be required within the first full electoral cycle following commencement and in each subsequent electoral cycle. It is currently anticipated that the first full electoral cycle will be from 2022.

#### *Self-assessments*

- 14.36 The requirement to undertake and respond to the findings of an annual self-assessment would not introduce additional costs on principal councils. Rather, this activity would replace existing work such as responding to improvement assessments, which are currently required under the 2009 Measure. The aim is for the new approach to be more productive and better embedded in ongoing planning work than the requirements that currently exist.

### **Benefits**

#### Benefits to local government and Welsh Government

- 14.37 Option 2 would strengthen existing governance and performance arrangements and ensure councils are better placed to meet the performance requirements. Crucially, responsibility for improvement would remain within the local government sector so that governance and improvement becomes embedded within principal councils' ways of working. This would result in better outcomes for the public.

### **Preferred Option**

- 14.38 Option 1 proposes no change from the status quo. The benefits of strengthening improvement processes are unlikely to be realised.
- 14.39 Option 2 would strengthen principal councils' governance and performance arrangements by requiring self-assessment and panel assessments to be undertaken.
- 14.40 Option 2 is the preferred option because it would lead to better governance and earlier action on opportunities for improvement.

## Summary Cost Tables

*Table 52: Summary of transitional costs to the Welsh Government – self-assessments and panel assessment*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Producing guidance	15,000	15,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>15,000</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 53: Summary of average recurrent costs to local government (all Wales – 22 principal councils) – panel assessments*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Panel Assessments	0	0	114,000	114,000	114,000	114,000	114,000	114,000	114,000	114,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>	<b>114,000</b>

## **Special Inspections by Auditor General for Wales and power of Welsh Ministers to intervene**

- 14.41 The power for the Auditor General for Wales to undertake special inspections and the power for Welsh Ministers' to provide support and intervene in local authorities facing significant difficulties are currently provided for in the 2009 Measure.
- 14.42 Welsh Ministers and principal councils will also have a duty to respond to any relevant recommendations in a special inspection report made by the Auditor General for Wales.
- 14.43 With the proposal to repeal Part 1 of the 2009 Measure, it is intended to reproduce some of these provisions, linking them to the new performance and governance duty. Given equivalent provision already exists and there are no additional costs associated, these provisions have not been assessed as part of this Regulatory Impact Assessment.
- 14.44 They are important, though, in enabling appropriate support to be offered to principal councils facing difficulties and in providing assurance to the public that, if things go seriously wrong at a council, the Welsh Ministers are able to step in and take proportionate action to help a council resolve the issues it faces and be back operating independently and effectively.

## **Governance and Audit Committees**

### **Background**

- 14.45 Audit Committees provide important checks and balances to a principal council's governance arrangements, as required by the 2011 Measure. Councils have a statutory duty to establish an Audit Committee to review and scrutinise its financial affairs, risk management, internal control and corporate governance arrangements. Councils can determine the most appropriate form of the Audit Committee for their organisation.
- 14.46 While Audit Committees are committees of a principal council, in order to provide effective scrutiny, they must be independent from the executive. At least one member is required to be a 'lay member', a financially competent, independent member who is not an officer or member of a principal council. Currently, not more than one third of members may be lay members, and many Audit Committees have only the statutory minimum of one lay member.
- 14.47 Lay members also bring a range of skills, perspectives, and experiences, which can strengthen the scrutiny an Audit Committee can provide. Welsh Government considers that Audit Committees with the statutory minimum of one lay member are less likely to gain these benefits.

- 14.48 58 per cent of the online respondents to the consultation on the White Paper *Reforming Local Government: Power to Local People* agreed that the proportion of independent members on Audit Committees should be increased. 69 per cent agreed that the Chair should be an independent member.
- 14.49 However, there was opposition to greater lay membership of Audit Committees among the other responses. 13 of 19 councils, together with the WLGA, did not support either of the two proposals supported by online respondents. Having considered these responses, however, the Welsh Ministers believe that the presence of external expertise would strengthen Governance and Audit Committees' ability to provide effective scrutiny, whilst retaining a majority of elected members.

## **Options**

- 14.50 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Extend the role and independence of Audit Committees

### **Option 1 – Business as usual**

#### **Description**

- 14.51 Option 1 would introduce no change to current arrangements. Audit Committees would continue to provide scrutiny as at present.

#### **Costs**

##### Cost to Welsh Government and local government

- 14.52 Option 1 would introduce no additional costs.

#### **Benefits**

##### Benefits to Welsh Government and local government

- 14.53 Option 1 would introduce no additional benefits.

### **Option 2 – Extend the role and independence of Audit Committees**

#### **Description**

- 14.54 Option 2 would to amend the 2011 Measure to extend the role of Audit Committees and rename them Governance and Audit Committees.
- 14.55 In addition to their existing functions, they would be required to scrutinise a principal council's governance and performance



arrangements, considering and making recommendations about a principal council's self-assessment report, and its response to panel performance assessment and special inspection reports.

- 14.56 Lay membership requirements would also be strengthened: one third of members would be required to be lay members. The Chair would also be required to be a lay member.
- 14.57 Principal councils would continue to determine other details of their Governance and Audit Committees as appropriate for their organisation, including the size of the committee and the frequency with which it meets.

## Costs

### Cost to the Welsh Government

- 14.58 This option would place no additional costs on the Welsh Government.

### Cost to local government

- 14.59 Whilst option 2 would expand the functions of the Governance and Audit Committee, it is not expected to impose any additional costs. While each meeting of the Governance and Audit Committee may cover a broader range of topics, the number of meetings is unlikely to increase.
- 14.60 Increasing the number of lay members would place an additional cost on principal councils, as lay members can claim an allowance from the council for their time.
- 14.61 Audit committee meetings range from three to four meetings a year through to six a year. For calculating costs in this Regulatory Impact Assessment we have assumed a figure of six a year.
- 14.62 Research on the costs of governance and audit committees has shown that there is an average cost of £200 per lay member per meeting. Most Audit Committees already have at least one lay member and are composed of around 15 members overall, so it is reasonable to assume that each committee would require an additional four lay members.
- 14.63 The projected cost for the additional lay members is set out in table 54, it is anticipated this cost will be incurred from 2022-23 onwards.

*Table 54: Costs per principal council of additional lay-members*

<b>Audit and Governance Committee Costs</b>	<b>No of lay members</b>	<b>Cost per lay member (£)</b>	<b>No of Meetings</b>	<b>Total (£)</b>
Cost of additional lay members	4	200	6	4,800
<b>Total cost per principal council</b>				<b>4,800</b>
<b>Total cost for all 22 principal councils</b>				<b>106,000</b>

## **Benefits**

### Benefits to local government

- 14.64 Expanding the functions of the Governance and Audit Committee to include scrutiny of the council's self-assessment and its responses to panel assessment reports and special inspection reports, would significantly strengthen corporate governance and assurance.
- 14.65 Increasing the lay membership of Governance and Audit Committees would strengthen their ability to provide robust and independent scrutiny. It is particularly likely this would be realised with a lay committee chair. The quality of Governance and Audit Committees' scrutiny could also benefit from the broader range of experiences and skills brought by a wider range of lay members.

### **Preferred Option**

- 14.66 Option 1 proposes no changes from the current arrangements of Audit Committees.
- 14.67 Option 2 would extend the role and independence of Governance and Audit Committees strengthening the governance arrangements of principal councils.
- 14.68 Option 2 is the preferred option it would lead to better governance, more effective challenge, increased performance and greater assurance.

## Summary Cost Table

*Table 55: Summary of recurrent costs to local government (all Wales – 22 principal councils) – Governance and Audit Committees*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Cost of additional lay members	0	0	106,000	106,000	106,000	106,000	106,000	106,000	106,000	106,000
<b>Total</b>	<b>0</b>	<b>0</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>	<b>106,000</b>

## Chapter 15 Costs and benefits of Part 7: Mergers and restructuring of principal areas

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### Voluntary mergers

#### Background

- 15.1 Local government in Wales is faced with significant fiscal challenges linked to austerity, service demands and increasing demographic pressures. The opportunity to consider voluntary mergers is a means of potentially addressing these challenges.
- 15.2 In March 2018, the Welsh Government published the *Strengthening Local Government: Delivering for People* Green Paper. The Green Paper set out three routes to reforming local government and creating stronger, larger authorities through mergers. This included voluntary mergers (option 1); a phased comprehensive merger programme to be achieved by the local government elections after next (option 2) and a comprehensive merger programme to be achieved at the earliest opportunity (option 3), in each case within a 'specified future footprint'.
- 15.3 On 3 July 2018, the Welsh Government stated that enabling voluntary mergers was its preferred option. Principal councils would be able to propose voluntary mergers at any time and would not be bound to any specified map, although coherence with other public sector boundaries would be an important factor.
- 15.4 The Welsh Government wants to enable local government to weigh up and address the challenges we face now and to ensure the sustainability of high quality public services. Voluntary mergers will sit alongside a wider shared agenda for reform such as greater collaboration and service transformation, as a framework for principal councils that see voluntary merger as a tool to strengthen resilience and sustainability and to protect and enhance the services they deliver to their communities.

#### Options

- 15.5 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual
  - Option 2 – Provide an enabling power for voluntary mergers of principal councils

## **Option 1: Business as usual**

### **Description**

- 15.6 Voluntary mergers on a case-by-case basis are not possible under existing legislation. The opportunity for principal councils to merge voluntarily would provide local government with an additional potential solution within a toolkit of options to address the ongoing fiscal challenges and delivery of sustainable services. The business as usual approach will deny principal councils the opportunity to apply for voluntary merger as a way to improve capacity and resilience in the face of oncoming economic and social challenges.
- 15.7 Without a regulation making power enabling Welsh Ministers to give effect to voluntary merger, the only means of complying with a request for voluntary merger would be by the lengthy procedure involved in introducing a Bill specifically for the purpose.

### **Costs**

#### Cost to the Welsh Government

- 15.8 There are no costs associated with this option. The alternative to a regulation-making power would be the introduction of a Bill specifically for the merger in question - a much more lengthy and costly procedure.
- 15.9 The timescale for introduction of a Bill to give effect to such merger would add additional costs and delay to the transition process.

#### Cost to local government

- 15.10 There are no costs associated with this option. However, foregoing the opportunity to enable voluntary mergers could result in principal councils being unable to realise the benefits and cost savings, which they will have identified for themselves, through merging.
- 15.11 Not allowing for voluntary mergers would limit the potential options available to principal councils to address oncoming pressures and withhold the potential for the local economies of scale that could be achieved as a result of merging.

### **Benefits**

#### Benefits to the Welsh Government

- 15.12 This option would not provide any additional benefits to the Welsh Government.
- 15.13 The Welsh Government would only be able to respond positively to a suitable case for voluntary merger by introducing a Bill for merging the specified authorities. Such a Bill would require more time and staff

resources of all concerned (including in the Senedd) for legislation which did not apply to the whole of Wales.

#### Benefits to local government

- 15.14 The 'business as usual' option offers few benefits to principal councils. It preserves the status quo and does not provide for changes in circumstance.
- 15.15 If principal councils identified benefits to be delivered by merging they would not be able to realise those benefits without persuading the Welsh Government to introduce a bill to achieve the merger, with all that entails. Not pursuing the preferred option means principal councils may be limited in their options in terms of achieving the full potential of any savings they have identified through a voluntary merger approach.

### **Option 2 – Enabling power for voluntary mergers of principal councils**

#### **Description**

- 15.16 This provision would provide the Welsh Ministers with a regulation making power to provide for the merging of two or more principal areas, and the establishment of a new principal area and council in their place, on receipt of a joint application from the principal councils concerned.
- 15.17 The initiative would rest with the principal councils; it would be for them to weigh up the circumstances of their areas and it would be for them to submit a joint application to the Welsh Ministers.
- 15.18 Principal councils could conclude that the best outcome for their residents would be for them to merge. If action is not taken to enable the Welsh Ministers to give effect to a request for voluntary merger we will limit the options for local government to respond to these risks.

#### **Costs**

##### Cost to the Welsh Government

- 15.19 The proposed legislation does not entail any direct costs because it is an enabling power, giving Welsh Ministers the power to give effect to voluntary mergers. The cost of making voluntary merger Regulations will depend on the scale and scope of any application and cannot be stated at this time. These costs are therefore unknown.

##### Cost to local government

- 15.20 As above the proposed legislation does not entail any direct costs because it is an enabling power, giving principal councils the option to merge voluntarily, should they wish to do so. It is not possible to predict whether any merger applications are likely to come forward, when they might arise or the number of councils involved in each prospective merger. These costs are, therefore, unknown at this stage.

- 15.21 The potential costs and savings associated with a voluntary merger are likely to be a key consideration in any decision by two or more principal councils to merge. Any merger proposal will be required to explore the costs and savings in detail and in each case these will be subject to the individual circumstances of the merging councils at the time.

## **Benefits**

### Benefits to the Welsh Government

- 15.22 If requested, the Welsh Ministers would have the necessary power by regulations to merge two or more principal areas and their respective councils and to establish a new principal area and council in their place.
- 15.23 Having an enabling power in advance of any requests will ensure that the Welsh Government is able to respond to principal councils interested in merging and to engage with them in a timely manner. The Welsh Government would not need to introduce a Bill for the specific purpose of merging councils in each individual case.

### Benefits to local government

- 15.24 The main benefit is to provide principal councils facing oncoming financial and service pressures will have a further option in their efforts to ensure the sustainability of their communities and the services they deliver. The knowledge that the Welsh Ministers will have powers to give effect to voluntary mergers should also encourage principal councils interested in merging to come forward with a voluntary merger proposal and enable them to work with the Welsh Government to determine the pace at which the councils concerned move forward.
- 15.25 Among the potential benefits of voluntary merger for principal councils (some of which would also be shared by the Welsh Government) are:
- Providing for sustainable, strong and effective local government in Wales;
  - Realising the benefits of greater capacity and efficiency;
  - Delivering better services for communities;
  - Strengthening the resilience of more specialised services;
  - The opportunity to further influence the development of shared support services, accruing cost savings and retaining these locally to support frontline services.
- 15.26 Voluntary mergers could also mean a reduction in the interactions required with other organisations and partners locally and regionally, and would result in considerable savings for those partners / local authorities. It would also enable more time to be spent on delivering and improving services rather than on managing relationships between organisations.

## Benefits to other people

- 15.27 Allowing for voluntary mergers provides an additional option for principal councils to ensure the sustainability and quality of the services delivered to their citizens.
- 15.28 Merging of councils also provides an opportunity to simplify collaborative working across the public sector. Public service bodies sit on multiple boards and mergers will provide an opportunity to reduce the number of interactions that have consistently called for across the public sector.

## **Preferred Option**

- 15.29 Option 2 is the preferred option.

## **Restructuring**

### **Background**

- 15.30 Welsh Ministers currently have powers, by order, to amalgamate two or three principal councils to create a new principal council.
- 15.31 The power and the conditions around its exercise are set out in the 2011 Measure. Various interventions, which are set out in section 162 of the 2011 Measure, must have been explored by the Welsh Ministers in the council concerned before they may resort to the amalgamation order-making power.
- 15.32 There are also provisions in section 23 of the 2013 Act, which enable the Boundary Commission to conduct a review of a principal council and to make recommendations to the Welsh Ministers for boundary changes. This may include abolishing a principal area, altering the boundary of a principal area and constituting a new principal area. The Boundary Commission may undertake such a review of its own initiative or at the request of a local authority (which may be a principal council or a community council).

### **Options**

- 15.33 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual.
  - Option 2 – make provision in the Bill to enable the Welsh Ministers to make regulations which will provide a more responsive and effective mechanism for achieving the restructuring of a principal council in Wales.



## **Option 1 – Business as Usual**

- 15.34 This option would leave the existing complex powers in the 2011 Measure and the 2013 Act unchanged. The Welsh Ministers would be unable to respond in a timely and appropriate fashion to the circumstances of a principal council which has either itself requested it be abolished or where evidence has been presented that suggests the council is not sustainable and the best interests of local residents is for it to be abolished.

### 2011 Measure

- 15.35 The 2011 Measure provides that the Welsh Ministers may exercise the amalgamation order-making power in section 162 if “they are satisfied that it is necessary to achieve effective local government” in an existing local government area, but they may do so only if they have first explored several other interventions in that area, as provided for in the 2009 Measure.
- 15.36 The effect of section 162(2) of the 2011 Measure is to require a lengthy process through several interventions, with numerous opportunities for delay or stalling or vexatious tactics. The process risks exacerbating the circumstances of a council rather than alleviating it, since it would delay significantly the application of an intended solution to the problems of the council.
- 15.37 The amalgamation order-making power in the 2011 Measure is therefore not an effective or timely mechanism for the Welsh Ministers to respond to urgent and challenging circumstances of a principal council in difficulties.

### 2013 Act powers

- 15.38 The power available to the Boundary Commission in section 23 of the 2013 Act is potentially very wide-ranging, but in reality, it is unlikely the LDBCW would itself take the initiative of recommending the abolition of a principal area. Neither the Boundary Commission, nor its predecessor, has ever contemplated recommending the abolition of a principal area or constituting a new principal area.
- 15.39 The Welsh Ministers have no powers to direct the Boundary Commission to carry out a review of a principal council under section 23 of the 2013 Act. Thus, even though the Welsh Ministers may have received a request from a principal council that it be considered for abolition, or they have received evidence that a principal council is no longer sustainable, the Welsh Ministers would be reliant on the Boundary Commission itself deciding that it was appropriate to undertake a review of the council in question under section 23.

## Costs

### Cost to the Welsh Government and local government

- 15.40 Option 1 would introduce no new costs to the Welsh Government or local government.
- 15.41 This option would continue to limit the options available to both the principal council in question and the Welsh Ministers to deal with the problems of a principal council in difficulties. Not having the options to address the problems could lead to higher costs in applying other temporary or less effective interventions (e.g. appointing commissioners) and / or lead to further degradation in the level and quality of service provided to local residents.

## Benefits

### Benefits to the Welsh Government or local government

- 15.42 Option 1 would deliver no benefits to the Welsh Government or local government.

### **Option 2 – Enable the Welsh Ministers to make regulations for restructuring the area of a council (merging the council with one or more of its neighbouring councils or splitting its area among two or more of its neighbours)**

- 15.43 Option 2 would involve the Welsh Ministers repealing the order-making power for amalgamation in section 162 of the 2011 Measure; together with the powers, exercisable by the Boundary Commission, in section 23 of the 2013 Act. These would be replaced with a power enabling the Welsh Ministers to make regulations to restructure the area of a specified principal council. This could entail merging all or a part of the council with one or more of its neighbouring councils and / or splitting its area among two or more of its neighbours.
- 15.44 The Welsh Ministers foresee two possible circumstances where the proposed replacement powers should be available to them:
- a single principal council which has given notice to the Welsh Ministers that it considers that the best long-term outcome for residents of the council would be for the council to be abolished (an “abolition request”); and
  - a principal council may have undergone several assessments or procedures under the proposed new performance and governance regime, or serious concerns about the council’s performance have been raised in various regulatory inspections, leading the Welsh Ministers to conclude that the best long-term outcome for residents of the council would be for the council to be abolished. The Welsh Ministers may only initiate action to abolish a council in such

circumstances if they have received a special inspection report of that council by the Auditor General for Wales.

- 15.45 The exercise of the proposed new enabling power will be linked to the new performance and governance regime to be introduced by the Bill. The Welsh Ministers acknowledge the need to justify such far-reaching action, but consider that it is not in the public's interest for remedial action to be locked into the lengthy, costly and complex series of interventions and reviews required in the 2011 Measure.
- 15.46 The Welsh Ministers will need to consider all options and draw on evidence of the circumstances of the authority in question. This will include reports and reviews by the various regulators in the normal course of business and such procedures and interventions in the council already sanctioned under the new performance and governance regime, including, if no abolition request has been submitted, a special inspection by the Auditor General for Wales.
- 15.47 Restructuring regulations will spell out what is to happen to the principal council in question; whether its area or part of its area is to be merged with one or more other principal councils to create a single new principal area; or whether its area will be distributed among two or more neighbouring principal councils.

## **Costs**

### Cost to the Welsh Government and local government

- 15.48 The regulation-making power in itself would present no new or additional costs to either local government or the Welsh Government. It is a discretionary power, which would only be used if the circumstances arise. The cost of making restructuring regulations will depend on the scale and scope of the regulations and cannot be stated at this time. These costs are therefore unknown. In that event, the costs of the proposed solution will be set out in the explanatory documentation that would accompany the regulations to give effect to the given solution.

## **Benefit**

### Benefits to the Welsh Government and local government

- 15.49 The provision of the regulation-making powers will enhance the range of potential responses and solutions available to the Welsh Ministers to deal with the circumstances of a principal council that may no longer be sustainable. The proposed new powers would replace existing powers, which are complex and lengthy. The new powers would enable the Welsh Ministers to respond and take action in a timely and considered fashion.
- 15.50 For local government, the provision of the regulation-making powers offers solutions which are currently not available, in a practical sense, to principal councils in difficulty where other remedies have produced no

discernible improvement in a council's prospects of becoming stable and sustainable.

- 15.51 In the absence of the proposed new regulation-making power, the only alternatives would be relying on complex provisions, which work against a timely resolution. Either the principal council would continue to struggle with no relief to local residents or Welsh Ministers would have to develop a Bill specifically to abolish the principal council and address the implications of abolition. The availability of an existing and recognised legal mechanism to achieve the same purpose would result in a significant saving of time and effort on the part of all concerned, which would be deployed to setting up the successor's council/councils on a sound and stable basis for the benefit of its communities.

### **Preferred Option**

- 15.52 Option 1 proposes no change from current arrangements and would leave in place mechanisms that are complex and cumbersome.
- 15.53 Option 2 proposes to introduce an effective regulation-making power to enable the Welsh Ministers to address the circumstances, which the existing powers fail to address appropriately.
- 15.54 Option 2 is the preferred option because it would enable more effective action to be taken in a considered and transparent way.

## Chapter 16 Costs and benefits of Part 8: Local Government Finance

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### Tackling non-domestic rates avoidance

#### Background

- 16.1 Since 1 April 2015, the fiscal autonomy of non-domestic rates in Wales has been fully separated from UK Government fiscal mechanisms. This means that revenue generated from non-domestic rates has a direct impact on the overall resources available to fund local government services in Wales.
- 16.2 It is our view, and evidence suggests that at present, the non-domestic rates system does not provide billing authorities<sup>33</sup> with the powers they need to be able to keep billing information up to date; and to investigate fraudulent and avoidance behaviour effectively. There is also no legal onus on ratepayers to ensure billing authorities are informed of changes which may affect their rates liability.
- 16.3 Without such features, the information that billing authorities hold in order to bill and collect rates from ratepayers can be inaccurate. Some ratepayers may be unknowingly paying incorrect amounts of non-domestic rates. However, there are also cases of intentional avoidance or fraud.
- 16.4 The Welsh Government consulted on measures to tackle fraud and avoidance of non-domestic rates in April 2018 and undertook an extensive data collection exercise with billing authorities to understand the scale and methods of fraud and avoidance. That exercise concluded between 1% and 2% of the revenue stream (approximately £10m to £20m) is lost each year to fraudulent and avoidance activity. This represents a lost in the funding available to deliver vital local services to communities.
- 16.5 It is important all ratepayers are treated equally and pay their fair share of non-domestic rates. The Welsh Government is committed to taking steps to tackle the issue of inaccuracy, avoidance and fraud within the system.
- 16.6 Developing a coherent, effective and fair policy on rates avoidance needs to be carefully considered. All potential adverse behaviours and proposals to tackle these have been explored. Welsh Ministers have also considered appropriate penalties for failure of ratepayers to notify important information, including the creation of offences. These measures are complemented by appropriate safeguards for ratepayers and others against unnecessary enforcement.

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<sup>33</sup> Billing authorities are the 22 principal councils in Wales as defined by section 35 of the Local Government (Wales) Act 1994.

## Options

16.7 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Introduce new powers for billing authorities to more effectively investigate fraud and avoidance of non-domestic rates.

### Option 1 – Business as usual

#### Description

16.8 This option maintains the status quo with no changes to existing policies and no action taken to safeguard against avoidance and fraud within the non-domestic rates system.

#### Costs

##### Cost to the Welsh Government and local government

- 16.9 This option introduces no additional costs to local government or the Welsh Government.
- 16.10 Under this option, no steps would be taken to tackle existing inaccuracy of information, fraudulent or avoidance behaviour, which inevitably impacts upon the rates yield and creates inequality amongst ratepayers. There is an opportunity cost of inaction, which is estimated at between £10m and £20m of revenue funding for local government lost per annum. This estimate is based on a detailed interrogation of principal councils' billing systems in 2017.

#### Benefits

##### Benefits to the Welsh Government and local government

- 16.11 This option introduces no additional benefits to local government or the Welsh Government.

### **Option 2 – Introduce new powers for Billing Authorities to more effectively investigate fraud and avoidance of non-domestic rates.**

#### Description

- 16.12 This option would provide billing authorities with a power to enter and inspect non-domestic properties for the purposes of verifying information that relates to their billing and collection function. Billing authorities would also be provided with a power to request, from ratepayers and interested third parties, any information that may aid their billing and collection function. In addition, relevant persons would be subject to a duty to notify billing authorities of any changes in circumstances relevant

to the billing and collection function; the Welsh Ministers would be provided a power to specify the nature of this duty in more detail in regulations.

## Costs

### Cost to the Welsh Government

16.13 It is anticipated that the Welsh Government would need to make regulations requiring persons to notify billing authorities of a change in circumstance that would affect rates liability. This cost is set out in table 56 and it is anticipated it would be incurred in 2021-22.

*Table 56: Cost to the Welsh Government of producing regulations related to the provision of information in respect of non-domestic rates*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	15	5,100
SEO	63,305	264	5	1,320
Lawyer (Grade 7)	81,696	340	15	5,100
Translation (SEO)	63,305	264	7	1,848
<b>Total</b>				<b>14,000</b>

### Cost to local government

16.14 If billing authorities chose to make full use of their new powers to keep information up to date and investigate suspected avoidance activity more effectively they will incur additional administrative costs, beginning from 2021-22.

16.15 It is estimated that the costs incurred in 2021-22 will be equivalent to 15% of a billing authority officer's workload, and would relate to arranging property inspections and serving information request notices on ratepayers. This costs is set out in table 57 below.

*Table 57: Initial local government staff resource required to tackle rates avoidance in 2021-22*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>%age of time (%)</b>	<b>Total (£)</b>
Officer (Grade 33)	47,999	15	7,199
<b>Total cost per principal council</b>			<b>7,199</b>
<b>Total cost for all 22 principal councils</b>			<b>158,000</b>

16.16 In total, we estimate this activity will form a maximum of 25% of the workload of a billing authority officer working in its revenues and benefits department, from 2022-23 onwards once all planned measures are in

place. This relates to making the necessary arrangements to inspect a non-domestic property, issuing requests for information and enforcing these procedures where appropriate, and actioning proactive notifications by ratepayers of changes in their circumstances.

*Table 58: Total local government staff resource required to tackle rates avoidance from 2022-23, once all measures are in place*

<b>Staff costs</b>	<b>Annual salary plus on costs (£)</b>	<b>%age of time (%)</b>	<b>Total (£)</b>
Officer (Grade 33)	47,999	25	11,999
<b>Total cost per principal council</b>			<b>11,999</b>
<b>Total cost for all 22 principal councils</b>			<b>264,000</b>

### Cost to ratepayers

- 16.17 There may be a small increase in administrative burden for ratepayers in relation to all provisions, such as dealing with a request for information from a billing authority or needing to notify of a change in circumstance. However, this has not been estimated as the majority of ratepayers already cooperate fully with billing authorities and it is our view that those participating in business activities are expected to undertake a certain amount of administration as a matter of course while managing their business and financial affairs. These costs are therefore unknown.

## **Benefits**

### Benefits to local government

- 16.18 This option provides billing authorities with new powers to more effectively investigate, prevent and reduce levels of error, avoidance and fraud within the non-domestic rates system. The provisions also place a responsibility on relevant persons to fully participate in the maintenance of information held by public bodies about their business activities.
- 16.19 The accuracy of individual liabilities for non-domestic rates would be improved, leading to fewer backdated changes for businesses to bear, and overall increased fairness for all ratepayers.

## **Preferred Option**

- 16.20 Option 1 proposes no changes from the current non-domestic rates system where there is evidence of avoidance activity. While no costs would directly be incurred, there would be no opportunity for the Welsh Ministers to tackle the shortcomings of the current system in respect of inaccuracy, avoidance and fraud; which currently costs between £10m and £20m per annum in lost revenue for local services.
- 16.21 Option 2 will enable billing authorities to inspect non-domestic properties, request information from ratepayers and relevant third parties and place an onus on ratepayers to notify billing authorities of relevant information.



- 16.22 Option 2 is the preferred option because it provides billing authorities with additional powers to more effectively investigate and reduce the amount of fraudulent and avoidance activity that is currently present in the non-domestic rates system, and places a duty on relevant persons to help maintain the accuracy of billing information.

## Summary Cost Table

*Table 59: Summary of transitional costs to the Welsh Government – Tackling non-domestic rates avoidance*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Tackling non-domestic rates avoidance	0	14,000	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>14,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

*Table 60: Summary of recurrent costs to local government (all Wales – 22 billing authorities) – Tackling non-domestic rates avoidance*

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Tackling non-domestic rates avoidance	0	158,000	264,000	264,000	264,000	264,000	264,000	264,000	264,000	264,000
<b>Total</b>	<b>0</b>	<b>158,500</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>	<b>264,000</b>

## **The Non-Domestic Rating Multiplier – Permanently Changing the Indexation Calculations**

### **Background**

- 16.23 All non-domestic rates revenue collected in Wales is pooled centrally and distributed to local government as part of the annual local government settlements. The total amount to be distributed in this way is known as the 'Distributable Amount'. It is calculated by applying the multiplier to the estimated national total of rateable values to give the estimated gross rates yield for the year and adjusting any surplus or deficit carried forward from previous years, the application of reliefs and for other factors which may reduce the gross yield, for example successful appeals.
- 16.24 The Distributable Amount is a key component of the annual local government revenue settlement and the Local Government Finance Act 1988 requires that it is approved by the Senedd as part of the annual local government finance report. The annual multiplier is, therefore, set before the annual settlement can be finalised.
- 16.25 Under the Local Government Finance Act 1988, the non-domestic rating multiplier is normally increased for each financial year using the Retail Prices Index (RPI) for the September preceding the start of the year. The use of RPI is specified in the Local Government Finance Act 1988.
- 16.26 In the Autumn Budget on 22 November 2017, the Chancellor of the Exchequer announced the UK Government was bringing forward the planned use of the Consumer Prices Index (CPI) rather than RPI to uprate the non-domestic rating multiplier in England, from 2020-21 to 2018-19.
- 16.27 The Welsh Government announced that the non-domestic rating multiplier for Wales for 2018-19 should be increased by the equivalent of the CPI measure of inflation rather than RPI and that an Order should be prepared to implement this change. It was also confirmed that CPI would be used for future annual increases.
- 16.28 For 2018-19, the change was achieved through subordinate legislation. The order-making power in Schedule 7 of the Local Government Finance Act 1988 was used to adjust the figures used to calculate the multiplier, capping the increase so that the indexation factor used was equal to CPI instead of RPI.

### **Options**

- 16.29 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual.

- Option 2 – Change the inflation measure used to calculate the non-domestic rates multiplier from RPI to CPI and provide the Welsh Ministers with a power to change the measure to another index if changing circumstances make that appropriate.

## **Option 1: Business as usual**

### **Description**

- 16.30 Subordinate legislation will need to be prepared each year to adjust the calculation used to determine the multiplier, so the indexation figure used is equal to CPI rather than RPI. The order-making power in Schedule 7 to the Local Government Finance Act 1988 allows this. This process would be necessary each year, except where a revaluation takes place. In this instance, a revaluation multiplier is set rather than using the inflation based method.
- 16.31 This option would require the preparation of subordinate legislation each year to adjust the calculation used to determine the multiplier, so the indexation figure used is equal to CPI rather than RPI – in the same way as the change was effected for 2018-19.

### **Costs**

#### Cost to the Welsh Government and local government

- 16.32 Option 1 would introduce no additional costs to local government or the Welsh Government, but it would maintain the ongoing cost to the Welsh Government of preparing and making annual subordinate legislation.
- 16.33 While this option would not require any additional resource and would achieve the desired effect each year, it is not a permanent solution, as it would require annual subordinate legislation, which would need to be approved through an affirmative resolution by the Senedd. As with previous Orders, any subsequent Order would need to be approved ahead of Members of the Senedd voting on the annual local government finance report.

#### Cost to ratepayers

- 16.34 There would be no additional costs to ratepayers.

### **Benefits**

#### Benefits to the Welsh Government and local government

- 16.35 There are no additional benefits to local government or the Welsh Government associated with Option 1.

**Option 2 – Change the inflation measure used to calculate the non-domestic rates multiplier to CPI and provide the Welsh Ministers with a power to change the measure to another index if changing circumstances make that appropriate.**

**Description**

16.36 This option would change the annual indexation to CPI in line with the current policy decision on a permanent basis without the need to make an order annually. The proposed provisions would also allow the Welsh Ministers to change the index figure in later years should circumstances change.

**Costs**

Cost to the Welsh Government and local government

16.37 There would be no additional costs to local government or the Welsh Government associated with Option 2. However, a cost saving has been identified to the Welsh Government, see table 61.

Cost to ratepayers

16.38 Option 2 would not result in additional costs to Welsh ratepayers.

**Benefits**

Benefits to the Welsh Government

16.39 Options 2 would deliver cost savings for the Welsh Government, as it would no longer be necessary to produce annual subordinate legislation to adjust the calculation used to determine the non-domestic rates multiplier. Table 61 sets out the anticipated annual savings.

*Table 61: Estimated savings to the Welsh Government of not preparing annual subordinate legislation to adjust the calculation used to determine the non-domestic rates multiplier*

<b>Staff Costs</b>	<b>Annual salary plus on costs (£)</b>	<b>Daily Cost (£)</b>	<b>Days Required</b>	<b>Total (£)</b>
Deputy Director	115,383	481	1	481
Grade 7	81,696	340	2	680
SEO	63,305	264	10	2,640
Lawyer (Grade 7)	81,696	340	15	5,100
Translation (SEO)	63,305	264	5	1,320
<b>Total Savings</b>				<b>10,000</b>

### Benefits to local government

- 16.40 Option 2 would not result in any additional financial benefits to local government.

### Benefits to ratepayers

- 16.41 This option would provide non-domestic ratepayers with the certainty that the inflation measure used to uprate their bills would be CPI rather than RPI in the future.

### **Preferred Option**

- 16.42 Both options would result in CPI being used rather than RPI to increase non-domestic rates bills annually. However, option 2 would provide certainty for ratepayers and billing authorities.
- 16.43 Option 1 would require subordinate legislation to be prepared and made each year. Whilst Option 2 would result in annual savings to the Welsh Government and would show the Welsh Government's commitment to supporting ratepayers in Wales by establishing changes in primary legislation.
- 16.44 Option 2 is the preferred option.

## Summary Benefits Table

Table 62: Summary of benefits to the Welsh Government – non-domestic rates multiplier

	<b>2020-21 (£)</b>	<b>2021-22 (£)</b>	<b>2022-23 (£)</b>	<b>2023-24 (£)</b>	<b>2024-25 (£)</b>	<b>2025-26 (£)</b>	<b>2026-27 (£)</b>	<b>2027-28 (£)</b>	<b>2028-29 (£)</b>	<b>2029-30 (£)</b>
Cost savings of not making annual subordinate legislation	0	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
<b>Total</b>	<b>0</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>	<b>10,000</b>

## **Chapter 17 Costs and benefits of Part 9: Miscellaneous**

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### **Information sharing between regulators, the Auditor General for Wales and the Welsh Ministers**

- 17.1 The information sharing powers and the duties to provide information are currently largely provided for in the 2009 measure. With the proposal to repeal Part 1 of the 2009 Measure, it is proposed to reproduce some of these provisions, linking them to the new performance and governance regime. Given equivalent provision already exists and there are no additional costs associated, these provisions have not been assessed as part of this Regulatory Impact Assessment.
- 17.2 The information sharing power has been extended to include functions of the Welsh Ministers relating to collaborative working and restructuring of principle councils within the Bill. Whilst it is recognised that some additional costs may be incurred should the powers be utilised it is not possible to anticipate if these powers will be used and if so to what extent. It is therefore not possible to predict what the costs of this may be for this Regulatory Impact Assessment.

### **Directions to the Local Democracy and Boundary Commission for Wales under section 48 of the Local Government (Democracy) (Wales) Act 2013**

#### **Background**

- 17.3 Part 3 of the 2013 Act places duties on the LDBCW and principal councils to keep under review arrangements for local government in Wales; namely principal and community areas and their electoral arrangements.
- 17.4 Section 48 of the 2013 Act currently empowers the Welsh Ministers to direct the Commission or a principal council to conduct a review pursuant to their functions under Part 3 of that Act. The Welsh Ministers consider there to be circumstances in which it would be appropriate to be able to direct the Commission or a principal council to not conduct, or to stop conducting, a review.

#### **Options**

- 17.5 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Business as usual



- Option 2 – Empower the Welsh Ministers to direct the LDBCW or a principal council to not conduct, or to stop conducting, a review.

## **Option 1 – Business as usual**

### **Description**

- 17.6 Existing powers would be maintained under section 48 of the 2013 Act allowing the Welsh Ministers to direct the Commission or a principal council to conduct a review of local government areas and electoral arrangements.

### **Costs**

#### Cost to the Welsh Government and local government

- 17.7 Option 1 would impose no additional costs.

### **Benefits**

#### Benefits to the Welsh Government and local government

- 17.8 This option would provide no additional benefits

## **Option 2 – Empower the Welsh Ministers to direct the LDBCW or a principal council to not conduct, or to stop conducting, a review.**

### **Description**

- 17.9 This option would allow the Welsh Ministers to direct the LDBCW or a principal council to not conduct, or to stop conducting, a review of principal and community boundaries or electoral arrangements under sections 25, 26, 31 or 32 of the 2013 Act.
- 17.10 The Welsh Ministers would need to specify the period for which the review could not take place.

### **Costs**

#### Cost to the Welsh Government and local government

- 17.11 Under Option 2, a direction to either not undertake, or to stop a review, would likely prevent or minimise nugatory expenditure which may have been incurred by the Welsh Government or local government should an unnecessary review have continued. This would depend upon the circumstances in which the Welsh Ministers made a direction and the stage reached by the review and thus cannot be estimated in this

Regulatory Impact Assessment. The potential saving is therefore unknown.

## **Benefits**

### Benefits to the Welsh Government and local government

17.12 This would allow the Welsh Ministers to prevent or stop a review when they felt this was the most appropriate course of action in relation to arrangements for local government in Wales.

## **Preferred Option**

17.13 Option 2 is the preferred option.

## **Merging and Demerging of Public Services Boards**

### **Background**

17.14 The WFG Act enables Public Services Boards (PSBs) to merge, if they consider it would assist them in contributing to the achievement of the well-being goals. The Act also states that Welsh Ministers may direct two or more PSBs to merge if the Welsh Ministers consider it would assist the boards in contributing to the achievement of the well-being goals.

17.15 However, the Act does not currently explicitly enable merged PSBs to demerge, or partially demerge. Nor does it allow PSBs to merge or demerge across health boards boundaries. This means there is a potential lack of flexibility for PSBs, which would benefit from being addressed.

### **Options**

17.16 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – Allow PSBs which have agreed to merge, to demerge and also enable the Welsh Ministers to direct merged PSBs to demerge. Alongside this, allow PSBs to merge or demerge across health board boundaries if they wish.

## **Option 1: Business as usual**

### **Description**

17.17 Option 1 would introduce no change. PSBs would continue to be allowed to merge or the Welsh Ministers could direct two or more PSBs to merge as is the current practice. However, there would be no ability to merge across health board boundaries or for merged boards to demerge if that later became necessary.

### **Costs**

#### Cost to the Welsh Government and local government

17.18 Option 1 would introduce no additional costs.

### **Benefits**

#### Benefits to the Welsh Government and local government

17.19 Option 1 would introduce no additional benefits.

**Option 2 – Provide new powers to allow PSBs, which have agreed to merge, to be able to merge across health board boundaries if they wish to, or to demerge. Also, enable the Welsh Ministers to direct merged PSBs to demerge.**

### **Description**

17.20 This would primarily be around giving the flexibility to those PSBs who have decided to merge to also have the option to merge across health board boundaries, or to demerge (or partially demerge) if they wish. The power which would enable the Welsh Ministers to direct merged PSBs to demerge is intended for use only in exceptional circumstances – if Welsh Ministers consider that the change would assist in contributing to the well-being goals.

17.21 Currently, four PSBs have taken the decision to merge – Conwy and Denbighshire have merged, and Rhondda Cynon Taf and Merthyr Tydfil have merged to form Cwm Taf PSB. The Welsh Government is not aware of any PSBs wishing to demerge. However, if they did wish to demerge, they would have the flexibility to do so.

### **Costs**

#### Cost to the Welsh Government

17.22 Option 2 would bring no cost to the Welsh Government.

### Cost to local government

- 17.23 A decision to merge or demerge PSBs should not trigger the need to produce a new local well-being plan or undertake an assessment of local well-being and, therefore, the additional costs of doing this would be nil.

### **Benefits**

#### Benefits to local government

- 17.24 Allowing more flexible merging arrangements or merged PSBs to demerge would bring greater flexibility for PSBs to be at the right scale to best improve the well-being of their area, a determination which may change over time. Boards would need to balance the potential benefits of demerging with the additional costs when deciding whether to demerge. They would only be expected to voluntarily demerge when they expected the former to exceed the latter.

### **Preferred Option**

- 17.25 Option 1 would continue to allow PSBs to merge or the Welsh Ministers could direct two or more PSBs to merge as is the current practice.
- 17.26 Option 2 would offer flexibility to those PSBs who have decided to merge to also have the option to merge across health board boundaries, or to demerge (or partially demerge) if they wish.
- 17.27 Option 2 is the preferred option.

## **Combined Fire and Rescue Authorities: Inquiries**

### **Background**

- 17.28 Fire and rescue authorities (FRAs) in Wales are constituted under the Fire and Rescue Services Act 2004.
- 17.29 Section 1 of the Fire and Rescue Services Act 2004 provides that principal councils are the FRAs for their area. However, section 2 states that the Welsh Ministers may by order (a 'combination order') create FRAs as separate entities covering the area of more than one principal council. Similar powers had previously been included within section 6 of the Fire Services Act 1947, which continue to have effect under section 4 of the Fire and Rescue Services Act 2004.

- 17.30 The three combined FRAs in Wales (South Wales Fire Authority, the Mid and West Wales Fire Authority and the North Wales Fire Authority) were first established by way of combination orders made under section 6 of the Fire Services Act 1947. Each FRA is defined by reference to the areas of its constituent principal councils.
- 17.31 The Welsh Ministers have powers under section 4 of the Fire and Rescue Services Act 2004 to amend combination orders originally made under section 6 of the Fire Services Act 1947. However, section 4(6) of the Fire and Rescue Services Act 2004 requires a local inquiry to be held into any such changes, unless:
- both the FRA and all its constituent councils agree to them; or
  - the combination order is to be varied or revoked solely for the purpose of giving effect to changes in local government areas; or
  - the Welsh Ministers consider that in the interests of public safety, the combination order should be varied or revoked.
- 17.32 This provision was initially created in order to protect FRA's against boundary changes and the creation, combination or disaggregation of FRAs as a whole. However, the Welsh Government believe that the requirement to hold a local inquiry prior to amending a combination order could be considered inappropriate where those changes relate to a matter of national policy as opposed to local boundary changes for example.
- 17.33 The Welsh Government believe that it is necessary to retain the requirement for a local inquiry to be held should there be proposed boundary changes, as even minor alterations can have a significant impact on firefighting provisions and the financial viability of an FRA.
- 17.34 Securing the effective governance and efficient funding of public bodies is a legitimate and essential role of the Welsh Government, which should not be obstructed or hindered by needless process restrictions. Any changes to FRA governance or funding arrangements by means of combination order amendments would have to be subject to full public consultation and scrutiny in the Senedd.
- 17.35 So far as we are aware, no other public body has the right to consent to such changes. Section 4(5) of the Fire and Rescue Services Act 2004 imposes a duty on Welsh Ministers to consult FRAs, principal councils and other interested parties prior to making an order to revoke a scheme. Therefore, the need to undertake a local inquiry in addition to the consultation would only create unnecessary burden and would not add any further value to the process.
- 17.36 Consequently, the Welsh Government proposes that the requirement to hold a local inquiry should be dis-applied, except where a combination order would alter the area served by an FRA or which would revoke a

combination order altogether with a view to creating a wholly different configuration of FRAs.

## **Options**

17.37 In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Business as usual
- Option 2 – relax the requirement for a public inquiry when varying a combination order

### **Option 1: Business as usual**

#### **Description**

17.38 No amendments would be made to the current arrangements. The Welsh Ministers would be required to hold a local inquiry should they wish to make a combination order under section 2, or vary an order under section 4 of the Fire and Rescue Services Act 2004.

17.39 The Welsh Government believes that maintaining the status quo would not be conducive to the efficient management of FRAs in Wales. The current statutory requirements hinder reform of the current FRA arrangements and prevent an increase in accountability which would in turn allow decisions about fire and rescue services to be better integrated into those of other local services.

#### **Costs**

##### Cost to the Welsh Government and local government

17.40 There would be no additional costs; however, the costs of undertaking local inquiries would still have to be met.

#### **Benefits**

##### Benefits to the Welsh Government and local government

17.41 Option 1 would introduce no additional benefits.

## **Option 2 – Dis-apply the requirement to hold a local inquiry except for certain circumstances.**

### **Description**

17.42 Option 2 would amend sections 2 and 4 of the Fire and Rescue Services Act 2004 to dis-apply the requirement for the Welsh Ministers to hold a local inquiry when varying a combination order, except where a combination order:

- would alter the area served by an FRA, or
- revoke a combination order altogether with a view to creating a wholly different configuration of FRAs in Wales.

17.43 Current legislation provides that a local inquiry should be conducted where a combination order is amended consequent on a principal area being changed or abolished under Part 3 of the 2013 Act. The Welsh Government believes that holding a local inquiry in these circumstances is unnecessary, as any such reforms would already have been subject to very extensive debate and consultation.

17.44 The Welsh Government, therefore, proposes to remove this requirement. In addition, it is not currently required that FRAs be consulted on proposed boundary changes between two principal councils, as this type of amendment would not require an amendment to the combination orders. However, the Welsh Government believe that this requirement should be amended to ensure FRAs in Wales are consulted on proposals of this nature, as minor amendments could have significant implications of FRA operations and resources. It is proposed that section 34(3) of the 2013 Act should be amended to include FRAs as mandatory consultees.

### **Costs**

#### Cost to the Welsh Government, local government and FRAs

17.45 There would be no cost implications; this option would only introduce a procedural change to how FRA combination orders are amended.

### **Benefits**

#### Benefits to the Welsh Government

17.46 The Welsh Government has committed in the 2017 Reforming Local Government: Resilient and Renewed White Paper to introduce reform of the current fire and rescue arrangements. Removing the statutory requirement for the Welsh Ministers to undertake a public inquiry save for very specific circumstances, which are outlined above, would allow the Welsh Government to reform the current FRA arrangements without undue delay. Section 4(5) of the Fire and Rescue Services Act 2004

already places a statutory requirement on the Welsh Ministers to consult FRAs, principal councils and other interested parties before making an order to vary or revoke a scheme, therefore, dis-applying the public inquiry duty would remove unnecessary bureaucracy and create a more streamlined process.

- 17.47 This option would also mean that the costs of holding a local inquiry would be saved. However, the savings that could be made from not holding a local inquiry are unknown at present.

#### Benefits to local government and FRAs

- 17.48 This option would mean reform of FRA governance could proceed with greater speed and certainty. In turn, that would mean the benefits of clearer and more accountable leadership, and more sustainable funding, would be realised sooner.

#### **Preferred Option**

- 17.49 Option 2 is preferred as it would allow the Welsh Government to streamline the process of reforming current FRA arrangements in Wales. Thus, increasing accountability and ensuring decisions regarding fire and rescue services are better integrated into those of other local services.

## **Fire and Rescue Authorities Performance Management**

### **Background**

- 17.50 Fire and Rescue Authorities' performance management arrangements are subject to Part 1 of the 2009 Measure. The 2009 Measure requires "Improvement Authorities" (principal councils, Fire and Rescue Authorities and National Parks authorities) to 'make arrangements to secure continuous improvement' in the exercise of their functions'.
- 17.51 Part 1 of the 2009 Measure will be repealed by this Bill and replaced with new performance management arrangements for principal councils.
- 17.52 Rather than mirroring these arrangements for FRAs, the Welsh Government proposes to introduce a new performance management system to better reflect the particular operating contexts and challenges which FRAs face.
- 17.53 Section 21 of the Fire and Rescue Services Act 2004 requires the Welsh Ministers to prepare a Fire and Rescue National Framework setting priorities, objectives and guidance to FRAs on the discharge of their functions.



- 17.54 The 2009 Measure was primarily designed for principal councils as multi-service organisations directly accountable to the public. The wide range of local authority services, and the electoral mandate which councillors have, means improvement entails balancing demands and expectations, and setting priorities accordingly – hence the sort of arrangements which the 2009 Measure set out.
- 17.55 FRAs, by contrast, provide only a small range of services and have no direct electoral mandate. They cannot manage demand for their core emergency response services – they need to provide those when needed, anywhere at any time. Therefore, the notion of balancing demands and setting priorities does not arise to anywhere near the same extent. This makes the requirements of the Measure burdensome and over-complex in an FRA context.
- 17.56 Discussions with FRAs have focussed on the need for a much clearer link between FRA performance management arrangements and the Fire and Rescue National Framework, whilst bearing in mind the continued requirements of the WFG Act. Current Welsh Government guidance for FRAs on applying the 2009 Measure includes possible ways of doing so but this is cumbersome and constrained by the requirements of the Measure itself.

## **Options**

- 17.57 In drafting this Regulatory Impact Assessment, two options have been considered:
- Option 1 – Repeal the 2009 Measure for principal councils but retain current arrangements for FRAs.
  - Option 2 – Repeal the 2009 Measure as it applies to FRAs, and include powers within the Bill to set planning and performance arrangements by regulation.

### **Option 1 – Repeal the 2009 Measure for principal councils but retain current arrangements for FRAs.**

#### **Description**

- 17.58 The status quo would be retained in respect of FRAs. Whilst the 2009 Measure would be dis-applied in regards of principal councils and National Park Authorities, current improvement arrangements under Part 1 of the 2009 Measure would remain in place for FRAs.

#### **Costs**

##### Cost to the Welsh Government and local government

- 17.59 There would be no additional costs associated with this option.

## Benefits

### Benefits to the Welsh Government and local government

17.60 Option 1 would introduce no additional benefits.

**Option 2: Repeal the 2009 Measure as it applies to FRAs, and include powers within the Bill to set planning and performance arrangements by regulation.**

### Description

17.61 Under this option, the Welsh Ministers would be provided with a power to make regulations requiring FRAs to develop and publish strategic plans in relation to the exercise of their functions, describing the extent to which they reflect the National Framework prepared by the Welsh Ministers under section 21 of the Fire and Rescue Services Act 2004.

17.62 The Welsh Ministers may require the plans to describe the extent to which they reflect the objectives and priorities set out in the Fire and Rescue National Framework. These regulations may also specify the performance management arrangements to be used to assess an FRA's performance against these plans.

### Costs

#### Cost to the Welsh Government and FRAs

17.63 There would be no additional costs associated with this option. The amendment would only introduce a procedural change to how FRA report performance management arrangements. It is not expected that the costs of managing a new performance regime will be any greater than the management and administrative costs of the current approach.

## Benefits

### Benefits to the Welsh Government and FRAs

17.64 In 2018, the Welsh Government consulted on proposals to better align FRA performance planning and reporting to the National Framework. Consultation responses overwhelmingly supported such an approach. This option would enable the Welsh Government to revisit performance management arrangements and consult on such proposals as part of future consultations on a new National Framework, thereby tailoring FRAs planning and performance management and reporting to the delivery of the current National Framework and its priorities, as well as to the FRAs' core functions. This would produce a more dynamic planning and performance system able to adapt and change as part of the FRAs' diversification agenda.

17.65 It would also provide a more seamless and cohesive approach and greater clarity for FRAs regarding the relationship between Welsh Ministers, the National Framework and the requirements on FRAs in terms of delivering its objectives and priorities.

**Preferred Option**

17.66 Option 2 is the Welsh Government's preferred option.

## **Chapter 18 Impact of Provisions on Welsh Government Policy**

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### **Well-being of Future Generations (Wales) Act 2015**

- 18.1 The ultimate objective of the Bill is to strengthen local government and to modernise local government electoral arrangements in Wales. There is clear alignment between this objective and the five ways of working as set out in the WFG Act.

#### **Long term**

- 18.2 The Bill provides the legislative framework to deliver a major package of reforms to reinvigorate local democracy and to strengthen local government accountability and performance. It provides greater opportunities for people to engage with local government, including votes for 16 and 17 year olds and foreign nationals legally resident in Wales, coupled with a range of other important changes to improve voter registration and voting.
- 18.3 Our vision for local government builds on the strengths local government already has. It looks forward to councils with the powers and scope to work in the best interests of the communities they serve. Councils that work with others to make a difference and use public money effectively for the public good. A local government system where the workforce are valued, respected and influential in improving services – supported and encouraged to be advocates for the people they serve. A system in which social partnerships underpin the relationship between principal councils and their staff and are recognised and valued as strength.

#### **Prevention**

- 18.4 We now face new challenges, made more acute by the impact of globalisation. A new generation is looking to public service leaders to provide direction, preserve the fabric of communities and provide opportunities for involvement in democratic decision-making. Strong and empowered local democracy will be vital in addressing the challenges we face, in finding the best local solutions and in delivering sustainable public services. Welsh Government wishes to promote diversity and wider representation at local government level and enfranchising the widest possible group of people will ensure that our democratic system is open and accessible to all who wish to participate.

#### **Integration**

- 18.5 The Bill aims to ensure that local government is sustainable and can provide the foundation on which future generations and their communities can prosper. It is anticipated that the proposed changes to the local government electoral process and franchise will have a positive impact on individuals with disabilities, people from BME groups and on young people between the ages of 16 and 17. Enfranchising all

qualifying foreign citizens (those who are legally resident in Wales), not just those who are currently enfranchised, is likely to impact on individuals who are not currently able to participate in local democracy by voting or standing for election to their local council. New ways of registering and the piloting of new methods of voting are likely to have the greatest positive impact on groups who are traditionally less likely to or who might find it difficult to register and vote e.g. young people, older people and those with disabilities. These innovations will ensure a fair and integrated approach to democracy. The Bill will also aid the process of transforming service delivery and give local authorities the tools to lead their communities.

## **Collaboration**

- 18.6 Our proposals will provide an opportunity to have a conversation with the people of Wales about restoring trust in our democratic institutions by enabling local authorities to be as open and transparent as possible by engaging and involving their citizens in their work. The Welsh Government will work with local government to champion the role of elected members and help communities understand, and value, the important part councils play in their lives.

## **Involvement**

- 18.7 Extensive engagement and consultation with a range of stakeholders and the public has been held since July 2014, including four consultations that explored a number of options and alternatives. Research has also been undertaken to review the effectiveness of current policies. Ministers and officials have held meetings with a range of stakeholders during the development of the Bill, which have formed part of the evidence informing the Bill. This includes the co-design with local government of provisions for more consistent collaborative working by principal councils.

- 18.8 Partners who will implement this proposed Bill will include:

- Council leaders,
- Chief executives and senior management of local authorities,
- WLGA,
- WCVA,
- UK Government officials,
- One Voice Wales,
- Society for Local Council Clerks,
- Wales Audit Office,
- Estyn,
- Care and Social Services Inspectorate Wales,
- Centre for Public Scrutiny,
- Electoral Commission and others.

- 18.9 Extending the franchise to 16 and 17 year olds and foreign citizens legally resident in Wales could lead to a maintained engagement with a

new group of people, which would could lead on to a greater interest in democratic politics more generally, including standing as a candidate.

## **Prosperity for All**

- 18.10 We are committed to ensuring that local government is equipped with the powers it needs to make life better in our communities. Prosperity for All notes: “To empower and engage more people in local decision-making, we have consulted on proposals to trial reforms to the democratic process, modernise the elections process and introduce votes for those aged 16 and over.” This Bill will now take forward those proposals directly achieving an important target in Prosperity for All. The legislation, which includes the general power of competence for principal councils and community councils that meet eligibility criteria, will enable authorities to adopt more innovative approaches in meeting the needs of their communities. It will enable principal councils to improve the ways in which councillors reflect our communities and be representative of the diversity of experience, interests and priorities in those areas.
- 18.11 Wales needs strong, effective, empowered principal councils with the capacity to weather challenges and build a system of local democracy, which is relevant to future generations. This is critical to delivering ‘Prosperity for All’ and enabling local government to maximise its contribution to our shared well-being goals.

## Chapter 19 Integrated Impact Assessment

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19.1 Specific impact assessments have also been undertaken, which cover the whole of the Bill. A summary of the impacts are included below. All impact assessments have been published<sup>34</sup> and where the impact is directly relevant to a particular provision, it has been identified within the relevant assessments. Specific impact assessments have been undertaken on the following topics:

- Children's Rights
- Welsh Language
- Equality
- Justice Impact Assessment

### Privacy Impact

19.2 The Bill includes provisions that involve the collection, handling and processing of personal data as follows:

- Extension of the franchise for Welsh local government elections to 16 and 17 year olds;
- Extension of the franchise for Welsh local government elections to foreign citizens legally resident in Wales;
- Enabling registration without application of eligible voters for local government elections in Wales; and
- Enabling local authorities to collect information, which may include personal data, to verify non-domestic rates liability and to challenge suspected cases of fraud or avoidance.

### Children's Rights

19.3 Reduction of the minimum voting age in Welsh local government elections to 16 will give young people the opportunity to vote while they are still at school and, therefore, participating in the *Active Citizenship* theme of *Personal and Social Education*. Reducing the voting age to include 16 year olds could lead to a maintained engagement with young people, which could lead to a greater interest in democratic politics more generally, including standing as a candidate.

19.4 There will also be young people who are not in education, employment or training. In preparation for the Scottish Referendum, the Electoral Commission prepared educational awareness raising material that was available to all young people and the adults who work with them. A similar approach will be taken in Wales. It will be important to ensure awareness is raised and educational campaigns consider how to ensure harder to reach groups are encouraged to register, but also understand their rights and have access to the same information as all other young people.

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<sup>34</sup> [Welsh Government | Local Government and Elections \(Wales\) Bill](#)

- 19.5 This is in keeping with the commitments in *Taking Wales Forward 2016-21* and *Prosperity for All: the national strategy*.
- 19.6 It is important that local government closely represents the communities it serves, and as it stands, particularly in relation to age, gender and ethnicity, the culture and working practices within principal councils are not always conducive to encouraging young people to actively take part. The proposals to improve governance, openness, transparency and engagement with the public and communities generally will enable authorities to target specific groups such as young people. This should mean they take account of children's and young people's concerns which could result in improvements in service planning and delivery.

### **Welsh Language**

- 19.7 The Welsh language, Welsh-speaking communities and Welsh speakers in communities where Welsh is not the main language can benefit from the general aims of the proposed Bill. The proposed reforms seek to ensure principal councils are strengthened, more inclusive, more accountable, and share more power and responsibility with communities.
- 19.8 In this context, 'communities' means communities of interest as well as communities of place, and so encompasses Welsh speakers in all parts of Wales, not just those communities where the Welsh language is predominant. This should ensure principal councils could better serve and represent those who speak Welsh and better provide services, facilities and education in the Welsh language.
- 19.9 The proposals should also support local authorities to support culture, heritage and the Welsh language, and to meet their requirements under the Welsh Language Standards to promote and facilitate use of the Welsh language, including in the workplace.

### **Equality**

- 19.10 The Bill seeks to create a more diverse, representative, transparent local government, which positively and openly involves all members of the community.
- 19.11 The enfranchisement of all foreign citizens legally resident in Wales for local government elections will enable anyone from any nationality who resides in Wales (and who meets other qualifying criteria such as age) to play a part in our inclusive democracy. It will make clear that people from all nations and nationalities who have made their homes here should be able to participate fully in our democracy. We will also seek to ensure that foreign citizens legally resident in Wales are informed, involved and engaged with as part of the elections process.
- 19.12 The general power of competence will enable principal councils and eligible community councils to develop innovative and ambitious models



of service delivery, which could be of particular benefit to vulnerable groups.

- 19.13 Provisions to make meetings more accessible and open will also contribute to encouraging the culture and working practices within principal councils to be more open and diverse. Provisions to allow remote attendance at council meetings should aid councillors with employment or caring responsibilities.

### **Justice Impact Assessment**

- 19.14 As we are bringing forward new primary legislation, the potential impact on the justice system of the following areas of the Bill has been considered in conjunction with the Ministry of Justice (MOJ):

- Electoral reform
- General Power of Competence
- Public Services Ombudsman for Wales – Code of Conduct Investigations
- Performance and Governance
- Collaborative Regional Working
- Mergers and Restructuring
- Non-Domestic Rates Avoidance

### **Electoral Reform**

- 19.15 The Bill will include provisions to reform the electoral system for local government elections in Wales. The reforms aim to improve the electoral process and extend the electoral franchise. Those reforms for which an impact assessment is considered appropriate are:

- Extending the franchise to 16 and 17-year olds and all foreign citizens legally resident in Wales; and
- Improving voter registration.

- 19.16 Extending the franchise means that existing electoral offences will apply to a wider group of people. The Bill also creates a new summary offence of disclosing electoral information about young people under the age of 16. These provisions could potentially have an impact on the number of offences committed. However, there is no evidence from Scotland, following the extension to the franchise to 16 and 17 year olds there, or across the UK more generally to suggest that there would be a quantifiable increase in the number of offences committed.

- 19.17 Similarly, it is considered reasonable to assume that the other aspects of electoral reform will have a minimal or nil impact on the justice system.

### General Power of Competence

- 19.18 The Bill will provide qualifying authorities (i.e. principal councils and eligible community councils) in Wales with a general power of competence.
- 19.19 This power replaces the current well-being power (section 2 of LGA) with a broad power to enable qualifying authorities to do anything an individual generally may lawfully do, subject to limitations or restrictions under other legislative provisions that overlap with the general power.
- 19.20 The breadth of the power and the experience of how the courts have interpreted the general power in cases involving English authorities suggest that the number of court challenges substantively relating to the general power would potentially be lower than for the well-being power it replaces.
- 19.21 Reliance on the general power of competence in itself would not provide a defence if an authority's process leading up to a decision contravened public law principles, so much turns on the quality of individual authority's decision-making processes.
- 19.22 It has been concluded that there would be a minimal or nil impact of this provision on the justice system.

### Public Services Ombudsman for Wales – Code of Conduct Investigations

- 19.23 The Bill will improve the accessibility of the law covering the conduct of investigations by the Ombudsman under Section 69 of LGA 2000.
- 19.24 The provisions deal with practical matters such as conflicts of interest, powers to obtain and disclose information and protection from defamation. They replicate, with appropriate modifications, the existing law in Wales that is derived from sections 60-63 of LGA Act as applied in Wales through subordinate legislation made by the Welsh Ministers. The main positive effects are clarity and improved accessibility of the law relating to the Ombudsman's powers. There are no negative effects on the justice system.
- 19.25 The provisions provide for a modified approach to offences relating to the obstruction of investigations, to bring them into line with the equivalent provisions in the PSOWA 2019. However, the Ombudsman has not found it necessary to initiate proceedings under the current legislation and the modified provisions are not expected to increase the likelihood of this in future.
- 19.26 It has been concluded that there would be a minimal or nil impact of this provision on the justice system.

## Performance and Governance

- 19.27 The Bill makes provision for a new performance and governance regime for principal councils in Wales. The new system, which replaces that in Part 1 of the 2009 Measure, places the onus on individual councils to take ownership of their improvement. The new regime is based on a system of self-assessment by principal councils, coupled with periodic panel review, which will provide an external, expert perspective on the council's performance and improvement.
- 19.28 As under the current system, the Welsh Ministers will have a range of powers to provide support and, where necessary, to intervene to assist a principal council that faces significant problems. Where a principal council does not comply with an 'intervention direction' given by the Welsh Ministers, the Welsh Ministers will be able to apply to the courts. It is difficult to predict the number of cases for intervention, but based on experience of the existing performance regime, the number of is likely to be very low or even nil.
- 19.29 The Bill also includes powers (again similar to existing powers) for the Auditor General for Wales (the AGW) to carry out a special inspection of a principal council when concerns about that council have been identified. Again, experience of the equivalent powers in the current regime – where there have been no challenges – suggests the number of challenges to the conduct of a special inspection is likely to be very low.
- 19.30 An inspector appointed by the AGW to carry out a special inspection will be empowered to require a person who is able to do so to provide information and documents for the purpose of the inspection. A person who without reasonable excuse fails to comply with such a requirement, or who intentionally obstructs an inspector carrying out a special inspection, will commit an offence and on summary conviction will be liable to a fine. These offences replace existing equivalent offences in the 2009 Measure, which are being repealed.
- 19.31 It has been concluded that there would be minimal or nil impact of these provisions on the justice system.

## Collaborative Regional Working

- 19.32 The Bill will provide a power for the Welsh Ministers, through regulations, to establish corporate joint committees to undertake certain local authority functions. The establishment of such bodies will be at the request of principal councils themselves, or at the instigation of the Welsh Ministers in relation to a limited number of specified service areas.
- 19.33 As the provisions are concerned with the administrative means through which two or more principal councils come together to exercise certain functions, the proposal is considered to have no or negligible potential impact on the justice system. It is possible that a decision by the Welsh

Ministers to establish a collaboration body that has not been requested by the relevant principal councils concerned could be subject to challenge through judicial review. However, it is anticipated that the risk of such challenge would be very low.

- 19.34 It has been concluded that there would be minimal or nil impact of these provisions on the justice system.

#### Voluntary Mergers and Restructuring of Principal Areas

- 19.35 The Bill will include provisions to enable the Welsh Ministers to make regulations to give effect to:

- A voluntary merger between two or more principal councils; or
- A restructuring of a principal council, which could entail merging the council with one or more of its neighbouring councils or splitting its area among two or more of its neighbours.

- 19.36 The decision to voluntarily merge or restructure a principal council is likely to be controversial and thus might persuade those opposed to it to seek to apply for judicial review, even where there was support for the proposal from the councils involved.

- 19.37 A decision by the Welsh Ministers not to merge two or more principal councils which have requested to do so voluntarily might be challenged by the councils concerned. It is difficult to predict how many such mergers might be proposed and even more difficult to predict the likelihood of a challenge coming forward from either principal councils or other interested parties. However, it is anticipated that the number of challenges is likely to be very low and, therefore, the impact on the justice system would be minimal.

- 19.38 In principle, legal aid would be available to an individual / group to fund a judicial review providing the relevant criteria are met. However, the Legal Aid Agency might also expect a “community contribution” to be paid because others in the area might benefit from the proceedings to the same or greater extent than the person / group seeking to challenge a decision. As indicated above, it is anticipated that the number of applications proceeding to judicial review, and thus the potential implications for legal aid, is likely to be very low, but will be kept under review.

- 19.39 No wider impacts have been identified.

## Non-domestic Rates Avoidance

19.40 Since April 2015, the fiscal autonomy of non-domestic rates in Wales has been fully separated from UK Government fiscal mechanisms. This means that revenue generated from non-domestic rates has a direct impact on the overall resources available to fund local government services in Wales. Evidence suggests that an amount of fraudulent and avoidance activity exists within the system, which Welsh Ministers are committed to tackling as part of a wider programme of reform to ensure local taxes are fair and fit for purpose.

19.41 The Bill will:

- enable the Welsh Ministers, through regulations, to require ratepayers to notify billing authorities of a change in their circumstances which may affect their liability for non-domestic rates;
- enable a billing authority to enter and inspect a property to verify information for the purposes of billing and collection; and
- enable a billing authority to request information from ratepayers and third parties to verify information for the purposes of billing and collection.

19.42 A person who fails to comply with the obligations described above may be liable to a range of civil penalty notices issued by the billing authority. Persons issued with a penalty notice will have a right of appeal to the Valuation Tribunal for Wales (VTW).

19.43 In the most serious (but limited) cases where an inspection of a property has been wilfully obstructed or where false information has knowingly been provided, a person may be liable on summary conviction to a fine imposed by the Magistrates Court. It is anticipated that the threat of a penalty or prosecution will encourage co-operation in the majority of cases. The VTW already hears appeals against penalty notices issued by the Valuation Office Agency, which has similar powers to request information and to inspect non-domestic properties. Appeals of this nature are currently very rare with just one case in Wales in 2018-19 and we anticipate appeals will continue to be relatively low in number.

19.44 The provisions are an extension of the existing billing, collection and enforcement role of billing authorities in relation to the administration of local taxes, fees and charges in delivering services.

19.45 It has been concluded that there would be a minimal or nil additional impact of these provisions on the justice system.

## Chapter 20 Competition Assessment

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### 20.1 The competition filter test

Question	Answer Yes or No
<b>Q1:</b> In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
<b>Q2:</b> In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
<b>Q3:</b> In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
<b>Q4:</b> Would the costs of the regulation affect some firms substantially more than others?	No
<b>Q5:</b> Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
<b>Q6:</b> Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q7:</b> Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

20.2 A competition assessment has been undertaken and concluded that this Bill will have no direct impacts on products or services that would affect market competition.

20.3 However, if any local authorities decide to voluntarily merge in future, procurement and contract decisions may have an impact on businesses and competition, but that would be a matter for the relevant transition committees to assess.

## Chapter 21 Post implementation review

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- 21.1 The Local Government and Elections (Wales) Bill provides the legislative framework to deliver a major package of reforms to support local government and to strengthen principal council accountability and performance.
- 21.2 It provides greater opportunities for people to engage with local government, including votes for 16 and 17 year olds and foreign citizens legally resident in Wales, coupled with a range of other important changes to improve the voter experience.
- 21.3 The Bill strengthens the powers available to local authorities, by providing them with a general power of competence, and includes measures to improve openness and transparency.
- 21.4 A sector led performance and governance regime, with self-assessment and peer support at its core, will put the emphasis on principal councils taking ownership of their own improvement, promoting a culture where they are open to and embrace challenge, whether presented from within the council or externally. This will be supported by a sector led improvement and support function to share best practice and increase skills within the sector.
- 21.5 The Bill also makes provision for the Welsh Ministers to provide support and, where necessary, intervention to assist principal councils facing significant problems with performance and governance.
- 21.6 The Bill provides a new mechanism for a more simplified, coherent and consistent approach to collaboration, supporting more effective and efficient approaches to joint working. The Bill empowers the Welsh Ministers to establish corporate joint committees to undertake certain local authority functions, enabling services to be planned, designed and delivered collaboratively on the scale that ensures the best outcomes for communities.
- 21.7 The establishment of such committees will be at the request of principal councils themselves, or at the instigation of the Welsh Ministers in relation to a limited number of service areas specified in the Bill.
- 21.8 The Bill also enables the voluntary merger of principal councils where the councils determine it is in the best interests of their areas.
- 21.9 Our proposals will provide an opportunity to have a conversation with the people of Wales about restoring trust in our democratic institutions by enabling principal councils to be as open and transparent as possible and by engaging and involving their citizens in their work. The Welsh Government will work with local government to champion the role of elected members and help communities understand, and value, the important part their principal and community council plays in their lives.

It will also enable communities to engage more widely and in different ways with their council.

- 21.10 The Welsh Government will work with stakeholders across Wales to monitor and evaluate the impact of electoral reform. We will identify whether the proposed extension of the franchise results in an increase voter turnout. It is also important that we support councils to achieve the goal of seeing an increase in the number and diversity of individuals standing for election to principal councils.
- 21.11 One of the measures of success of the Welsh Government's proposals to extend the local government franchise will be measured in terms of the number of newly enfranchised individuals registering and then exercising their right to vote. Officials are also working with the Democratic Renewal Steering Group, the Wales Institute of Social and Economic Research, the interdisciplinary social science research centre and the Welsh Government's Knowledge and Analytic Services to determine the right combination of evaluation factors going forward.
- 21.12 The Bill makes provision for the general power of competence, which will provide councils with significant further flexibility. The Welsh Government will continue to work closely with local government and stakeholders to identify where additional powers or flexibilities have been helpful to them in achieving their objectives. With regards to community councils, officials will take stock of the number of councils declaring themselves eligible to use the general power of competence through a survey after the next local government election. Ahead of the survey, we will monitor the uptake of training through the Welsh Government's national bursary scheme for council clerks and evaluate the numbers completing the qualification. In addition, the Society of Local Council Clerks will report progress on the number of qualified clerks to the National Training Advisory Group, which meets quarterly.
- 21.13 In order to evaluate the effectiveness of the provision to require community councils to publish their training plans, the Welsh Government will monitor these plans through an annual sample of 10% of community council websites, selected at random.
- 21.14 The Welsh Government will continue to work closely with local government to support the strengthening of the governance of principal councils. The Bill makes provision requiring self-assessment reports, panel performance assessment reports and the principal councils' responses to panel performance assessment reports to be sent to the Welsh Ministers. The Welsh Government will review these reports to ensure that the provisions on self-assessment and panel performance assessments are being implemented.
- 21.15 The costs and benefits of any proposed corporate joint committees will be assessed as part of the preparation of the regulations establishing each committee. Similarly the Regulatory Impact Assessment which



accompanies the corporate joint committee regulations will consider appropriate post implementation review.

- 21.16 The Welsh Government will enable local government to provide the best services for the people of Wales. We will ensure that relevant support is available for those councils that wish to merge voluntarily or consider new delivery models – such as shared services, joint ventures and new forms of collaboration with place-based partners as part of reform. The Welsh Government has worked closely with local government to develop guidance for voluntary mergers to support councils' considerations for mergers. As and when any councils come forward with proposals to merge, this will provide the sector with a case study that will enable invaluable learning at local and national levels. The costs and benefits of voluntary mergers will, therefore, be monitored on a case by case basis.
- 21.17 The Welsh Government has consulted extensively with a number of stakeholders that have formed part of the evidence informing the Bill. Extensive political engagement has taken place throughout the policy development period, including through the independently chaired Local Government Working Group. The stakeholders will continue to be involved in post implementation review.
- 21.18 For all of the provisions within the Bill, the Welsh Government will ensure continuous assessments of how the legislation has taken effect and influenced the policy intent. Additional powers, their costs and benefits against the baseline set out in the Regulatory Impact Assessment will be monitored and Welsh Government officials will hold bilateral meetings with the relevant Ministers to discuss and monitor progress.

## Appendix A – Regulatory Impact Assessment Summary Costs Tables

**Table A1: Transitional Costs to the Welsh Government**

	<b>20-21 (£,000)</b>	<b>21-22 (£,000)</b>	<b>22-23 (£,000)</b>	<b>23-24 (£,000)</b>	<b>24-25 (£,000)</b>	<b>25-26 (£,000)</b>	<b>26-27 (£,000)</b>	<b>27-28 (£,000)</b>	<b>28-29 (£,000)</b>	<b>29-30 (£,000)</b>	<b>Total</b>
Elections	359	513	0	0	0	0	0	0	0	0	<b>872</b>
General Power of Competence	10	32	0	0	0	0	0	0	0	0	<b>42</b>
Promoting Access to Local Government	8	45	0	0	0	0	0	0	0	0	<b>53</b>
Community council annual reports	0	10	0	0	0	0	0	0	0	0	<b>10</b>
Duty of leaders of political groups in relation to standards of conduct	0	21	0	0	0	0	0	0	0	0	<b>21</b>
Community council training plans	0	10	0	0	0	0	0	0	0	0	<b>10</b>
Collaborative working	10	0	0	0	0	0	0	0	0	0	<b>10</b>
Self-assessments and panel assessments	15	15	0	0	0	0	0	0	0	0	<b>30</b>
Tackling non-domestic rates avoidance	0	14	0	0	0	0	0	0	0	0	<b>14</b>
<b>Total</b>	<b>402</b>	<b>660</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,062</b>

**TOTAL COST TO WELSH GOVERNMENT OVER 10 YEARS = £1,062,000**

**Table A2: Transitional Costs to Local Government**

	<b>20-21 (£,000)</b>	<b>21-22 (£,000)</b>	<b>22-23 (£,000)</b>	<b>23-24 (£,000)</b>	<b>24-25 (£,000)</b>	<b>25-26 (£,000)</b>	<b>26-27 (£,000)</b>	<b>27-28 (£,000)</b>	<b>28-29 (£,000)</b>	<b>29-30 (£,000)</b>	<b>Total</b>
Elections	0	890	0	0	0	0	0	0	0	0	<b>890</b>
General Power of Competence – eligible community councils	0	25	192	168	0	0	0	0	0	0	<b>385</b>
Public participation strategy	0	0	293	0	0	0	0	0	0	0	<b>293</b>
Petitions Scheme	0	0	343	0	0	0	0	0	0	0	<b>343</b>
Constitution guide	0	0	194	0	0	0	0	0	0	0	<b>194</b>

	20-21 (£,000)	21-22 (£,000)	22-23 (£,000)	23-24 (£,000)	24-25 (£,000)	25-26 (£,000)	26-27 (£,000)	27-28 (£,000)	28-29 (£,000)	29-30 (£,000)	Total
Community councils annual reports	0	0	175	0	0	0	0	0	0	0	175
Community council training plans	0	0	135	0	0	0	0	0	0	0	135
<b>Total</b>	<b>0</b>	<b>915</b>	<b>1,332</b>	<b>168</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,415</b>

**Total transitional costs to local government over 10 years = £2,415,000**

**Table A3: Recurrent Costs to Local Government**

	20-21 (£,000)	21-22 (£,000)	22-23 (£,000)	23-24 (£,000)	24-25 (£,000)	25-26 (£,000)	26-27 (£,000)	27-28 (£,000)	28-29 (£,000)	29-30 (£,000)	Total (£,000)
Elections	0	0	240	0	0	0	0	240	0	0	480
General Power of Competence – eligible community councils	0	0	0	0	14	14	14	7	7	7	63
Promote democracy & maintain public participation strategy	0	0	261	261	261	261	0	46	0	0	1,090
Petition Schemes	0	0	211	299	299	299	299	299	299	299	2,304
Constitution guide	0	0	0	0	0	0	0	49	0	0	49
Electronic broadcasting of meetings	0	0	264	264	264	264	264	264	264	264	2,112
Remote attendance	0	0	220	220	220	220	220	220	220	220	1,760
Community Council annual reports	0	0	0	70	70	70	70	70	70	70	490
Community council training plans	0	0	0	27	27	27	27	27	27	27	189
Panel Assessments	0	0	114	114	114	114	114	114	114	114	912
Governance and audit committees	0	0	106	106	106	106	106	106	106	106	848
Tackling non-domestic rates avoidance	0	158	264	264	264	264	264	264	264	264	2,270
<b>Total</b>	<b>0</b>	<b>158</b>	<b>1,680</b>	<b>1,625</b>	<b>1,639</b>	<b>1,639</b>	<b>1,378</b>	<b>1,706</b>	<b>1,371</b>	<b>1,371</b>	<b>12,567</b>

**Total recurrent costs to local government over 10 years = £12,567,000**

**TOTAL COST TO LOCAL GOVERNMENT OVER 10 YEARS = £14,982,000**

**Table A4: Transitional Costs to the Electoral Commission**

	20-21 (£,000)	21-22 (£,000)	22-23 (£,000)	23-24 (£,000)	24-25 (£,000)	25-26 (£,000)	26-27 (£,000)	27-28 (£,000)	28-29 (£,000)	29-30 (£,000)	Total (£,000)
Elections	140	0	0	0	0	0	0	0	0	0	140
<b>Total</b>	<b>140</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>140</b>

**TOTAL COST TO ELECTORAL COMMISSION OVER 10 YEARS = £140,000**

**TOTAL COST OVER 10 YEARS = £16,244,000**

**Table A5: Total cost savings to the Welsh Government**

	20-21 (£,000)	21-22 (£,000)	22-23 (£,000)	23-24 (£,000)	24-25 (£,000)	25-26 (£,000)	26-27 (£,000)	27-28 (£,000)	28-29 (£,000)	29-30 (£,000)	Total (£,000)
Non Domestic Rates Multiplier	0	10	10	10	10	10	10	10	10	10	90
<b>Total</b>	<b>0</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>90</b>

**TOTAL COST SAVING TO WELSH GOVERNMENT OVER 10 YEARS = £90,000**

## Appendix B Regulatory Impact Assessment Staff Costs Calculations

### Local Government

B1 Local Government staff costs are based on the National Joint Council for Local Government Services (NJC) agreement April 2020-21.

<https://www.local.gov.uk/sites/default/files/documents/LGS%20Pay%202020-21.pdf>

B2 Each principal council sets its own rates based on the NJC pay scale. To calculate staff costs below senior principal officer level, we have used pay rates from the 2020 NJC agreement at:

- point 33 of the scale (£36,922) which corresponds to the top of the civil service HEO pay scale; and
- point 43 of the NJC scale (£46,845) which corresponds to the top of the civil service SEO pay scale.

B3 30 per cent has then been added to these figures to account for on costs resulting in costs of:

Pay Scale Point	Annual salary plus on costs (£)	Monthly salary plus on costs (£)	Weekly salary plus on costs (£)	Daily salary plus on costs (£)
Officer (Grade 33)	47,999	4,000	1,000	200
Officer (Grade 43)	60,899	5,075	1,269	254

### Senior Officers

B4 The NJC agreement does not extend to senior principal officers and the rates differ from council to council. However, Section 38 of the Localism Act of 2011 requires a principal council to produce and publish a pay policy statement for each financial year. By reference to the 2019 pay policy statements, an average cost for senior principal officers has been calculated using the pay point for a selection of councils that is equivalent to the top pay point of the civil service Grade 7 scale.

B5 Where we have been unable to identify an obvious pay point equivalent to the civil service Grade 7 within a council, no data has been included.

*Table B1: Calculation of Salary Costs for Senior Principal Council Officers*

County	Grade	2019 (£)
Blaenau Gwent	JNC 2	61,635
Bridgend	Group Manager 2	57,839
Caerphilly	Band C	57,952

Cardiff	Operational Manager Level 2	56,233
Conwy	Head of Service 1	62,439
Gwynedd	Monitoring Officer	60,878
Powys	Service Manager 1	62,790
Swansea	Head of Service Band 3	64,953
Torfaen	Grade 13 / SCP 63	59,476
Vale of Glamorgan	Operational Manager 1	56,907

- B6 Based on the above figures, the average salary of senior officers corresponding to civil service Grade 7 has been assumed at £60,110, including on costs of 30% this totals £78,143 per annum with a daily cost of £325.

## Welsh Government

- B7 Welsh Government staff costs are based on the 2020-21 civil service average pay band costs. These have been calculated from the 2019-20 costs with an uplift of 1%. Staff costs include on costs.

*Table B2: Welsh Government 2020-21 Pay Scales*

<b>Welsh Government Pay Band</b>	<b>Annual salary plus on costs (£)</b>	<b>Monthly salary plus on costs (£)</b>	<b>Weekly salary plus on costs (£)</b>	<b>Daily salary plus on costs (£)</b>
Team Support	31,048	2,587	647	129
Executive Officer (EO)	38,153	3,179	795	159
Higher Executive Officer (HEO)	49,142	4,095	1,024	205
Senior Executive Officer (SEO)	63,305	5,275	1,319	264
Grade 7	81,696	6,808	1,702	340
Grade 6	100,215	8,351	2,088	418
Deputy Director (SCS1)	115,383	9,615	2,404	481
Director (SCS2)	155,310	12,945	3,236	647

- B8 For all salary costs, both Welsh Government and local government:
- Monthly rates have been calculated by dividing annual gross salary by 12 months.
  - Weekly rates have been calculated by dividing monthly costs by 4 weeks;
  - Daily rates have been calculated by dividing weekly costs by 5 days.

# **LOCAL GOVERNMENT AND ELECTIONS (WALES) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Local Government and Elections (Wales) Bill. They have been prepared by the Local Government Department of the Welsh Government in order to assist the reader of the Bill.
2. The Explanatory Notes should be read in conjunction with the Bill but they are not a part of it. They are not meant to be a comprehensive description of the Bill, and where an individual section of the Bill does not require explanation or comment, none is given.
3. The terms “local authority” and “local government” have different meanings in different parts of the Bill and the reader should refer to the definition in each particular section/part. The term “principal council” means a county council or county borough council; and the term “community council” includes a town council.

### **GENERAL OVERVIEW OF THE BILL**

#### **Part 1 – Elections**

4. Part 1 of, and Schedules 1 and 2 to, the Bill contain provisions for the extension of the franchise for local government elections, provides for two voting systems for elections to principal councils; changes the electoral cycle for local government elections; provides for an alternative method to register local government electors; the qualification for and disqualification from membership of a local authority; returning officers’ expenditure; and accessibility of election documents.

#### **Part 2 – General Power of Competence**

5. Part 2 and Schedule 3 contain provisions establishing a general power of competence. Chapter 1 of this Part provides principal councils and ‘eligible community councils’ with a general power of competence, sets out the boundaries of the power and the limits on charging and use of the power for commercial purposes.
6. The conditions which community councils must meet, together with the procedure they must follow, in order to become an ‘eligible community council’ are set out in Chapter 2 of this Part.

### **Part 3 – Promoting Access to Local Government**

7. Chapter 2 of this Part contains provisions requiring principal councils to encourage local people to participate in local government; requirements for petitions schemes; and the publication of official addresses for members.
8. Chapter 3 requires principal councils to publish their constitution and constitution guide.
9. Chapter 4 makes provision about improving public access to local authority meetings; remote attendance of members at meetings; public participation at community council meetings; and, with Schedule 4, provision for notices of local authority meetings and venues for community council meetings.
10. Chapter 5 requires community councils to publish an annual report.

### **Part 4 – Local Authority Executives, Members, Officers and Committees**

11. The provisions within Part 4 of, and Schedules 5 to 7 to, the Bill require a principal council to appoint a chief executive and makes provision about their role. It enables the appointment of members as assistants to the executive, facilitates job-sharing by executive members and provides for the making of regulations to facilitate the sharing of specific principal council offices.
12. Part 4 makes provision about the entitlement of members to family absence, places a duty on leaders of political groups to take reasonable steps to promote and maintain high standards of conduct by the members of the group; and makes provision for the publication and consideration of annual reports by standards committees.
13. Schedule 8 makes provision for investigations by the Public Services Ombudsman for Wales into alleged failures to comply with a local government member code of conduct.
14. Provision is also made within Part 4 about overview and scrutiny committees and the training of members and staff of community councils.

### **Part 5 – Collaborative Working by Principal Councils**

15. The provisions within Part 5 of, and Schedule 9 to, the Bill provides a framework for regional collaboration by principal councils. Chapter 2 of this Part requires principal councils to have regard to guidance about exercising their functions collaboratively and the establishment of corporate joint committees by regulations.
16. Chapters 3 and 4 makes provision for the establishment through regulation of Corporate Joint Committees at the request of principal councils or where no request has been made.
17. Chapter 5 makes further provision in regard to Joint Committee regulations including providing for the amendment and revocation of joint committee



regulations and providing Welsh Ministers with powers to make supplementary regulations in relation to Corporate Joint Committees.

## **Part 6 – Performance and Governance of Principal Councils**

18. Part 6 of the Bill sets out arrangements for reviewing the performance of principal councils. Chapter 1 places a duty on principal councils to review and report on their performance; makes provision for panel performance assessment, special inspections by the Auditor General for Wales and support and intervention by the Welsh Ministers.
19. Chapter 2 and Schedule 9 make provision for the membership and proceedings of governance and audit committees.
20. Chapter 3 provides for co-ordination between regulators.

## **Part 7 – Mergers and Restructuring of Principal Areas**

21. Part 7 of, and Schedules 10 and 11 to, the Bill contain provisions for the merger and restructuring of principal councils. Chapter 1 makes provision for the voluntary merger of principal areas, including applications for voluntary merger, consultation requirements, powers for the Welsh Ministers to give effect to mergers, arrangements for shadow councils and executives, the voting system and elections and a duty on merging councils to co-operate.
22. Chapter 2 makes provision for restructuring principal areas, including conditions to be met, abolition requests, powers for the Welsh Ministers to give effect to restructuring proposals and a duty on restructuring councils to co-operate.
23. Chapter 3 and Schedules 10 and 11 make provision for transition committees, restraints on transactions and recruitment, reviews of electoral arrangements, executive arrangements and the provision of information by councils.
24. Chapter 4 makes provision for remuneration arrangements for shadow councils and new principal councils established under Part 7, including functions of the Independent Remuneration Panel for Wales and pay policy statements.

## **Part 8 – Local Government Finance**

25. Provision is made in Part 8 relating to local government finance including measures to tackle non-domestic rates avoidance and council tax measures, the removal of the power to provide for imprisonment of council tax debtors and the provision of a power to make regulations regarding joint and several liability for council tax.

## **Part 9 – Miscellaneous**

26. Provision is made in Part 9 about heads of democratic services; abolition of community polls (Schedule 12); appointment of the chief executive and the powers of the Local Democracy and Boundary Commission. It also provides for the merger and demerger of Public Service Boards (Schedule 13); combined Fire

and Rescue Authorities public inquiries and the performance and governance of Fire and Rescue Authorities.

## **Part 10 – General**

27. Part 10 contains general provisions regarding interpretation; directions, regulations and orders made under the Bill; the coming into force and the short title of the Bill.

## **COMMENTARY ON SECTIONS**

### **PART 1 - ELECTIONS**

#### **Section 1 - Overview of Part**

28. This section is an overview of the provisions in Part 1 of the Bill which are detailed in the sections that follow.

#### **Section 2 - Extension of right to vote in local government elections**

29. Section 2 of Part 1 of the Representation of the People Act 1983 (hereafter referred to as 'the 1983 Act') sets out who is entitled to vote as an elector at local government (principal councils and community councils) elections in any electoral area.
30. This section amends Section 2 of Part 1 of the 1983 Act in order to extend the franchise for local government elections in Wales to include persons who are aged 16 years or over and persons who are qualifying foreign citizens. A qualifying foreign citizen is a person who:
- (a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union, and
  - (b) either:
    - does not require leave under the Immigration Act 1971 to enter or remain in the UK, or
    - does require leave to enter or remain but for the time being has such leave (or is treated as having such leave by virtue of an enactment).
31. Before amendment, the position is that a person is entitled to vote as an elector at a local government election in any electoral area, if, on the day the poll takes place, that person is: on the register of local government electors for that area; is not subject to any legal incapacity to vote (apart from their age); is a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union; and is aged 18 years or over (except in Scotland, where the voting age is 16 years or over).
32. After amendment, the position in Wales is that a person is entitled to vote at a local government election if on the date of the poll that person is: on the register of local government electors for that area; not subject to any legal incapacity to vote (apart from age); is over 16 years of age; and is a qualifying foreign citizen, Commonwealth citizen, citizen of the Republic of Ireland or relevant citizen of the European Union.
33. Section 4 of Part 1 of the 1983 Act sets out who is entitled to be on the register of local government electors for any electoral area.

34. This section of the Bill amends section 4 of Part 1 of the 1983 Act to specify that a person whose age is 16 years or over and who is a qualifying foreign citizen, Commonwealth citizen, citizen of the Republic of Ireland or relevant citizen of the European Union is qualified to be registered on the register of local government electors for any electoral area in Wales.
35. Before amendment, the position is that a person is entitled to be registered on the register of local government electors for the purposes of local government elections if on the relevant date that person is resident in that area; is not subject to any legal incapacity to vote (apart from age); is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and is of voting age. The relevant date is the date on which an application for registration is made, or is treated as having been made or the date on which a service declaration or declaration of local connection is made.

### **Section 3 – Transitional Provision**

36. This section provides that whilst section 171(3) of the Bill provides for the coming into force of the provision specified in subsection (2) to be two months after the day of Royal Assent, sections 2(1), 2(3) (extension of right to vote in local government elections), and 29 (translations etc. of documents at local government elections in Wales) and paragraphs 2(11), 8(3)(b) and 20 of Schedule 2 to the Bill (effect of registers and proxy voting), only have effect in relation to local government elections and local referendums taking place on or after 5 May 2022.
37. The relevant local referendums are set out in subsection (3) and relate to mayoral referendums.

### **Section 4 - Duty to promote awareness and provide assistance**

38. This section of the Bill places a duty on a principal council to promote awareness of how to register to vote at local government elections amongst “relevant young people” and to take whatever action the council thinks is necessary to help them to register.
39. The term “relevant young people” is defined as those who are 14 years of age or older, but under 18 years of age and living in the principal council’s area. Young people of the same age who are not living in the principal council’s area but who are looked after by the council (within the meaning of the Social Services and Well-being (Wales) Act 2014) and young people in that age bracket who are not resident in the area of the principal council and are care leavers for whom the principal council has responsibilities under section 109 of the Social Services and Well-being (Wales) Act 2014 are also included in this definition.

### **Section 5 - Two voting systems**

40. This section of the Bill establishes that, in Wales, a simple majority system (commonly known as First Past the Post, hereafter referred to as ‘FPTP’) or a single transferable vote system (hereafter referred to as ‘STV’) can be used in polls at contested elections for electing the councillors of a principal council. Under section 36A of the 1983 Act (as inserted by section 13 of this Bill), the Welsh Ministers have powers to make rules about how each system will work. There

are specific circumstances under which each system can be used and these are set out in sections 10 to 12 of the Bill.

### **Section 6 - Key definitions**

41. Section 6 of the Bill defines the two systems for electing councillors of a principal council in polls at contested elections.

### **Section 7 - The voting system that applies**

42. Sections 10 to 12 of the Bill set out the specific circumstances under which each of the two systems for electing councillors of a principal council in polls at contested elections will apply.
43. The simple majority system provided for under the rules made under the 1983 Act will apply unless a principal council chooses to change the voting system.
44. Where a new principal council area is formed as a result of merger or restructuring regulations the voting system will be specified in the regulations and this will apply until such time as the council may make a resolution to change it after the new principal area is constituted.
45. If a principal council changes its voting system, the system to which the council has most recently made a resolution to change applies. The change takes effect at the first ordinary election of councillors that takes place after the resolution to change is passed. It continues in effect until there is a resolution to change it again.
46. If, after the council has passed a resolution to change the system, a poll for an election to fill a casual vacancy in the office of councillor takes place before the first ordinary election of councillors under the new system, the voting system that applied at the last ordinary election must be used for that by-election.

### **Section 8 - Power to change the voting system**

47. Section 8(1) of the Bill gives principal councils the power to change the voting system that applies to the election of councillors in its area. The remaining provisions of sections 8 and 9 of the Bill then set out how, should a principal council wish to change the voting system, it should set about making that change.
48. If the voting system that applies to a council is the simple majority system, the council may change it to the single transferable vote system, if the voting system that applies to a council is the single transferable vote, the council is able change it to the simple majority system.
49. The power to change the voting system is the responsibility of the full council; this section makes clear that the power:
- is not to be the responsibility of an executive of the council;
  - cannot be delegated to any committee or sub-committee of the council.
50. Section 11 of the Bill places a duty on principal councils to consult those who are entitled to vote as electors at a local government election in its area, each community council in its area and such other persons as the council considers appropriate (which might include bodies such as the Electoral Commission) before it changes the voting system that currently applies.

## **Section 9 - Resolutions to exercise the power to change the voting system**

51. Section 9 provides that a principal council's power to change the voting system must be exercised by resolution of the council and in accordance with the remaining provisions of this section.
52. A resolution to change the voting system for the election of councillors of a principal council is not passed unless the number of councillors voting in favour of it is at least two-thirds of the total number of councillor seats on the council, i.e. there is no reduction in the number of affirmative votes required if there are vacant seats on the council at the time of the vote.
53. If the principal council has a directly elected mayor, the mayor will not be entitled to vote on a resolution to change the voting system, by virtue of subsection (2) which restricts voting to elected councillors of the principal council.
54. A resolution to change the voting system for the election of councillors of a principal council must be considered at a meeting convened for that purpose. The meeting must be held after the end of a period of 21 days, beginning with the day on which all councillors are given written notice that the meeting will take place.
55. A valid resolution to exercise the power to change the voting system for the election of councillors of a principal council may only be passed before 15 November of the year that is three years before the next ordinary election of that council.
56. After a principal council has exercised the power to change the voting system for the election of councillors of a principal council, a further resolution to exercise the same power has no effect unless two ordinary elections of the council have been held under the voting system to which it was changed.
57. Where a council has previously voted on a resolution to change the voting system for the election of councillors of a principal council during the period between two consecutive ordinary elections of the council, any further resolution to change the voting system passed during the same period will have no effect.

## **Section 10 - Duty to notify when resolution passed**

58. Section 10 places a duty on principal councils which have validly voted to change the voting system that applies to the election of councillors to notify the Welsh Ministers and the Local Democracy and Boundary Commission (hereafter referred to as the 'Commission') of the change within a period of 14 days beginning on the day on which the resolution was passed. This section also specifies the information the notification must contain.

## **Section 11 and Schedule 1 - Initial review by the Local Democracy and Boundary Commission**

59. Section 11 provides that the Welsh Ministers, on being notified that a principal council has made a resolution to change the voting system, may direct the Commission to conduct an initial review of the principal area of the council. Section 11 (and section 137) also introduces Schedule 1 to the Bill, which makes provision for the conduct of an initial review by the Commission.

60. Schedule 1 provides for the conduct of initial reviews of electoral arrangements by the Commission in the circumstances where the Commission has been directed by the Welsh Ministers to undertake such reviews under:
- (a) section 11 of this Bill, where the Welsh Ministers have received notice that a principal council has resolved to change its voting system; or
  - (b) section 137 of this Bill, where either the Welsh Ministers have received a voluntary merger application or the Welsh Ministers have given notice under section 128(6) that they propose to make regulations to restructure the principal councils specified in the notice.

### **Paragraph 1 - Initial reviews**

61. Paragraph 1 defines the term “initial review” in relation to its use in this Bill and also enables the Commission, in undertaking an initial review, to make recommendations for relevant consequential changes (defined in paragraph 3).

### **Paragraph 2 - Area under review**

62. Paragraph 2 defines what is meant by “area under review” in relation to an initial review of electoral arrangements as may be undertaken by virtue of a direction under section 11 of this Bill or section 137 of this Bill.
63. Where a principal council has resolved to change its voting system, the area under review is the area of the council in question.
64. Where the Welsh Ministers have received a voluntary merger application, the area under review is the new principal area which would be created by the merger in question.
65. Where the Welsh Ministers have given notice under section 128(6) that they propose to make regulations to restructure the principal councils specified in the notice and the restructuring involves the transfer of part of the abolished principal area to another principal area, the area under review is the area specified in the direction (which may be the area being transferred only, but may also cover some or part of the receiving principal area).
66. Where the Welsh Ministers have given notice under section 128(6) that they propose to make regulations to restructure the principal councils specified in the notice and the restructuring involves the constitution of a new principal area, the area under review is the new principal area to be constituted by the restructuring regulations.

### **Paragraph 3 - Other key terms used in this Schedule**

67. Paragraph 3 defines certain terms relating to the conduct of an initial review undertaken by the Commission for the area specified in a direction under section 11 or under section 137. Reviews undertaken in response to such directions may also include electoral arrangements for communities in the areas specified, since the Commission will be able to propose and recommend changes at community level, but only where such community changes are relevant and consequential on what is proposed or recommended by the Commission at principal area level. The scope of what may be considered by the Commission as “relevant consequential changes” is set out in paragraph 3(1). Paragraph 3(2) defines the terms multiple member ward and single member ward.

#### **Paragraph 4 - Directions and guidance to the Commission**

68. Paragraph 4 requires that a direction under section 11 or section 137 must specify the date by which the Commission must submit its final report, with recommendations, to the Welsh Ministers and that a direction may include specific matters to which the Commission must have regard when conducting an initial review. The Welsh Ministers are also enabled to issue general directions to the Commission on carrying out initial reviews; this might be necessary if the Commission is undertaking several initial reviews at the same time, in which case the general direction might specify the order in which the Commission must carry out the individual reviews.

#### **Paragraph 5 - Conduct of initial review**

69. Paragraph 5 requires that when undertaking an initial review, the Commission must try to ensure that the ratio of local government electors to elected members for the area under review remains, as much as it can, the same in every electoral ward of the council in question; the aim is that each elected member in the council in question represents approximately the same number of electors. The Commission must take account of any discrepancy between the number of people registered to vote and the number who are eligible to be local government electors, and any change in the distribution of local government electors which is likely to take place in the five years immediately after they make their recommendations.
70. The Commission must also have regard to setting boundaries for electoral wards which are, and will remain, easily identifiable, and avoid breaking local ties.
71. For the purposes of an initial review, the Welsh Ministers are able to direct the principal council for the area being reviewed or a community council in an area under review to provide the Commission with any information which they (the Welsh Ministers) consider appropriate.

#### **Paragraph 6 - Pre-review procedure**

72. Paragraph 6 requires the Commission, before conducting an initial review, to make the mandatory consultees, as defined by sub-paragraph (2), aware of the direction from the Welsh Ministers to conduct the review or any other directions issued relating to the review. The Commission is required to consult the mandatory consultees on the intended procedure and methodology of the initial review, particularly in relation to the proposed method of determining the appropriate number of elected members for the area under review.

#### **Paragraph 7 - Investigation and interim report**

73. Paragraph 7 requires that, in conducting an initial review, the Commission must undertake whatever investigations it considers appropriate and prepare an interim report containing its proposals for the electoral arrangements of the area under review. The interim report must also include details of the review which has been conducted.
74. The Commission must send the report to the Welsh Ministers and mandatory consultees, publish it and tell any person it thinks appropriate how to access the report. The Commission must also invite representations on the report, notifying the Welsh Ministers, mandatory consultees and any other person it considers appropriate of the period during which representations can be made.

75. The Commission is required to publish the interim report, send it to certain specified persons and advise persons of how to access the report. There follows a period of 6 to 12 weeks (starting no earlier than 1 week after notice of the period of representations is given) during which representations may be made about the proposals contained in the interim report.

#### **Paragraph 8 - Final report**

76. Paragraph 8 requires that, following the period for representations, the Commission must re-consider its initial report, in light of the representations received. It must then prepare a final report including its recommendations for the electoral arrangements for the area under review, any consequential recommendations to community boundaries and wards, details of the review and details of any changes made to the initial report in light of representations and explanations for the changes made.
77. The Commission is required to submit the final report to the Welsh Ministers and publish it, providing copies for mandatory consultees and other persons it considers appropriate. The Commission must also inform persons who provided evidence or made representations with regard to the interim report preceding the final report and such other persons the Commission considers appropriate, how to access the report.
78. A principal council which has been sent a final report must publish it, make it available for inspection at its offices free of charge for six weeks after receiving it and make local government electors in its area aware of how to access the report.
79. Ordinarily no recommendations may be made or published in connection with electoral arrangements reviews in the 9 months before an ordinary election to ensure preparations for an ordinary election are not confused by the publication of alternative electoral arrangements. The timescales for initial reviews under this Bill may not be consistent with the standard electoral cycles, so paragraph 8(5) suspends the relevant provision of the Local Government (Democracy) (Wales) Act 2013 (hereafter referred to as the '2013 Act') for recommendations made by the Commission under this Bill.

#### **Paragraph 9 - Power to make regulations where recommendations are made**

80. Paragraph 9 provides that having received a final report from the Commission, the Welsh Ministers may make regulations to implement the recommendations (with or without modifications) or make other provision they consider appropriate for the electoral arrangements of the area under review. Such regulations may not be made until at least 6 weeks after the further report is published. In considering the electoral arrangements for an area under review, for the purpose of making regulations, the Welsh Ministers must consider the matters set out in paragraph 5(1)(a) and (b). The Commission is required to provide the Welsh Ministers with such information gathered to date in respect of the initial review that the Welsh Ministers consider appropriate.

#### **Paragraph 10 - Power to make regulations if no recommendations are made**

81. Paragraph 10 provides that, if the Commission is unable to submit a final report by the deadline set by the Welsh Ministers in their initial direction, the Welsh Ministers may make regulations setting out the electoral arrangements of the area under review and any relevant consequential changes, in the absence of



recommendations from the Commission. In considering the electoral arrangements for an area under review, for the purpose of making regulations, the Welsh Ministers must consider the matters set out in paragraph 5(1)(a) and (b). Where such circumstances arise, the Commission must provide the Welsh Ministers with any information gathered to date in respect of the initial review that the Welsh Ministers may consider appropriate.

**Paragraph 11 - Regulations under paragraph 9 or 10: supplementary**

82. Paragraph 11 provides that the Welsh Ministers may direct the principal council for an area under review or a community council in an area under review to provide them with such information as they consider appropriate for the purposes of making regulations under paragraphs 9 and 10 or sub-paragraph 11(3). This is to ensure that if the Welsh Ministers have to make regulations under, for example paragraph 10 (where no recommendations have been made by the Commission), they are able to obtain all relevant information.
83. Paragraph 11(2) sets out the requirements for the Welsh Ministers in publishing regulations made following initial reviews under this Bill.
84. Paragraph 11(3) enables the Welsh Ministers may make regulations to amend or revoke regulations made under paragraphs 9 or 10 of Schedule 1, or regulations made under paragraph 11.

**Paragraph 12 - Subsequent reviews by the Commission where regulations are made under paragraph 9(1)(b) or 10(2)**

85. Paragraph 12 requires that, if the Welsh Ministers have had to make electoral arrangements regulations under paragraph 9(1)(b) or paragraph 10(2), the Commission must conduct a review of the principal area's electoral arrangements under section 11(1) as soon as possible after the first ordinary elections of a council under the new voting system (if the regulations were made in respect of a council which had changed its voting system) or the first ordinary elections for a council following the coming into force of merger or restructuring regulations. In any event, the Commission must undertake the review required by this paragraph before the next ordinary elections of the council in question.

**Paragraph 13 - Delegation by the Commission of functions under this Schedule**

86. Paragraph 13 amends section 13(1) of the 2013 Act so the Commission may delegate to one or more of its members or an assistant commissioner (who may be appointed under section 11 of the 2013 Act) such of its functions in respect of Schedule 1 as the Commission may consider appropriate. Without this amendment to the 2013 Act, the Commission would be able to delegate functions in the way described and to the persons specified in respect of its functions under the 2013 Act only, which could at some point restrict its ability to fulfil its responsibilities set out in this Schedule.

**Paragraph 14 - Orders under Part 3 of the Local Government (Democracy) (Wales) Act 2013**

87. Paragraph 14 amends section 43 of the 2013 Act so the Welsh Ministers may by order vary or revoke (electoral arrangements) orders made under sections 37, 38, 39 or 43 of the 2013 Act, in consequence of regulations made under paragraphs 9 or 10 of Schedule 1. Section 43 of the 2013 Act provides for the variation and

revocation of orders made under the 2013 Act and sets out the circumstances in which orders under the specified sections in the 2013 Act may be varied or revoked. Without this amendment there would be no mechanism for varying or revoking orders made under the 2013 Act, even though the electoral arrangements (or community boundaries, if a consequential) in the area in question had been re-defined by regulations made under paragraphs 9 or 10 of this Bill.

## **Section 12 - Restriction on number of councillors if single transferable vote system applies**

88. This section states that the number of members which can be elected for each electoral ward where the single transferable vote system is used is no less than three and no more than six.

## **Section 13 - Rules about the conduct of local elections in Wales**

89. Section 16 amends section 36 of the 1983 Act, which is the existing power by which the rules are made for elections of councillors for local government areas in England and Wales. Section 36(1) is amended so that the power to make rules under section 36 applies to England only. Section 13(3) inserts a new section 36A into the 1983 Act, by which the Welsh Ministers may make rules for the conduct of local government elections in Wales.
90. Rules made under the new section 36A, whether for principal councils or for community councils, must:
- require polls to be conducted if elections are contested;
  - establish the requirements for becoming a candidate for election; and
  - require votes at polls to be given by ballot.
91. Rules made under the new section 36A for the election of councillors to a principal council must provide for polls to be conducted under the two voting systems authorised by the Bill (a simple majority system and a single transferable vote system).
92. Rules made under the new section 36A for the election of community councillors in Wales must provide for polls to be conducted under a simple majority system.
93. Rules may make any other provision for the conduct of local government elections and apply or incorporate, with or without modifications or exceptions, the parliamentary election rules which are set out in Schedule 1 to the 1983 Act.
94. Existing rules, made under section 36 of the 1983 Act, which are in force immediately before the coming into force of the power to make new rules, will continue to have effect after that date as if they were made under the new section 36A.
95. Until provisions made in the Bill which enable a principal council to change the voting system it uses come into force (sections 8-12), section 36A provides that rules must only outline how polls are to be conducted under the simple majority system.
96. This Section also requires the Welsh Ministers to consult with whomever they consider appropriate before any rules are made under the new Section 36A of the

1983 Act. Any rules must be laid and approved by Senedd Cymru (hereafter referred to as the Senedd).

97. Rules made by the Welsh Ministers may make supplementary, incidental, consequential, transitional or saving provisions for the purpose of, or as a consequence to, giving full effect to the rules made under the new Section 36A. The Welsh Minister are also able to modify, repeal or revoke any enactment (including provisions within this Act) as a consequence of giving full effect to the rules made under the new Section 36A of the Representation of the People Act 1983.

#### **Section 14 - Change of electoral cycle for principal councils from four years to five years**

98. Section 14 amends section 26 of the Local Government Act 1972 (hereafter referred to as the '1972 Act') in order to change the electoral cycle for principal councils from four to five years.
99. Section 26, as amended by the Local Authorities (Change to the Years of Ordinary Elections) (Wales) Order 2019 provided that the next ordinary election of councillors would be in 2022. Before amendment, the situation was that ordinary elections would then take place every fourth year thereafter. This section amends section 26 to provide that ordinary elections would be every fifth year.
100. Section 14 changes the term of office of councillors of principal councils to five years.

#### **Section 15 - Change of electoral cycle for community councils from four years to five years**

101. Section 15 amends section 35 of the 1972 Act in order to change the electoral cycle for community councils from four to five years.
102. The Local Authorities (Change to the Years of Ordinary Elections) (Wales) Order 2019 amended section 35 so as to provide that the next ordinary election of community councillors would be in 2022. Before amendment, the situation was that ordinary elections of community councils would then take place every fourth year thereafter. This section amends section 35 to provide that ordinary elections would be every fifth year.
103. Section 15 changes the term of office of community councillors to five years.

#### **Section 16 - Change of electoral cycle for elected mayors from four years to five years**

104. Section 16 amends section 39 of the Local Government Act 2000 (hereafter referred to as the '2000 Act') in order to change the term of office of an elected mayor from four to five years.

#### **Section 17 - Extension of power to change ordinary day of local elections in Wales**

105. This section amends section 37ZA of the 1983 Act to enable the Welsh Ministers, by order, to change the day on which ordinary elections for one or more county or county borough councils, or one of more community councils, in Wales are held.

## **Section 18 – Registration of local government electors without application**

106. Section 18 of the Bill will enable registration officers to add electors to the register of local government electors, subject to certain conditions, where they are satisfied that they should be entered.
107. Section 18(3) of the Bill inserts a new section 9ZA into the 1983 Act with the effect that the registration officer is able to add electors to the register of local government electors without the need for them to apply in certain circumstances. Section 9ZA sets out the conditions and circumstances under which a registration officer may add a person to the register. Section 18(2) amends section 9 of the 1983 Act to provide that the name, address and electoral number of any person whom the registration officer has decided to register in accordance with section 9ZA must be contained in the register of local government electors.
108. Section 18(4) amends section 9E of the 1983 Act so that the duty in section 9E does not apply where a registration officer intends to register a person under section 9ZA. The duty under section 9E is a duty on a registration officer to invite a person who may be entitled to do so to apply to be registered to vote.
109. Section 18(5) of the Bill amends section 10ZE of the 1983 Act. Section 10ZE sets out the circumstances under which a person might be removed from the register of local government electors. The amendment requires the registration officer to remove an entry even if that person has been registered without application under section 9ZA.
110. Section 18(5) also provides the Welsh Ministers with the power to make regulations about the procedure for determining under which circumstances an entry must be removed from the register where they are registered without application under section 9ZA.
111. Furthermore, this section places a duty on a registration officer to consider whether to make a determination to remove a name from the register (where registered under section 9ZA) if they receive an objection to that person's registration, or they become aware of any reason that the person is not entitled to be registered.
112. Section 13A(1) (alteration of registers) of the 1983 Act, sets out the circumstances under which the register may be altered. Section 18(6) of the Bill enables the register to be altered in the event a person is registered under new section 9ZA.
113. Section 13AB provides for there to be interim publication dates where an election is pending on which notices of alteration to the electoral register must be published. Section 13AB(1) (alteration of registers: interim publication dates) of the 1983 Act applies where there is to be an interim publication date for a register and that register needs to be amended. Section 18(7) of the Bill enables the register to be altered in the event a person is registered under new section 9ZA adds a reference to sub-paragraph (zc) of section 13A(1) which has the effect of including a situation where a registration officer has decided to register a person under the new section 9ZA (without that person making an application) to the list of circumstances under which a register must be amended if there is an interim publication date and the person is registered before that date.

114. Section 13B(2) (alteration of registers: pending elections) of the 1983 Act provides that where a register of electors is amended and this amendment takes effect after the final nomination day for a particular election, the amendment shall not take effect for the purposes of that election unless it is made as a result of prescribed situations, and takes effect on or before the fifth day before the date of the poll. Section 18(8) of the Bill adds a reference to sub-paragraph (zc) of section 13B(2) which has the effect of including a situation where a registration officer has decided to register a person under the new section 9ZA (without that person making an application) to the list of circumstances under which a register must be amended for the purposes of section 13B(2).
115. Section 56(1) of the 1983 Act sets out the circumstances under which a person might make an appeal regarding inclusion on a register of electors. Section 18(9) of the Bill adds a reference to sub-paragraph (zc) of section 56(1) which has the effect of including a situation where a registration officer has decided to register a person under the new section 9ZA (without that person making an application) to the list of circumstances under which a person might make an appeal.

### **Section 19 - Qualification for election and holding office as a member of a local authority in Wales**

116. Section 79 of the 1972 Act sets out the criteria that qualifies a person to be elected and to be a member of a local authority (i.e. in relation to Wales, a county council, county borough council or community council). Section 19 of the Bill amends section 79 of the 1972 Act to change this criteria for qualification to be elected and to be a member of a local authority in Wales.
117. Before amendment, section 79 of the 1972 Act provides that a person is qualified to be elected and to be a member of a local authority if they are not disqualified by virtue of any enactment, are qualifying Commonwealth citizens or citizens of the Republic of Ireland, or a relevant citizen of the Union and on the relevant day (defined in section 79(2) of the 1972 Act) have reached 18 years of age. On the day in question, they must be and continue to be local government electors for the area of the authority; or have, for the whole twelve months preceding the day in question, occupied any land or other premises in that area as owner or tenant; or their principal or only place of work during that twelve months has to have been in that area; or they must have resided in the area for the whole of the period of twelve months prior to the day in question; or in the case of a member of a parish or community council they must have resided either in the parish or community or within three miles of it for the whole twelve months before the day in question.
118. Section 19 of the Bill amends section 79 of the 1972 Act to extend the qualification for election and holding office in the case of a local authority in Wales to include a “qualifying foreign citizen”. New subsections (2D) and (2E) define a qualifying foreign citizen for this purpose. In effect, it extends the qualification to any resident foreign citizen in Wales (in addition to Irish, Commonwealth and EU citizens) who requires leave under the Immigration Act 1971 to enter or remain in the UK and who has, or is treated as having, indefinite leave to remain in the UK. This does not, however, include a qualifying foreign citizen who does not require leave as a result of section 8 of the Immigration Act 1971. Section 8 of the Immigration Act 1971 provides that certain categories of persons, such as those specified in an order under the section, seamen, aircrews or persons in the

diplomatic service etc. do not require leave to enter and remain in the United Kingdom.

## **Section 20 - Disqualification for election and being a member of a local authority**

119. This section inserts new sections 80A, 80B, and 80C into the 1972 Act, setting out the circumstances under which a person is disqualified for election or for being a member of a local authority in Wales (i.e. a county council, county borough council or community council in Wales).
120. Section 80A (Disqualification for election or being a member of a local authority in Wales), taken with paragraph 1(3) of Schedule 2 to the Bill, amends section 80 of the 1972 Act so that it applies to England only and makes fresh provision which lists the circumstances under which a person is disqualified for being elected or being a member of a local authority in Wales.
121. New section 80A disqualifies the following persons from being elected or being a member of a local authority in Wales: a person who is the subject of a bankruptcy or debt relief restrictions order (including interim order), a person guilty of a corrupt or illegal practice in accordance with Part 3 of the Representation of the People Act 1983, a person subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003, and a person convicted, during a period of 5 years before the election, of an offence for which he or she has been sentenced to a term of imprisonment of 3 months or more without the option of a fine.
122. Sections 80B and 80C enable certain employees and office holders of a local authority in Wales (or a connected body) to stand for election to that authority without having to resign unless they are elected.
123. Section 80B (Disqualification for being a member of local authority in Wales and holding local office or employment) applies to a person who is elected a member of a local authority in Wales and holds a “relevant paid office or employment”. Such a person becomes disqualified for being a member of the local authority at the time he or she makes a declaration of acceptance of office under section 83 of the 1972 Act. The person may instead chose to resign from the relevant paid office of employment for the purpose of taking office as a member. In this case, the resignation will have immediate effect irrespective of any notice requirement in the terms and conditions under which the paid office or employment is held.
124. Under section 1 of the Local Government and Housing Act 1989 (hereafter referred to as the ‘1989 Act’), a person is disqualified from being elected or being a member of a local authority, if they hold a politically restricted post. Section 80B has no effect on this provision.
125. Section 80C (Paid office or employment to which disqualification applies) defines the term “relevant paid office or employment”.

## **Section 21 - Disqualification of member of a local authority in Wales for appointment to paid office**

126. This section introduces an additional section (section 116A) to the 1972 Act.
127. Section 116 of the 1972 Act provides that where a person is a member of a local authority and, for twelve months after they cease to be a member, they are disqualified from being appointed or elected by that authority to any paid office, other than to the office of chairman or vice-chairman or, in the case of a local authority which is operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive. Paragraph 1(7) of Schedule 2 to the Bill amends section 116 of the 1972 Act so that it applies to England only.
128. Section 116A (Membership of local authorities in Wales not to be appointed as officers) provides that a member of local authority in Wales is disqualified for being appointed or elected by that authority to any paid office other than to the office of chairman or vice-chairman or, in the case of a local authority which is operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive. A person is no longer disqualified for being appointed or elected by an authority to any paid office once he or she ceases to be a member of that authority.

## **Section 22 - Meeting expenditure of returning officers**

129. Section 22 of the Bill inserts a new section 36C into the 1983 Act which deals with expenditure by returning officers at local elections in Wales. The section restates existing provisions that provides that no personal payment is due to the returning officer for services in respect of an election of a councillor of a Welsh county or county borough, or a community councillor of a community situated in a Welsh county or county borough. Consequential amendments are made to section 36 of the 1983 Act as a result of this, see paragraph 2 of Schedule 2 to this Bill.

## **Section 23 - Translations etc. of documents at local government elections in Wales**

130. Section 23 of the Bill amends the 1983 Act. Section 199B of the 1983 Act provides that an enlarged sample copy of the ballot paper can be displayed at every polling station during the election and sets out the format of this paper. It also states that a hand held sample copy of the ballot paper should be made available for voters who are partially sighted.
131. Section 23 of the Bill dis-applies section 199B of the 1983 Act with regard to local government elections in Wales and inserts a new section 199C. The new section applies to any documents (except the nomination or ballot papers) which are given to voters or displayed during a local government election. The person required or authorised to give or display a document ("P" – usually the returning officer) must, as they think appropriate, give, display or make available a document in braille, in languages other than English or Welsh or other means of making the information accessible (including graphical representation of the information contained in the document). The new section 199C also makes provision for the information contained in a document to be available in audible form.

## **Section 24 – Minor and consequential amendments and Schedule 2 – Minor and Consequential Amendments Relating to Part 1: elections**

132. Schedule 2 (introduced by section 24) sets out the minor and consequential amendments to existing legislation as a consequence of the elections provisions set out in Part 1 the Bill.

## **PART 2 – GENERAL POWER OF COMPETENCE**

### **Section 25 – Local authority’s general power of competence**

133. Section 25 provides a general power of competence to qualifying local authorities in Wales. The term ‘general power’ is used throughout these notes to refer to the general power of competence.
134. The general power gives qualifying local authorities the same power to act that an individual generally has, thus enabling them to act in innovative ways, i.e. to do things that are unlike anything they, or any other public body, have done before. ‘Individual’ is defined in subsection (5) so as to avoid referencing an individual with reduced powers, for example, a child.
135. Subsections (2) and (3) further define the extent of the power. It is not necessary for activities undertaken using the general power to benefit the qualifying local authority itself, its area or residents, however, there is no restriction on the activities doing so. As such the general power can be used by the qualifying local authorities to, for example:
- act in their own financial interests;
  - undertake commercial activities with or without charging;
  - undertake activities anywhere, i.e., both in and outside of Wales.
136. For example, a qualifying local authority on the border with England might decide that all schoolchildren in its area should be given a fresh apple every day. There are not enough orchards in its own area to provide each child with an apple so the qualifying local authority decides to buy an orchard in the neighbouring English county using the general power. The orchard is large enough to provide apples for all the children in its area, and to sell some to make a profit, which the qualifying local authority can then plough back into services.
137. Subsection (4) defines a qualifying local authority as a county council in Wales or an eligible community council (see section 31 for details on what makes a community council eligible).
138. The exercise of the general power is subject to the restrictions provided for in sections 27 and 28 and any regulations made by the Welsh Ministers under section 29(3) or (4).

### **Section 26 – Boundaries of the general power**

139. This section sets out the boundaries of the general power.
140. The general power does not provide qualifying local authorities with the ability to bypass existing prohibitions, limitations or restrictions in legislation passed by the Senedd or UK Parliament on, or before, the day on which this section comes into force).



141. Nor will the general power provide qualifying local authorities with the ability to bypass prohibitions, limitations or restrictions in legislation passed by the Senedd or UK Parliament after this section comes into force, if that legislation states that it applies to:
- the general power;
  - all of the qualifying local authority's powers; or
  - all of the qualifying local authority's powers except for certain powers, and the general power is not listed as one of the excepted powers.
142. Subsection (3) prevents a qualifying local authority from using the general power to delegate or contract out any of its functions or to alter its governance arrangements. These matters remain subject to separate statutory provision.

### **Section 27 – Limits on charging in exercise of general power**

143. This section restricts the ability of a qualifying local authority to charge for providing a service to a person using the general power. It provides that where a qualifying local authority is using the general power to provide a service, it may only charge for that service if:
- that service is discretionary, i.e., not a service it is under a statutory duty to provide; and
  - the recipient has agreed to the provision of the service.
144. For example, county councils are under a statutory duty to collect household refuse. As part of the collection service they can require that refuse is sorted into different types and put in different coloured bins etc., but they may not charge for the service of collecting the refuse. However, if a council wished to offer an additional service, for example, where it sorted the waste on behalf of a household, this service could be offered as a discretionary service, for which a fee could be charged.
145. Other than in respect of services provided for a commercial purpose, subsection (4) prevents a qualifying local authority from making a profit in any financial year when using the general power to charge for a service. However, within the limitation of not making a profit, subsection (6) enables a qualifying local authority to set charges as it sees fit, including only charging some people for the service or charging different people, or groups of people, different amounts.

### **Section 28 – Limits on doing things for commercial purpose in exercise of general power**

146. This section prohibits a qualifying local authority from using the general power to carry out an activity for a commercial purpose, unless the activity is one the authority could also carry out for a non-commercial purpose.
147. For example, a qualifying local authority might run a recycling centre, on a non-commercial basis, to deal with the waste collected by its refuse service. However, if there was spare capacity at the recycling centre, the local authority could use the general power to sell recycling services to neighbouring authorities or other organisations, including private companies. In this case, it could make a profit (but it would have to establish a company to do this, as discussed below).

148. The effect of subsection (3) is that a qualifying local authority cannot carry out an activity in respect of someone for a commercial purpose, if the authority is required by legislation to carry out that activity. For example, county and county borough councils are required to provide schools so that the children in their areas can receive free education, and they could not use the general power to seek to charge school fees in respect of children who were entitled to a free education.
149. Also, if a qualifying local authority wishes to use the general power to do something for a commercial purpose, it must do so through a company, as defined in section 1(1) of the Companies Act 2006, or a registered society as defined in the Co-operative and Community Benefit Societies Act 2014, or registered under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969.
150. Subsection (5) imposes a duty on principal councils and eligible community councils to have regard to guidance issued by the Welsh Ministers when exercising the general power of competence to do anything for a commercial purpose.

## **Section 29 – Power to make supplemental provision**

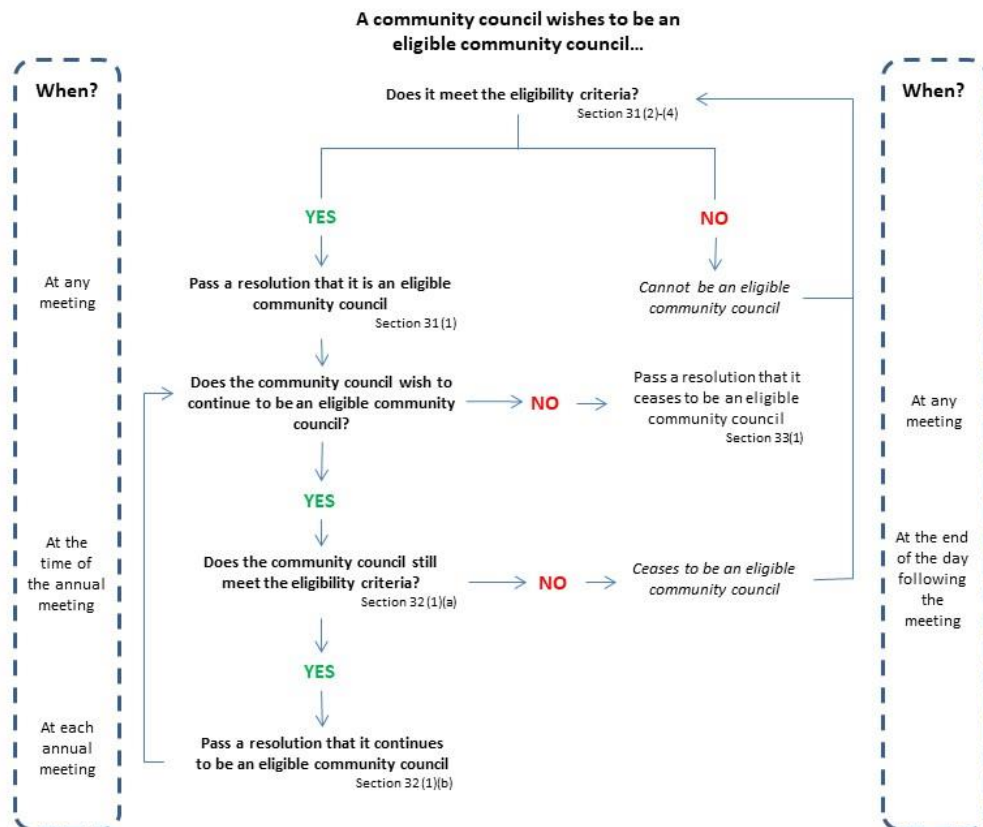
151. This section provides the Welsh Ministers with power (at subsection (1)) to make regulations removing or changing statutory provisions that they think prevent or restrict the legal capacity of qualifying local authorities to use the general power to do things that an individual can do..
152. Subsection (2) enables the Welsh Ministers to make regulations removing overlaps between the general power and other powers (although the effect of subsection (9)(a) is that they cannot achieve this by revising or cutting back the general power itself).
153. Subsections (3) and (4) allow the Welsh Ministers to make regulations restricting what a qualifying local authority may do under the general power, or making its use subject to conditions.
154. The Welsh Ministers may make regulations under this section in respect of all qualifying local authorities, specific qualifying local authorities, or a type of qualifying local authorities.
155. The effect of subsections (6) and (7) is that before exercising any of these powers, the Welsh Ministers must consult with whichever qualifying local authorities they consider appropriate, any representatives of local government in Wales they consider appropriate and any other persons they consider appropriate.
156. The duty to consult does not apply in respect of any regulations which merely amend earlier regulations so as to:
- extend their application to a certain qualifying local authority or group of qualifying local authorities;
  - reduce their application so they stop applying to a certain qualifying local authority or group of qualifying local authorities.

**Section 30 - Amendments relating to this Chapter and Part 1 of Schedule 3 - Amendments relating to Chapter 1 of Part 2: the general power**

157. Part 1 of Schedule 3 (introduced by section 30) makes amendments to this Act and other legislation relating to this Chapter.

**Section 31 - Becoming an eligible community council**

158. Section 31 sets out the criteria a community council must meet, and the procedure it must follow, in order to become an 'eligible community council'. Becoming an eligible community council enables a council to exercise the general power of competence provided for in Chapter 1 of this Part.
159. Subsection (1) provides that in order to become an eligible community council a council must pass a resolution that it meets all of the eligibility conditions set out in subsections (2) to (4) and that it is an eligible community council.
160. The first eligibility condition is that at least two-thirds of the members of the community council must have been declared elected. This means that they must have stood for election at an ordinary election or by-election, even if they stood unopposed, rather than having been co-opted.
161. The second eligibility condition is that the council's clerk must hold one of the qualifications specified by the Welsh Ministers in regulations made under subsection (5). An example of such qualification likely to be specified is CiLCA (Certificate in Local Council Administration), a Level 3 qualification in the National Qualifications Framework.
162. The final eligibility condition relates to the annual audit of the accounts of a community council. For a council to be able to resolve itself an eligible community council it must have received two unqualified auditor's opinions for two consecutive financial years, the latest of which must have been received during the 12 months ending on the day on which the council's resolution is passed.
163. A community council's accounts are audited annually by, or on behalf of, the Auditor General for Wales who must satisfy himself under section 17 of the Public Audit (Wales) Act 2004 (hereafter referred to as the 'the 2004 Act') of a number of matters, including that:
- the accounts have been prepared in accordance with regulations under section 39 of the 2004 Act;
  - that they comply with the relevant statutory requirements (such as the date by which the accounts must be submitted and the information the accounts must contain); and
  - that proper practices have been observed.
164. Following the conclusion of that audit, the auditor is required, under section 23 of the 2004 Act, to give his or her opinion.
165. Subsection (5) defines an unqualified auditor's opinion. In order for the auditor's opinion to be unqualified, the auditor cannot have expressed in the opinion in any way that the auditor is unsatisfied in relation to any of the matters set out in section 17 of the 2004 Act.



### Section 32 - Continuing to be an eligible community council

166. Once a community council has resolved itself an eligible community council it will need to reaffirm on an annual basis that it continues to meet the eligibility criteria. A council would do so by passing a resolution at its annual meeting.
167. If a community council does not pass a resolution at an annual meeting that it is an eligible community council then it ceases to be one at the end of the day following the annual meeting in question.
168. A community council may fail to pass a resolution that it continues to be an eligible community council because it no longer meets all of the eligibility conditions. Alternatively a council may decide that, despite meeting the conditions, it no longer wishes to be an eligible community council.

### Section 33 - Ceasing to be an eligible community council

169. In addition, an eligible community council may resolve at any time that that it is no longer an eligible community council. Where such a resolution is made the council would cease to be an eligible community council at the end of the day following the meeting at which the resolution was passed.

### Section 34 - Community councils that cease to be eligible: exercise of the general power of competence

170. The Bill makes it clear when a community council would become an eligible community council, and when exactly it would cease to be an eligible community council, because this provides clarity for the council and those it deals with on its ability to exercise the general power of competence.

171. Section 34 provides that that any activity that a community council enters into while it is an eligible community council which relies on the general power of competence can continue even if the council is no longer eligible to exercise the general power.
172. This provides clarity for the community or town council, and anyone that they may enter into a contract with in relation to that activity, about the status of that activity.

### **Section 35 - Common community councils established after this Act is passed**

173. Under sections 27E to 27F of the 1972 Act a community has the power to apply for an order grouping its community with other communities under a 'common community council'.
174. When such a common community council is formed it is effectively a new council; even if it is comprised in full or in part of communities which previously had separate community councils.
175. Although a new common community council may be able to meet the eligibility conditions relating to the proportion of elected members (since the order made by the principal council would make provision for an election) and could have a qualified clerk from the offset they would be unable to satisfy the third eligibility condition of having an unqualified audit for the two most recent Auditor General for Wales opinions.
176. This could mean, for example, that two councils which had previously been able to resolve themselves eligible community councils would not be able to do so for at least two years.
177. To ensure there is no disincentive to forming a common council, where communities feel it would best serve the interests of their community, subsection (2) disapplies the eligibility condition set out in 31(4) for a fixed period for certain common community councils. Common community councils in which at least half of the communities has separate community councils which, immediately before the order grouping them, met the third eligibility condition would instead not have to meet the third eligibility condition until it has received two Auditor General for Wales reports (or until it had a qualified audit in which case it would be treated as no longer meeting the eligibility conditions).
178. This section only applies to common community councils formed since the Act was passed. Any common community councils in place before the Act was passed have been in place for sufficient time to build up an audit record in their own right.

### **Section 36 - Power to amend or modify this chapter**

179. This section gives power to the Welsh Ministers to make regulations (following consultation with any bodies representing community councils they think appropriate) to amend the Chapter. They may add a new eligibility condition, remove an eligibility condition or change any of the eligibility conditions.
180. The Welsh Ministers may also make regulations to specify circumstances, other than those specified in section 33, in which a community council will stop being

an eligible community council if any of the conditions are not met. For example if there was a police investigation or a significant problem was identified by the Public Services Ombudsman for Wales.

### **Section 37 - Guidance on exercise of functions under this Chapter**

181. Community councils must have regard to any guidance issued by the Welsh Ministers, under this section, about how to exercise functions under this Chapter. For example, the Welsh Ministers might issue guidance about the actions a council might consider taking if it found it no longer met one of the eligibility conditions or matters a community council should consider if it continued to exercise the general power after having ceased to be an eligible community council.

### **Section 38 - Amendments relating to this chapter and Part 2 of Schedule 3 - Amendments relating to Chapter 2 of Part 2: eligible community councils**

182. Section 38 introduces Part 2 of Schedule 3 makes amendments to this Act and other legislation relating to this Chapter so as to.
- Repeal the well-being power in section 2 of the 2000 Act, as it has been replaced by the general power of competence
  - Restrict the power of local authorities to incur expenditure for certain purposes not otherwise authorised to community councils that are not eligible community councils.
183. It also repeals the power the Welsh Ministers have under Chapter 9, Part 7 of the Local Government (Wales) Measure 2011 (hereafter referred to in these notes as the '2011 Measure') to provide for a scheme under which the Welsh Ministers may grant accreditation to a community council if the criteria set out in the regulations are met.
184. This power has not been used, on the grounds that it would be preferable to have a situation where the local government sector retains control of determining 'quality' rather than being dependent on the Welsh Ministers for the conferral of that status. Instead the criteria for accreditation of quality in community government envisaged in the 2011 Measure form the basis of the criteria for eligibility to use the general power of competence. The need for councils to resolve themselves eligible against an objective set of criteria will still provide a means of assuring the quality of community councils and incentivising councils to improve.
185. Schedule 3 repeals the 'well-being power' in section 2 of the 2000 Act and makes a number of consequential amendments to take out associated sections (for example limits on the power to promote well-being) and references in the 2000 Act itself and in other pieces of legislation which refer to the well-being power.
186. The Schedule is divided into two parts to accommodate a phased commencement of the general power of competence. This phased commencement recognises the need to make regulations specifying a qualified clerk and also to prepare and issue guidance.
187. Part 1 of the Schedule makes interim amendments to restrict section 2 to community councils and Part 2 of the Schedule completes the process, repealing section 2 in full.

188. The well-being power is being repealed in full, even though community and town councils which have not resolved themselves eligible will not be able to use the general power of competence.
189. This is on the grounds that having three general powers in law could add to existing confusion reported by the community council sector about the powers available to them, and would reduce the incentive for community and town councils to meet the eligibility criteria in order to access the general power of competence, which put an emphasis on democratic accountability, sound financial management and professionalism.
190. Community councils that resolve themselves eligible community councils will be able to exercise the general power of competence. Councils which have not resolved themselves eligible community councils would still be able to use the scope provided by section 137(1) of the 1972 Act to incur expenditure for certain purposes not otherwise authorised, subject to the existing financial restriction.
191. Section 137 of the 1972 Act is amended to restrict the definition of a local authority which can incur expenditure for certain purposes not otherwise authorised to parish council which is not an eligible parish council and community councils that are not eligible community councils
192. The Schedule also adds references to the general power of competence to legislation which had previously referred to the power of well-being.

## **PART 3 – PROMOTING ACCESS TO LOCAL GOVERNMENT**

### **Section 39 - Overview**

193. This Section is an overview of the main provisions of Part 3 of the Bill which are detailed in the sections that follow.

## **Chapter 2 – Public Participation in Local Government**

### **Section 40 - Duty to encourage local people to participate in local government**

194. Section 40 of the Bill places a duty on principal councils to encourage local people to participate in their decision making. This includes where the council is making decisions in partnership with another individual or body.
195. For the purposes of this section, a decision includes where a decision is delegated to an individual by a principal council.

### **Section 41 - Strategy on encouraging participation**

196. Section 41 of the Bill places a duty on principal councils to prepare and publish a public participation strategy detailing how it will meet the duties imposed by section 40.
197. In addition, section 62 of the 2011 Measure imposes a duty on local authorities to make arrangements for anybody living or working in the local authority's area to bring their views on any matter under consideration by an overview and scrutiny committee to the attention of that committee. The public participation

strategy must also address the arrangements made in line with the duty imposed by section 62 of the 2011 Measure.

#### **Section 42 - Public participation strategy: consultation and review**

198. This section of the Bill places a duty on principal councils to consult local people (people who live, work or study in the council's area) and anyone else it thinks appropriate when preparing its public participation strategy. The first strategy must be published as soon as reasonably practicable after section 47 comes into force.
199. The council can review its public participation strategy at any point, but it must do so as soon as reasonably practicable after an ordinary election of councillors. Again, when reviewing the strategy, the council must consult local people and anyone else it thinks appropriate.
200. Following a review, a council can revise or replace its public participation strategy and must consult local people and anyone else it thinks appropriate. If it revises or replaces a public participation strategy, it must publish the revised or new version as soon as it is practicable to do so.

#### **Section 43 - Duty to make petition scheme**

201. Section 43 of the Bill places a duty on principal councils to produce a petition scheme, stating how it will handle and respond to petitions, including electronic petitions.

#### **Section 44 - Duty on principal councils to publish official addresses**

202. Section 44 places a duty on principal councils to publish an electronic and postal address for correspondence for each council member. This may be an official rather than a home address.

#### **Section 45 - Guidance on exercise of functions under this Chapter**

203. This section requires principal councils to have regard to guidance issued by the Welsh Ministers when exercising the functions under Chapter 2, including those in respect of promoting public participation in local government, developing a strategy on encouraging participation and making and publishing a petition scheme.

### **Chapter 3 - Constitution Guides**

#### **Section 46 - Principal Councils' duty to publish constitution and constitution guide**

204. Section 46 of the Bill amends section 37 of the 2000 Act (local authority constitution).
205. Section 37 of the 2000 Act places a duty on local authorities to prepare and keep up to date a document (referred to in this section as their constitution) which contains copies of the authority's standing orders and code of conduct, any information which the Welsh Ministers may direct them to keep and any other information which the authority considers appropriate.



206. Section 46 of the Bill places a further duty on local authorities to prepare, and keep up to date, a constitution guide which explains the content of their constitution in ordinary language.
207. Before amendment, the 2000 Act places a duty on local authorities to ensure copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours. A local authority must supply a copy of their constitution to anyone who requests a copy, in exchange for a reasonable fee determined by the authority.
208. Following amendment by section 46 of the Bill, a duty is placed on local authorities to ensure copies of their constitution and constitution guide are published electronically and made available at their principal office for inspection by members of the public at all reasonable hours. A local authority must supply a copy of their constitution and constitution guide to anyone who requests a copy either free of charge or at a charge representing no more than the cost of providing the copy.

## **Chapter 4 – Access to Meetings of Local Authorities**

### **Section 47 - Electronic broadcasts of meetings of certain local authorities**

209. Section 47 of the Bill places a duty on principal councils to put in place arrangements for a broadcast of council meetings so that members of the public who are unable to attend can see and hear proceedings as they happen. Councils should also make recordings of broadcasts available electronically for a reasonable period after the meeting. The availability of a broadcast has no effect on the validity of proceedings or of decisions made at council meetings. When a council puts these arrangements in place, they must have regard to any guidance about this duty which has been issued by the Welsh Ministers.
210. This duty applies to a meeting, or any part of a meeting, of a principal council (including an executive of the council), a committee or sub-committee, of a principal council which is open to the public. In this section, a reference to a committee or sub-committee includes a reference to a joint committee, or a sub-committee of a joint committee. The Welsh Ministers are able to specify proceedings to which this duty does not apply by means of regulations.
211. This section of the Bill also gives Welsh Ministers the power to make regulations to ensure that proceedings at the meetings of a Fire and Rescue Authority (hereafter referred to as a 'FRA') for an area in Wales or a National Park Authority (hereafter referred to as a 'NPA') for a National Park in Wales (or at a meeting of a committee or sub-committee of one of these authorities) are broadcast electronically. If necessary, these regulations may amend or repeal any provision of the Public Bodies (Admission to Meetings) Act 1960 (c. 67) or Part 5A of the 1972 Act (access to meetings and documents of local authorities).

### **Section 48 - Conditions for remote attendance of members of local authorities**

212. Section 48 amends Section 4 of the 2011 Measure. Section 4 of the Measure provides that a reference in an enactment to a meeting of a local authority is not limited to a meeting of persons who are all present in the same place. Effectively, it provides that a member of the local authority can attend a meeting "remotely". The amendment made by section 54 of the Bill requires local authorities to specify

in their standing orders the conditions that must be satisfied for a member to remotely attend a meeting and must require the person chairing any such meeting to determine whether those conditions are satisfied. A local authority must ensure that the facilities necessary to satisfy the conditions set out in its standing orders are available where the meeting is being held.

#### **Section 49 - Participation at meetings of community councils**

- 213. Section 49 amends Part 4 of Schedule 12 of the 1972 Act, which sets out requirements with regard to meetings and proceedings of community councils.
- 214. An additional paragraph (27A) is added which provides that members of the public attending a community council meeting must be given reasonable opportunity to make representations about any item of business due to be discussed at the meeting.
- 215. As a matter of good practice a number of community and town councils already give the public an opportunity to make representations, without a statutory obligation to do so. However this practice is at the discretion of the council and not applied universally.
- 216. The duty to give members of the public the opportunity to make a representation is qualified in 27A(2) to the extent that the person chairing the meeting has the ability to curtail that opportunity if they consider someone's use of it is likely to prejudice the effective conduct of the meeting.
- 217. The person chairing would have wide discretion to decide what amounts to a 'reasonable opportunity' but would have to have regard to any guidance on this matter issued by the Welsh Ministers under 27A(3).

#### **Section 50 - Notices etc. of local authority meetings and Schedule 4 - Notice of local authority meetings and access to documents**

- 218. Schedule 4 is introduced by section 50 of the Bill and amends the 1972 Act to modernise provision about notices and other documents relating to meetings of principal councils and community and town councils, including facilitating electronic publication.

#### **Paragraphs 2 to 8 - Notices of local authority meetings to be published electronically**

- 219. Community and town councils are already required through amendments made to paragraph 26 of Schedule 12 to the 1972 Act by section 57 of the 2013 Act, to publish the time and place of their intended meetings electronically as well as fixing a notice in some conspicuous place in the community. Any documents relating to the business to be transacted at the meeting must also be published electronically, as far as reasonably practicable.
- 220. Schedule 4 extends the requirement to publish the time and place of intended meetings electronically to meetings of principal councils and to committee and sub-committees of both principal councils and community and town councils.
- 221. Section 100A(6) of the 1972 Act is amended so that new provision is made for Wales with regard to notices of meetings of principal councils.

222. Before amendment, the position is that public notice of the time and location of a meeting must be given by posting it at council offices at least three clear days before the meeting or, if the meeting is convened at shorter notice, as soon as it is convened.
223. After amendment, the position with regard to Wales is that public notice of the time and place of the meeting must be given by posting the notice at council offices and a copy of the notice also published electronically by the council at least three clear days before the meeting or, if the meeting is convened at shorter notice, as soon as it is convened.
224. Section 100E(2) is amended in order to specify how the duty to post notice of a meeting in section 100A(6) should be complied with.
225. Section 100(J) is amended so that NPAs for areas in Wales and FRAs for areas in Wales are not subject to the duty publish notices of meetings electronically.
226. The Welsh Ministers are given the power, by regulations to extend the duty to publish notices of meetings electronically to NPAs for areas in Wales and FRAs for areas in Wales.
227. Paragraph 4 of Schedule 12 to the 1972 Act (notices of meetings of principal councils) is amended to include a duty to publish notice of a meeting of a principal council electronically. An amendment to section 270 of the 1972 Act provides that a requirement to publish electronically, where a council has a website, means publication on the website.

**Paragraph 9 – Copies of documents relating to meetings of local authorities**

228. Section 100H of the 1972 Act is amended so that new provision is made in relation to Wales with regard to access to meetings and documents.
229. Section 100H sets out the requirements under which documents listed in this part should be available for public inspection and under which copies may be obtained.
230. Before amendment a person was able to make photographic copies of, or extracts from, a document open to inspection or require that the council supply them with a copy of, or extracts from, the document upon payment of a reasonable fee.
231. After amendment specific provision is made for principal councils in Wales to clarify that electronic copies can be supplied by the council, upon payment of such reasonable fee as the council determines.

**Paragraph 10 – Electronic publication of notices given by local authorities**

232. Section 232(1ZA) of the 1972 Act is amended so that local authorities in Wales must publish public notices electronically, in addition to the usual requirements for publication by posting the notice in a conspicuous place or in other manner desirable for giving notice to the public.
233. Schedule 7 of the Environment Act 1995 (c.25) (National Park Authorities) is amended so that the requirement for electronic publication of notices in section 232(1ZA) does not apply to NPAs in Wales.

234. Welsh Ministers are given the power to make regulations to extend the electronic publication of notices in section 232(1ZA) to National Park Authorities and FRAs for areas in Wales.

**Paragraphs 11 and 12 – Electronic service of summonses on members to attend local authority meetings**

235. Summons to attend meetings of both principal councils and community and town councils are currently required, under Schedule 12 of the 1972 Act to be:
- Signed in a way that the proper officer of the council thinks fit;
  - Left at or sent by post to the usual place of residence of every member of the council (unless a member gives notice in writing that they wish the summons to be sent to a different address).
236. Schedule 12 of the 1972 Act is amended so that references to “signed” are replaced with ‘signed or otherwise authenticated’ to provide proper officers of the council greater flexibility in sending summonses and to clarify that electronic authentication is permissible.
237. The amendments also clarify and expand the appropriate methods by which a summons can be issued – adding the ability to send the summons electronically, if the council has resolved they can be.

**Paragraph 13 – Venue for community council meetings**

238. Community and town councils are currently prevented from meeting in licensed premises unless no other suitable room is available either free of charge or at a reasonable cost.
239. The prohibition reflects society at the time the provisions were made, in 1972, and is now dated. Many more premises are licensed now and a great deal of public activity, such as weddings and conferences, take place in venues licensed to sell alcohol.
240. The amendment removes the prohibition and enables the community or town council to meet in any place the council wishes.

**Paragraph 14 – Notices of community council committee and sub-committee meetings to be published**

241. The provision mirrors the requirement for principal councils, requiring a community council to publish the time and place of an intended committee or sub-committee electronically as well as physically.
242. Paragraph 26 of Schedule 12 of the 1972 Act is amended so that notice of the time and place of an intended committee or sub-committee of a community council must be published at least three clear days in advance. The notice must be published electronically and fixed in “a conspicuous place in the community” rather than prescribing the offices of the council as not all community councils have a council building. If a meeting of a committee or sub-committee is urgently required the three clear days notice can be reduced to 24 hours.

### **Section 51 – Annual reports by community councils**

243. This section requires community councils to prepare and publish an annual report about the council's priorities, activities and achievements during the preceding financial year.

## **PART 4 - LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES**

### **Section 52 - Overview**

244. This section is an overview of the main provisions of Part 4 of the Bill which are detailed in the sections that follow.

### **Section 53 and Schedule 5 - Chief Executives**

245. Section 4 of the 1989 Act requires principal councils, referred to as county or county borough councils in the 1989 Act, to designate one of their officers as their 'head of paid service'. This officer must, where they considers it appropriate, prepare a report to their council setting out their proposals in respect of a number of 'matters' listed in that section. The principal council must provide this officer with the staff, accommodation and other resources to allow him or her to perform their duties.
246. The statutory role of head of paid service is often exercised by the officer more usually referred to as the chief executive or managing director. Whilst the terms 'chief executive' or 'managing director' are widely used to denote the head of a council's administration throughout local government in Wales, neither title is found in local government legislation.
247. Section 53 requires a principal council to appoint a chief executive. The provisions of section 4 of the 1989 Act are re-stated and the list of 'matters' expanded to include those relating to performance and governance, namely financial planning, asset management and risk management. The addition of these brings the matters for which a chief executive is responsible in line with modern governance practices.
248. This section introduces Schedule 5 which amends section 4 of the 1989 Act so as to disapply the requirement on principal councils to appoint a head of paid services. Schedule 5 also makes consequential amendments relating to chief executives.

### **Section 54 – Replacement of references to “salary” in section 143A of the Local Government (Wales) Measure 2011**

249. Before amendment, section 143A of the 2011 Measure provides the Independent Remuneration Panel (hereafter referred to as 'the Panel') with powers in relation to the salaries of the heads of paid service in principal councils. As detailed in the notes in respect of section 53 above, the Bill amends section 143A to substitute chief executive in place of head of paid services.
250. Section 54 substitutes the term remuneration in the place of salary or salaries in section 143A of the 2011 Measure. This amendment will allow the Panel to make recommendations in respect of a broader range of payments to chief executives including salary, any bonuses and other benefits. Remuneration is given the meaning in section 43 of the Localism Act 2011.

## **Section 55 – Reconsideration of remuneration following direction by the Welsh Ministers**

251. This section amends section 143a of the 2011 Measure. New subsection (5C) relates to situations where Welsh Ministers consider a local authority's response to a recommendation made by the Independent Remuneration Panel for Wales inconsistent with the recommendation. The section requires that in the case where Welsh Ministers issue a direction for the local authority to reconsider its response, this function cannot be delegated and must be undertaken by the full council.

## **Section 56 and Schedule 6 – Appointment of assistants to executive**

252. Section 56 amends Schedule 1 to the 2000 Act which makes provision for the appointment of assistants to the executives of principal councils. The assistants will not be members of the executive but could act on their behalf in certain circumstances. These roles could be used to support greater diversity of councillors involved in executive decision making.
253. This section also introduces Schedule 6 which makes consequential amendments in relating to assistants to executives.

## **Section 57 and Schedule 7 – Job sharing: executive leaders and executive members**

254. Section 57 introduces Schedule 7 to the Bill, which amends the 2000 Act to make provision in relation to job-sharing by executive leaders and executive members. Paragraph 2 of Schedule 7 amends section 11 of the 2000 Act to change the maximum number of members of an executive from 10 to:
- 12 when at least two of the members have been elected or appointed to share office; or
  - 13 when at least three of the members have been elected or appointed to share office.
255. Paragraph 5 of Schedule 7 to the Bill inserts new paragraphs 2(2A) and 2A in Schedule 1 to the 2000 Act to require local authorities in Wales to include in their executive arrangements provision enabling two or more councillors to share office on an executive, including the office of executive leader. The Schedule also inserts a new paragraph 2B, which makes provision about voting rights and quorum.
256. **Section 58 – Content of, and duty to have regard to, guidance under section 38 of the 2000 Act**
257. Part II of the 2000 Act makes provision in respect of local authority executives and executive arrangements. Section 38 of that Part requires a local authority, namely a principal council, to have regard to any guidance issue by the Welsh Ministers for the purposes of Part II.
258. This section inserts a new subsection (1A) in section 38 to provide that guidance issued under this section may include provision designed to encourage good practise in relation to equality and diversity. The meaning of equality and diversity is taken from section 8(2) of the Equality Act 2006, namely 'diversity' means the fact that individual are different and 'equality' means equality between individuals.

259. Section 58 also amends 38(1) of the 2000 Act to extend the duty to have regard to guidance to elected mayors and executive leaders

### **Section 59 - Job-sharing: non-executive offices in principal councils**

260. Section 59 provides the Welsh Ministers with a power to make regulations for the purpose of facilitating or enabling job-sharing in a “principal council office”.
261. Subsection (2) lists the principal council offices in respect of which regulations may be made.
262. The Welsh Ministers’ power under this new section is not limited to enabling job-sharing in those offices. Regulations may also include provision regarding how job-sharing arrangements in those offices are to operate, including how certain functions may be exercised in a shared office. The Welsh Ministers may also, in regulations, require principal councils to facilitate job-sharing by removing any barriers contained in, for example, the authority’s standing orders.
263. Subsection (5) requires principal councils to have regard to any guidance issued by the Welsh Ministers to support regulations made under this section.

### **Section 60 – Family absence for members of local authorities**

264. Section 60 amends Part 2 of the 2011 Measure by removing the maximum number of weeks entitlement to family absence for members of local authorities
265. The provisions enable the maximum period of absence for each type of family absence to be specified within regulations to reduce the time required to implement changes in the absence periods as policy develops in this area.

### **Section 61 - Duties of leaders of political groups in relation to standards of conduct**

266. Part 3 of the 2000 Act established a statutory framework to promote and maintain high standards of ethical conduct by members and employees of relevant authorities in Wales. A ‘relevant authority’ is a county or county borough council (“a principal council”), community council, FRA and a NPA. The Bill makes amendments to the 2000 Act to support the promotion of high standards of conduct and to improve the accessibility of the current law.
267. Engendering a culture within a local authority which embraces high standards of conduct requires both local leadership and all members to accept responsibility for their actions both individually and collectively.
268. Building on the existing arrangements, section 61 inserts a new section 52A into the 2000 Act which places a duty on leaders of political groups within a principal council to promote and maintain high standards of conduct by members of their group. In so doing, group leaders are expected to co-operate with the council’s standards committee in the exercise of its general and specific functions for promoting high standards (see below).
269. Section 61(3) of the Bill amends section 54 of the 2000 Act to extend the specific functions of a standards committee to include monitoring compliance by leaders of political groups with the new duty imposed on them by the Bill to promote

and maintain high standards of conduct by members of their group. A standards committee must also provide advice and training for group leaders on the new duty.

## **Section 62 – Duty of standards committee to make annual report**

270. A relevant authority in Wales (excluding a community council) is required by section 54 of the 2000 Act to establish a standards committee.
271. The general functions of a standards committee under section 54(1) of the 2000 Act are to promote and maintain high standards of conduct by members and co-opted members of the authority and to assist them to observe the code of conduct.
272. In addition to the new function imposed by section 62(3) of the Bill, a standards committee also has specific functions under section 54(2) of the 2000 Act to:
- advise the authority on the adoption or revision of a code of conduct;
  - monitor the operation of the code of conduct; and
  - provide advice and training on the code of conduct for members of the authority.
273. A principal council's standards committee (or a sub-committee established for the purpose) also exercises these functions in relation to members of community councils in its area.
274. Section 62 of the Bill inserts a new section 56B into the 2000 Act which places a requirement on a standards committee to make an annual report to the authority concerned. In the case of a principal council, the requirement to report to 'the authority' in this context includes any community councils in its area.
275. The report must:
- describe how the committee has discharged its functions during the preceding financial year;
  - include a summary of reports and recommendations referred to the committee by the Public Services Ombudsman for Wales or the Adjudication Panel for Wales, as appropriate, relating to the investigation and adjudication of alleged breaches of the member code of conduct and any subsequent action taken by the committee;
  - include a summary of misconduct cases considered, and notified to it, by the Adjudication Panel for Wales under Chapter 4 of the 2000 Act; and
  - in the case of a principal council, include the committee's assessment of how political group leaders have complied with the new duty under section 52A of the 2000 Act (inserted by section 67 of the Bill) to promote high standards of conduct.
276. The requirement to make an annual report will ensure there is a regular and consistent approach to the reporting and consideration of standards of conduct by members of relevant authorities in Wales. This can and should help promote local ownership and collective responsibility by members for ensuring high standards of conduct within their authority. To this end, section 56B places an obligation on a relevant authority to consider the report and any recommendations made by its standards committee within 3 months of its receipt. The authority's consideration of a report will be a matter of public record through the published minutes of the meeting.



## **Section 63 and Schedule 8 – Certain investigations by the Public Services Ombudsman for Wales**

277. The Public Services Ombudsman for Wales (hereafter referred to as ‘the Ombudsman’) has powers under section 69 of the 2000 Act to investigate allegations that a member of a relevant authority in Wales has, or may have, failed to comply with their authority’s code of conduct.
278. The Welsh Ministers have powers under section 70 of the 2000 Act to make an order which applies or reproduces any provisions of sections 60-63 of that Act, as those sections had effect immediately before their repeal (by the Localism Act 2011), for the purpose of any investigation under section 69. Prior to their repeal, sections 60-63 dealt with a number of practical matters such as conflicts of interest, powers to obtain and disclose information and protection from defamation proceedings. The Public Services Ombudsman for Wales (Standards Investigations) Order 2006 (as amended) was made pursuant to those powers.
279. Following repeal of sections 60-63 of the 2000 Act, the law was found to be inaccessible and lacking clarity. Section 69 and Schedule 8 of the Bill addresses this problem by placing equivalent provision for investigations on the face of the 2000 Act in the form of new sections 69A-69F and by substituting a new section 74. No substantive changes have been made to the effect of the law, but the provisions have, where appropriate, been aligned with the Ombudsman’s powers relating to the investigation of maladministration and service failure in the Public Services Ombudsman (Wales) Act 2019.
280. New section 69C(1) of the 2000 Act empowers the Ombudsman to require a person to supply information or produce documents relevant to an investigation under section 69 of that Act. This includes information or documents held in an electronic format.
281. New section 74 provides that, for the purposes of the law of defamation, the publication of a matter is absolutely privileged if it is done in exercise of the Ombudsman’s functions under Chapter 3 and 4 of the 2000 Act; or in communications with the Ombudsman or a person exercising a function of the Ombudsman for the purposes of, or in connection with, those functions. In defamation proceedings, “publication” is used to describe not just the traditional act of publishing, but covers communications in general including electronic communication and the spoken word. This would include, for example, oral evidence given by the Ombudsman or a person representing the Ombudsman before a standards committee or a tribunal of the Adjudication Panel for Wales.

## **Section 64 – Making information available to overview and scrutiny Committees**

282. Section 22(10) of the 2000 Act enables the Welsh Ministers to make regulations requiring the provision of information about decisions the executive have made or intend to make.
283. Section 64 amends section 22(10) so that regulations may require that scrutiny committees and their sub-committees are given notice about such decisions. Greater knowledge of the decision the executive intends to make will enable these committees better plan their work.

## **Section 65 – Power to require authorities to appoint joint overview and scrutiny Committees**

284. Section 65 amends a regulation-making power in the 2011 Measure so that regulations may require principal councils to establish a joint scrutiny committee. The amended regulation-making power could be used to require councils to establish a joint scrutiny committee where services are being provided across those councils' areas.

## **Section 66 – Community council training plans**

285. Section 66 sets out proposals requiring a community council to consider whether their councillors and staff possess the knowledge and awareness they need for the council to operate effectively; and to make a plan for the steps they will take to address any training needs identified.
286. Subsection (1) provides that a community council makes a plan for the provision of training for council members and staff. This does not mean that all councillors and staff must all have expertise in the same subjects. Developing a plan by a community council seeks to bring about a situation where councillors, as a group, and the staff supporting the council, collectively possess the knowledge and awareness needed for the council to operate effectively.
287. Subsections (2) and (3) specify the timetable for making a community councils' first training plan and when they are required to make a new one. The timing for making the first plan is determined by the date the subsection comes into force, and allows up to 6 months for a community council to comply. This is considered reasonable time for a community council to consider the current skill sets of councillors and staff; having regard to the statutory guidance, published in accordance with subsection (7); and make a plan to for the provision of training.
288. A new training plan must be put in place after each ordinary election of community councillors to reflect changes in training needs resulting from changes in councillors and potentially staff too. Subsection (4) requires a community council to review its training plan from time to time. How often a plan is reviewed is at the discretion of a community council to reflect local circumstances.
289. The training plan, and any revised plans, must be published. This reflects the wider emphasis on ensuring transparency and accountability of how councils operate.
290. Subsection (6) ensures that the training plan must be considered by the full council by confirming that Section 101 of the 1972 Act does not apply. This means the functions of determining the content of a training plan, or reviewing a plan, cannot be discharged through a sub-committee or an officer of the community council.

## **PART 5 – COLLABORATIVE WORKING BY PRINCIPAL COUNCILS**

### **Chapter 1 – Terms used in part**

#### **Section 67 – Terms used in Part**

291. This section gives the meaning of the terms used in this part.

### **Chapter 2 – Guidance about collaborative working**

#### **Section 68 – Guidance about collaborative working**

292. This section requires principal councils to have regard to guidance issued by the Welsh Ministers about the exercise of their functions in collaboration with another principal council. Subsection (2) sets out what it means to exercise a function with another principal council.

### **Chapter 3 – Establishing corporate joint committees where request has been made**

#### **Applications to establish a corporate joint committee**

#### **Section 69 – Application by principal councils to establish a corporate joint committee**

293. This section enables two or more principal councils to make a ‘corporate joint committee application’ to the Welsh Ministers asking them to consider establishing, by regulations, a corporate joint committee to exercise specific functions in relation to the principal areas of those councils.

294. Subsection (2) outlines the actions the Welsh Ministers should take if they decide not to make regulations establishing the corporate joint committee.

#### **Section 70 – Consultation before making joint committee applications**

295. This section requires principal councils to consult those persons listed in the section before making a corporate joint committee application.

#### **Requested joint committee regulations**

#### **Section 71 – Requested joint committee regulations**

296. This section gives the Welsh Ministers a regulation making power to establish a corporate joint committee, a body corporate, for the relevant councils that made the corporate joint committee request in Section 69 to exercise the functions which will be specified in the regulations.

297. This section also provides for the functions that can be specified in the regulations and the requirements on the regulations in terms of whether functions are exercised by the corporate joint committee instead of the relevant councils or are exercised concurrently between the corporate joint committees and the relevant councils.

298. The Welsh Ministers will only be able to make regulations under this section if the conditions in Section 72 are satisfied.

## **Section 72 – Conditions to be met before making requested joint committee regulations**

299. This section sets out the conditions which must be satisfied before Welsh Ministers can make regulations to establish a corporate joint committee under Section 71.

## **Chapter 4 – Establishing corporate joint committees where no request has been made**

### **Section 73 – Joint committee regulations where no request has been made**

300. Subsection (1) gives the Welsh Ministers a regulation making power to establish a corporate joint committee, a body corporate, for principal areas specified in the regulations. The functions of the body corporate to be exercised will be specified in the regulations.
301. Subsections (3) and (4) provide that functions can only be specified in the regulations in certain functional areas.
302. Subsection (5) requires the regulations to specify whether the functions are to be exercised by the corporate joint committee instead of the relevant councils or concurrently between the corporate joint committee and the relevant councils.
303. Welsh Ministers will only be able to make regulations under this section if the conditions in Section 74 are satisfied.

### **Section 74 – Conditions to be met before making regulations under section 73**

304. This section sets out the conditions which must be satisfied before Welsh Ministers can make regulations to establish a corporate joint committee under Section 73.

## **Chapter 5 – Further provision relating to corporate joint committees and joint committee regulations**

### **Promotion and improvement of economic well-being**

#### **Section 75 – Economic well-being function**

305. This section creates an economic well-being function for corporate joint committees.
306. Where a corporate joint committee has been granted the economic well-being function it may do anything which it considers is likely to promote or improve the economic well-being in relation to or for the benefit of all or any part of its area or any person resident or present in its area.
307. Where the corporate joint committee considers it would benefit the economic well-being of its area, it may also do anything for the benefit of any person or area situated outside the corporate joint committee's area, including areas outside Wales.
308. Subsection (4) enables joint committee regulations (section 71 or 73) or regulations of general application (section 82) to subject the exercise of the economic well-being function to limitations or restrictions.

## **Section 76 – Provisions that may or must be made in joint committee regulations**

309. This section sets out what collaboration regulations may make provision about.

## **Amendment and revocation of joint committee regulations**

### **Section 77 – Application by principal council to amend or revoke joint committee regulations**

310. Section 77 enables the principal councils of a corporate joint committee to collectively make an application to Welsh Ministers asking them to consider making regulations so as to amend or revoke joint committee regulations.

311. Subsection (2) subjects applications to certain restrictions in relation to which functions of the corporate joint committee may be specified in the application to amend the regulations.

### **Section 78 – Further provision in relation to applications**

312. This section sets out the requirements principal councils must meet before making an application to amend or revoke joint committee regulations and the requirements placed on Welsh Ministers if they decide not to make the regulations.

313. Subsection (1) requires principal councils to consult such persons as they see fit before they make an application to amend or revoke joint committee regulations.

314. Where the Welsh Ministers decide to not make regulations amending or revoking corporate joint committee regulations, subsection (2) requires they notify the principal councils that made the application.

### **Section 79 – Amendment and revocation of joint committee regulations**

315. Section 79(1) enables the Welsh Ministers to make regulations to amend or revoke joint committee regulations

316. Subsection (2) provides that the Welsh Ministers will only be able to make regulations under subsection (1) if, for requested joint committee regulations, the conditions in section 80 have been satisfied, for non-requested regulations, the conditions in section 80 have been satisfied and, in any other case, the conditions in section 81 are satisfied

317. Subsection (3) provides that Regulations under subsection (1) may not amend joint committee regulations so as to specify a function unless it is :

- a function of the principal councils in the corporate joint committee's area;
- the economic well-being function (see section 75);
- in the case of regulations amending non-requested joint committee regulations, the function of preparing a strategic development plan.

318. Subsection (4) requires the regulations to specify whether functions are to be exercised by the corporate joint committee instead of the relevant councils or concurrently between the corporate joint committee and the relevant councils.

319. Subsection (5) provides that where amending regulations specify a function of the principal councils the function can be specified by reference to a particular activity or activities.
320. Under subsection (6) regulations made under this section, for the purpose of abolishing a corporate joint committee or removing a function from a corporate joint committee, may provide that the function is to be exercisable by another person. Such provision cannot be made in respect of the economic well-being function or the function of preparing a strategic development plan.

**Section 80 – Condition to be met before amending joint committee regulations: application required from principal councils**

321. Section 80 sets out the conditions which must be satisfied before the Welsh Ministers can make regulations to amend or revoke joint committee regulations following an application from principal councils.

**Section 81 - Conditions to be met before amending or revoking joint committee regulations: no application required from principal councils**

322. This section sets out the conditions which must be satisfied before Welsh Ministers can make regulations amending or revoking joint committee regulations where no application has been received from principal councils.

**Section 82 – Supplementary etc. provision in certain regulations under this Part.**

323. This section provides that regulations under section 82 may include supplementary, incidental, consequential, transitional or saving provision. This section also gives the Welsh Ministers regulation making powers to make supplementary, incidental, consequential, transitional or saving provision in relation to joint committee regulations or particular regulations under section 79.
324. The section also gives Welsh Minister powers to make regulations of general application for the purposes listed. This section includes requirements for joint committee regulations, regulations under section 79 or regulations under this section where such regulations include provisions relating to the transfer of staff.

**Section 83 – Power of the Welsh Ministers to amend, repeal etc. enactments**

325. The provisions in this Part provide enabling powers relating to a new corporate joint committee, or bodies. This section gives the Welsh Ministers the ability to modify, amend, repeal or revoke any enactments when making joint committee regulations and regulations under section 82 should the need to do so emerge.

**Section 84 – Requirement on principle councils and corporate joint committees to provide information.**

326. This section gives Welsh Ministers powers to direct a principal council, a National Park authority or a corporate joint committee to provide them with any information they consider appropriate for the purposes of considering whether to make regulations under this Part, giving effect to such regulations or in connection with such regulations.

## **Section 85 – Guidance**

327. Under this section, principal councils and corporate joint committees must have regard to any guidance relating to this Part of the Bill issued by the Welsh Ministers.
328. Sub-section (2) requires National Park authorities to have regard to any guidance issued by the Welsh Ministers in relation to Chapter 4 and Chapter 5 of this Part of the Bill

## **Section 86 – Exercise by principal councils of functions under this part**

329. Section 86 provides that Section 101 of the 1972 Act does not apply in relation to the functions set out in subsection (4). As such the principal council may not arrange for these functions to be discharged by a committee, sub-committee or officer of the council or by another principal council
330. Subsection (2) prohibits these functions being the responsibility of an executive of a principal council whilst subsection (3) provides that an elected mayor is to be treated as a councillor of a principal council for the purposes of those functions.
331. Subsection (4) provides the functions which may not be discharged by an executive of a principal council under executive arrangements or an elected mayor.

## **Amendments of other enactments**

### **Section 87 – Amendments relating to strategic planning and joint transport authorities and Schedule 9 – Amendments related to corporate joint committees**

332. Section 87(1) introduces Schedule 9.
333. Part 1 of Schedule 9 repeals sections 60D to 60J of the Planning and Compulsory Purchase Act 2004 removing the powers of the Welsh Ministers to establish strategic planning panels.
334. Paragraphs 9 through 49 of Part 1 of Schedule 9 provide for consequential amendments to other enactments. Part 1 of Schedule 9 also inserts new sections 60K through 60N which set out the functions of corporate joint committee in relation to the preparation of strategic development plans.
335. Sub-section (2) and Part 2 of Schedule 9 amends the Transport (Wales) Act 2006 so as to repeal the powers of Welsh Ministers to establish joint transport authorities. Paragraph 51 makes a consequential amendment to Schedule 11 to the Government of Wales Act 2006.

## **PART 6 - PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS**

### **Chapter 1 – Performance, Performance Assessments and Intervention**

#### **Section 88 – Duty of principal council to keep its performance under review**

336. This section requires a principal council to keep its performance under review. Performance is expressed through the matters set out in subsection (1), which are referred to in this Chapter as “the performance requirements”
337. The Welsh Ministers may issue guidance to principal councils about the performance requirements or the exercise of any functions of a principal council under Chapter 1. Principal councils must have regard to any such guidance.

#### **Section 89 – Duty to consult local people etc. on performance**

338. This section requires that, at least once a year, a principal council must consult with those listed in this section about the extent to which the council is meeting its performance requirements.

#### **Section 90 – Duty of principal council to report on its performance**

339. This section requires a principal council to undertake a self-assessment on the extent to which it has met its performance requirements. The council must make a self-assessment report in respect of a financial year as soon as reasonably practicable after the end of that financial year.
340. The principal council is required to report on its conclusions of the self-assessment (this is referred to as a “self- assessment report”). The section sets out requirements relating to the report and in particular, its content who should be consulted in the preparation of the report, who should receive a copy of the report, and how and when it should be published.
341. The principal council’s governance and audit committee must review a draft of the self-assessment report and may recommend changes. Where a principal council decides against making those changes it must give its reasons in the final version of the self-assessment report.

#### **Section 91 – Duty of principal council to arrange panel performance assessment**

342. Subsection (1) of this section places a duty on a principal council to arrange for a panel to assess the extent to which the council is meeting the performance requirements (this is referred to as a “panel performance assessment”). A panel performance assessment should be commissioned by a principal council at least once during the period between two consecutive ordinary elections of councillors to the council.
343. The section also sets out whose views a panel must seek and take into account, in undertaking a panel performance assessment.
344. Following a panel performance assessment a panel must produce a report setting out its conclusion and any actions the panel recommends the council take to increase the extent to which it meets its performance requirements in the future.



345. This section also requires the council to provide a copy of the report to its governance and audit committee.

### **Section 92 – Duty of principal council to respond to report of panel performance assessment**

346. This section places a duty on a principal council to respond to a panel performance assessment report which it receives. In its response, the council is required to set out the extent to which it accepts the panel's conclusions and the extent to which it intends to follow any recommendations contained in the report. The principal council should also identify any actions it proposes to take to increase the extent to which it meets the performance requirements.
347. The principal council's governance and audit committee must review a draft of the response and may recommend changes. Where a principal council decides against making those changes it must give its reasons in the final version of the response to the report of the panel performance assessment.
348. The council must send its response to those persons listed in subsection (6), and publish it.

### **Section 93 – Panel performance assessments: supplementary regulations**

349. This section gives the Welsh Ministers a power to make provision by regulations for, and in connection with, the appointment by principal councils of panels which will conduct panel performance assessments. Ministers may, in particular, make provision about the appointment of panel members and in relation to fees for panel members.

### **Section 94 – Power of Auditor General to carry out a special inspection**

350. This section gives the Auditor General for Wales a power to carry out an inspection of a principal council to assess the extent to which the council is meeting the performance requirements (this inspection is referred to in Chapter 1 as a "special inspection"). The Auditor General for Wales may conduct such an inspection where he or she considers that a principal authority is not, or may not be, meeting the performance requirements. The Auditor General for Wales must consult the Welsh Ministers before making his/her decision to conduct a special inspection. The Welsh Ministers may also ask the Auditor General to consider undertaking a special inspection.
351. Before carrying out a special inspection, the Auditor General must provide notice to a principal council giving the reasons for the special inspection and any matters the Auditor General for Wales intends to inspect.
352. This section also requires the Auditor General to produce a report of the special inspection which must be published and sent to the council, Estyn and Welsh Ministers. A council must make the report available to its governance and audit committee as soon as is reasonably practicable.

### **Section 95 – Duty of principal council to respond to Auditor General's recommendations**

353. This section provides that a principal council must respond to any recommendations contained in a special inspection report produced under section 94(6).

354. The principal council's governance and audit committee must review a draft of the response and may recommend changes. Where a principal council decides against making changes recommended by the governance and audit committee, it must give its reasons in the final version of the response to the special inspection report.

#### **Section 96 – Duty of the Welsh Ministers to respond to Auditor general's recommendations**

355. This section requires the Welsh Ministers to respond to any recommendations made by the Auditor General for Wales under section 94(6)(b) for action to be taken by the Welsh Ministers.

#### **Section 97 – Auditor Generals powers of entry and inspection etc.**

#### **Section 98 Auditor Generals powers of entry and inspection etc.: notice and evidence of identity**

#### **Section 99 – Auditor General's powers of entry and inspection etc.: offences**

356. Sections 97 and 98 set out the powers and duties of the Auditor General for Wales when carrying out a special inspection under section 95.
357. Section 99 creates new offences for failing to comply with a requirement under section 97(1) or (2), or for intentionally obstructing an inspector exercising his powers of entry and inspection.

#### **Section 100 – Auditor General's Fees**

358. This section requires the Wales Audit Office to prescribe a scale of fees to carry out special inspections. The Wales Audit Office will have discretion to charge a fee which departs from the set scale if the work in relation to a special inspection is substantially more or less than originally envisaged. Before setting a scale of fees, the Wales Audit Office must consult the Welsh Ministers and such representatives of principal councils as the Wales Audit Office considers appropriate.

#### **Section 101 – Support and assistance by the Welsh Ministers**

359. This section provides the Welsh Ministers with a power to provide support and assistance to a principal council for the purpose of increasing the extent to which the council meets the performance requirements. This section also allows a principal council to request support and assistance from the Welsh Ministers.

#### **Section 102 – Direction to a principal council to provide support and assistance**

360. This section provides the Welsh Ministers with the power to direct a principal council to provide another principal council with any support and assistance that the Welsh Ministers consider appropriate to increase the extent to which the supported council meets the performance requirements. The level of support will be specified in the direction.
361. Before giving the direction, the Welsh Ministers must consult with both councils affected by the direction.

#### **Section 103 – Powers of the Welsh Minister to intervene**

362. This section contains powers for the Welsh Ministers to intervene in and direct a local authority which is not meeting, or is likely to not meet the performance

requirements. This section also sets out the steps the Welsh Ministers must take before giving an intervention direction and the circumstances where these steps do not apply. An intervention direction is a direction under sections 104, 105 or 106.

#### **Section 104 - Direction to co-operate with provision of support and assistance**

363. This section contains powers for the Welsh Ministers to direct a principal council, referred to as “the supported council”, to cooperate with those persons listed in subsection (1) for the purpose of enabling the support or assistance to be provided. The section outlines the ways in which the supported council is to cooperate under a direction in this section

#### **Section 105 - Direction to take or not to take etc. a specified step**

364. This section provides that the Welsh Ministers may direct a principal council to take, not take or cease taking a specified step. It includes examples of the steps which a principal council may be required to take.

#### **Section 106 - Direction that a function be performed by the Welsh Ministers or their nominee**

365. This section provides that the Welsh Ministers may give a direction requiring that a function or functions of a principal council, as specified in the direction, be exercised by the Welsh Ministers or a person nominated by the Welsh Ministers.
366. Where a direction within this section is in force, the principal council must comply with the instructions of the Welsh Ministers or their nominee in respect of the exercise of the specified function.
367. Subsection (3) provides the Welsh Ministers with a power to make regulations to apply or disapply any statutory provisions, in relation to the exercise of the specified function by the Welsh Ministers or their nominee under a direction.

#### **Section 107 - Exercise of functions under this chapter**

368. This section provides that functions conferred on a principal council under this Chapter (other than functions conferred on a governance and audit committee) may be undertaken by the full council or its executive, as decided by the council. Subsections (2) to (4) provide that certain specified functions are not subject to the provisions of section 101 of the 1972 Act or sections 14 and 15 of the 2000 Act. This means they may not be delegated to a committee or sub-committee or an officer of the principal council, or to another principal council. Similarly, if those specified functions are the responsibility of the council’s executive, they may not be allocated to, for example, a committee of the executive or an officer of the council.

#### **Section 108 - Power of the Welsh Ministers to add to list of persons to whom reports etc. must be sent**

369. This section provides the Welsh Ministers with a power to make regulations to add to the lists of persons to whom certain reports must be sent.

#### **Section 109 - Power of the Welsh Ministers to amend etc. enactments and confer new powers**

370. This section gives the Welsh Ministers power to amend, modify, repeal, revoke or disapply enactments that prevent or obstruct a principal council from

complying with this Chapter. The Welsh Ministers may also confer new powers on principal councils that the Welsh Ministers consider necessary or expedient in order to facilitate compliance with this Chapter.

### **Section 110 – Guidance**

371. This section provides that any person who has functions under this Chapter (other than the Auditor General for Wales and principal councils) must have regard to guidance issued by the Welsh Ministers about the exercise of those functions.

### **Section 111 – Interpretation**

372. This section sets out the defined terms used in this Chapter.

### **Section 112 – Disapplication of the 2009 Measure in relation to principal councils and repeal of provisions about co-ordination of audit**

373. This section amends the Local Government (Wales) Measure 2009 (hereafter referred to in these notes as the ‘2009 Measure’) so that it ceases to apply to principal councils.

374. The section also repeals the provisions contained in the 2009 Measure dealing with the co-ordination of audit (section 23) and information sharing (section 33).

### **Section 113 – Amendment of Well-being of Future Generations (Wales) Act 2015**

375. This section amends paragraph 1 of Schedule 1 to the Well-being of Future Generations (Wales) Act 2015 (hereafter referred to in these notes as the “WFG Act”). This allows a principal authority to publish its self-assessment report within the same document as its report under paragraph 1 of Schedule 1 of the WFG Act.

### **Section 114 and Schedule 10 – New name and functions of audit committees**

376. This section amends section 81 of the 2011 Measure (local authorities to appoint audit committees) to change the name of audit committees to “governance and audit committees”, and confer additional functions to those committees. As a result of the change of name a number of consequential amendments are made to the 2011 Measure and these are set out in Schedule 10, which is introduced by this section.

## **Chapter 2 Governance and Audit Committees: Membership and Proceedings**

### **Section 115 – Membership of governance and audit committee**

377. Section 115 of the Bill amends section 82 of the 2011 Measure in order to increase the number of lay members on a governance and audit committee.
378. Before amendment, the situation under section 82 of the 2011 measure is that at least two thirds of the members of a governance and audit committee must be members of the authority and at least one member of the governance and audit committee must be a lay member.
379. After amendment, the situation is that two thirds of the members of a governance and audit committee must be members of the authority and one third must be lay persons.

380. In addition, three subsections ((5A), (5B) and (5C)) are added to section 82 of the 2011 Measure. These state that a governance and audit committee must appoint a committee chair and deputy chair. The committee chair must be a lay person and the deputy chair must not be a member of the local authority's executive or an assistant to its executive.

#### **Section 116 - Meaning of lay person**

381. Section 116 of the Bill amends section 87 of the 2011 Measure changing the definition of "lay member".

#### **Section 117 - Proceedings etc.**

382. Section 117 amends section 83 of the 2011 Measure changing arrangements for chairing of meetings.
383. Before amendment, the situation with regard to section 83 is that an audit committee must appoint one of its number as chair. This person may be a member of the authority or a lay member but must not be a member of an executive group. If there are no opposition groups, the person who is to chair the audit committee may be a member of an executive group but must not be a member of the local authority's executive.
384. After amendment, a meeting of a governance and audit committee is to be chaired by the committee chair or, in the chair's absence, by the deputy chair. If both are absent, the committee may appoint another member of the committee (who may not be a member of the local authority's executive or an assistant to the executive) to chair the meeting.

### **Chapter 3 - Co-ordination between regulators**

#### **Section 118 - Co-ordination between regulators**

385. This section places a duty on the Auditor General for Wales and all relevant regulators to have regard to the need for co-ordination in the exercise of their "relevant functions". It also requires the Auditor General for Wales to consult the relevant regulators and to draw up a timetable for each principal council, which shows the dates or periods during which the Auditor General for Wales and the regulators should exercise their relevant functions. All relevant regulators and the Auditor General for Wales must then take all reasonable steps to adhere to the timetable.
386. The Auditor General for Wales also has a duty to assist all other regulators to comply with their duties under this section.

#### **Section 119 - "Relevant regulators" and "relevant functions"**

387. For the purposes of section 119, this section defines the relevant functions of the Auditor General for Wales and lists, in a table, the relevant regulators and their relevant functions. The Welsh Ministers may make regulations to amend the table listing the relevant regulators and their functions.

## **PART 7 – MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS**

388. This Part makes provision to enable the Welsh Ministers to make regulations to give effect to voluntary mergers and other local restructuring of principal councils in response to local circumstances.

### **Chapter 1 - Voluntary Mergers of Principal Areas**

#### **Applications for Mergers**

##### **Section 120 – Merger applications**

389. Section 120 enables two or more principal councils to make a joint application to the Welsh Ministers, asking them to make regulations to merge their principal areas to create a single new principal area. Subsection (2) dis-applies section 101 of the 1972 Act (by which a principal council may make arrangements for any of its functions to be discharged by a committee, a sub-committee or an officer of the council or by any other principal council) to the function of making a voluntary merger application. Subsection (3) further clarifies that making an application is a function which may not be discharged by the executives of those councils. Accordingly, the decision to make an application for voluntary merger may only be made by the full council of each of the principal councils making the joint application. If a merging council has a directly elected mayor, the mayor will be entitled to participate and vote in any meeting of the council to approve the application. If the Welsh Ministers decide not to approve a voluntary merger application they must notify the councils concerned.

##### **Section 121 – Consultation before making merger application**

390. Principal councils must have consulted about the proposal to merge before submitting a joint application for voluntary merger. The stakeholders to be consulted are listed in this section. A consultation undertaken by the councils seeking to merge before this section comes into force may satisfy the requirement to consult, so councils will be able to start work, if they so wish, on preparing a voluntary merger application whilst this Bill is still being considered.

##### **Section 122 – Guidance about merger applications**

391. The Welsh Ministers may issue guidance to principal councils in respect of a joint application for voluntary merger. Such guidance would cover matters the principal councils will need to consider in formulating an application, including the intended benefits, costs and savings, impact assessments, the scope of consultations and any other relevant issues (for example, once the provisions about choosing the voting system have come into force, identifying which voting system should be used for the first elections to the new council for the new principal area). This provision has retrospective effect; any guidance issued by the Welsh Ministers before the provision comes into force will have the same effect, so principal councils will be able to start work, if they so wish, on preparing a voluntary merger application whilst this Bill is still being considered.

#### **Merger Regulations**

##### **Section 123 – Merger regulations**

392. Having received a voluntary merger application, the Welsh Ministers may decide to make regulations (“merger regulations”) to give effect to the merger

proposed in the application. Section 123 sets out the specific issues which must be addressed in merger regulations.

393. The date on which the council for the new principal area will take over the full range of functions (“the transfer date” commonly also called “Vesting Day”), will almost always be 1 April in the specified year, to coincide with the start of the local government financial year. Only in very exceptional circumstances would the transfer date be set at a different date in the specified year. The merging areas and their councils will be abolished on the transfer date.

#### **Section 124 – Shadow councils and shadow executives**

394. Merger regulations must include provision about the establishment of the shadow council for the new principal area. In almost all voluntary mergers, the shadow council will be an elected shadow council, elected by local government electors in the areas of the merging councils. The shadow council would normally be elected in May in the year before the transfer date and the shadow councillors take office on the fourth day after the election.
395. Exceptionally, the shadow council may be constituted of all the councillors of the merging councils (a “designated” shadow council). The designated shadow council will be established from a date specified in the merger regulations.
396. The merger regulations must provide for the shadow council (whether elected or designated) to be organised to have a shadow executive in the form of an executive leader and cabinet.
397. The shadow council and its executive will work alongside the councils and executives of the merging authorities during the period (“the shadow period”) from the election or designation of the shadow council until the specified transfer date. The functions of the shadow council and the shadow executive will be set out in the merger regulations.
398. Arrangements for the funding of the shadow council must be included in the merger regulations and these could include placing responsibilities on one or more of the merging councils, particularly in respect of administering the shadow council’s finances.
399. In the case of an elected shadow council, on the transfer date the merging authorities and their councils will be abolished and the shadow council will automatically take over the full range of functions. No fresh elections will be held.
400. In the case of a designated shadow council, on the transfer date the merging councils will be abolished and the designated shadow council will take over. For the initial period after the transfer date (“the pre-election period”), the council of the new principal area will be constituted of the members who were elected to the old merging councils, albeit their old, merging councils will have been abolished on transfer day. The first elections to the new council will be held as soon as possible, probably on the first Thursday in May after the transfer date. The newly elected councillors will then take over on the fourth day after the elections and those who served on the designated shadow council will stand down (albeit some may well have been elected to the new council).

## **Section 125 – Voting system**

401. Section 7 of this Bill introduces new provision which will enable a principal council to choose its voting system, the choices being between FPTP or STV. Section 125 requires merger regulations to specify which system is to be used for the first elections of a council created by voluntary merger.
402. In the case of a voluntary merger, it would fall to the merging councils in the first instance to agree among themselves which system should be used for the first elections to the new authority and to make that choice known to the Welsh Ministers in the merger application. If the merging councils failed to agree, the formula set out in subsection (2) would apply. The Welsh Ministers would first specify the voting system used in all or the majority of the merging councils immediately before the date of the merger application; if both systems were used in an equal number of merging councils the Welsh Ministers would take the decision after consulting the merging councils.
403. It is intended that the provisions introducing the choice of voting system will come into force on 6 May 2022, the day after the next scheduled ordinary local government elections. If a voluntary merger application is submitted before the choice of voting system provisions come into force, the first elections to the resulting new council must be held using FPTP (subsection (4)).

## **Section 126 – Elections**

404. Section 126 requires merger regulations to specify the date for the first ordinary elections to the new principal council and the length of the term of office for the councillors elected at that election.
405. Merger regulations may also include provision to cancel the ordinary elections to the principal councils which are the subject of the merger and, if necessary, to extend the term of office for the councillors of those councils until the transfer date. No useful purpose is served by holding elections to councils which are scheduled to be abolished in the near future. Similarly, if one or more of the merging councils has a directly elected mayor, provision might be included in the merger regulations extend the term of a sitting mayor and cancelling a scheduled election.
406. The merger regulations may also dis-apply or modify, for a period specified in the merger regulations, the requirement (in section 89 of the 1972 Act) by which a by-election must be held to fill a casual vacancy in the council of a merging council. Section 89(3) also suspends by-elections if a casual vacancy occurs within six months of the next scheduled ordinary elections in the council concerned. Provision would need to be made in merger regulations to specify the last date on which a by-election in a merging council would be held; there has to be a cut-off date to prevent a situation whereby a by-election would otherwise be required to be held just days before the abolition of the existing principal local councils, which would be a waste of money and resources.
407. Merger regulations could also include provision dis-applying (in respect of a merging council) section 88 of the 1972 Act which sets requirements and time limits for filling a casual vacancy in the office of chair and vice-chair of a principal council. There would be little purpose in holding a special meeting of a merging council to fill such a vacancy if it occurs within a few weeks of the council's abolition.



408. Subsection (2)(c) of section 126 enables merger regulations to make provision for the conduct of by-elections, filling of casual vacancies etc. in shadow councils; this would include, for example, arrangements for specifying the returning officer for by elections in the period up until the shadow council has appointed its own returning officer.
409. Ordinary elections for community councils are usually combined with ordinary elections for principal councils for efficiency purposes. Subsection (2)(d) enables the community council elections to be postponed, probably to coincide with the date of the first ordinary elections to the new principal council.
410. Subsection (3) enables merger regulations to specify who will be responsible for the various arrangements about the first elections to the new council and the first meeting of the new council. In most circumstances, these would be shared between the merging councils and their officers, but if need be the Welsh Ministers may direct a principal council (under subsection (4)) as to the appointment of a returning officer.

## **Facilitating Mergers**

### **Section 127 - Duty on merging councils to facilitate effective transfer**

411. This section places a duty on merging councils to take all reasonable steps to facilitate the transfer of functions, staff etc. to give effect to the merger. The Welsh Ministers will have a power to direct a merging council to take action or not to take action if they consider the council is not discharging its duty under this section.

## **Chapter 2 – Restructuring of Principal Areas**

### **Conditions to be met**

#### **Section 128 – Conditions to be met before making restructuring regulations**

412. Section 128 enables the Welsh Ministers to make regulations for the local restructuring of principal councils in response to local circumstances. Section 128 also sets out the conditions which must be met before the Welsh Ministers may make restructuring regulations.
413. The first condition is that the Welsh Ministers must have received either a report of a special inspection of a principal council by the Auditor General for Wales under section 94 of the Bill or an abolition request submitted by a principal council under section 129 of the Bill.
414. The receipt of a special inspection report or an abolition request will not in itself require the Welsh Ministers to start a process which leads to restructuring regulations. The Welsh Ministers will need to consider the content of the report or the request and draw on such other evidence and information as is appropriate and available to them before moving on to the next stage. Not every special inspection report will give rise to concerns which lead Ministers to consider restructuring regulations as an option; it will depend entirely on the circumstances of the principal council in question.

415. If the Welsh Ministers consider it appropriate to do so, they must comply with the second condition. The second condition is that the Welsh Ministers must give notice to affected councils that they have received a special inspection report or an abolition request. The affected councils would be the principal council which was the subject of the special inspection report or had submitted the abolition request and any other principal council which could be affected by any proposal to restructure the principal council in question. The Welsh Ministers must publish such a notice.
416. The third condition is that if the Welsh Ministers consider it appropriate they must then consult any relevant persons and bodies about the course of action which they are considering taking in respect of the council in question. The persons who must be consulted are set out in the section and include the principal council which was the subject of the special inspection report or which submitted the abolition request (referred to as the “council under consideration”).
417. The fourth condition is that following such consultation the Welsh Ministers, on weighing up all the evidence and information, must conclude that effective and convenient local government is not likely to be achieved in the council under consideration before they may propose that restructuring regulations should be made in respect of the council.
418. If all the preceding conditions are fulfilled, the Welsh Ministers may move on to comply with the fifth condition. The fifth condition is that if the Welsh Ministers propose to make restructuring regulations they must give notice of those proposals to the council under consideration and:
- any other principal council, to which will be transferred part of the area of the council under consideration;
  - any other principal council which will be merged with all or part of the area of the council under consideration to form a completely new principal area; and
  - any other principal council which had been consulted under the third condition and might be affected by the consequences of restructuring regulations.
419. All the conditions must be complied with before the Welsh Ministers may make restructuring regulations.

## **Abolition Requests**

### **Section 129 – Abolition requests**

420. Section 129 enables a principal council to submit a written request (“an abolition request”) to the Welsh Ministers, asking them to consider abolishing the council and its area. The make abolition request must spell out the councils reasons for the request and must be published as soon as practicable.
421. Subsection (4) dis-applies section 101 of the 1972 Act (by which a principal council may make arrangements for any of its functions to be discharged by a committee, a sub-committee or an officer of the council or by any other principal council) to the function of making an abolition request. Subsection (5) further clarifies that making an abolition request is a function which may not be discharged by the executive of a principal council. Accordingly, an abolition

request may only be made by the full council of the council concerned. If the council has a directly elected mayor, the mayor will be entitled to participate and vote in any meeting of the council to approve the abolition request.

## **Restructuring Regulations**

### **Section 130 – Restructuring regulations**

422. Section 130 provides that restructuring regulations will provide for the abolition of the principal council under consideration and its area (i.e. one to which the five conditions in section 128 have been applied) on a date specified in the regulations (“the transfer date”). The regulations will specify the local government structures which will replace the principal council in question, which must take the form of either or both of the following:

- (a) for parts of the abolished principal area on the transfer date to become parts of other existing principal areas;
- (b) for the constitution of a new principal area on the transfer date by
  - the abolition of one or more other principal councils and their areas, and
  - the merger of the area(s) abolished in subsection (i) with all or part of the area of the principal council under consideration to create a new principal area.

### **Section 131 – Restructuring regulations which provide for part of a principal area to become part of another existing principal area**

423. If restructuring regulations include provision which transfers a part or parts of the principal area under consideration to another existing principal area, the regulations must include the details set out in subsection (1) of this section. Subsection (1)(d) requires the regulations to confirm that the voting system to be used in the first ordinary elections following the transfer date to be that which is used for elections to the principal council of the area to which the parts of the abolished council were transferred.

424. Subsection (2) lists the details which may be included in restructuring regulations involving the transfer of part or parts of the area under consideration to another existing principal area. The inclusion of the details listed in subsection (2) will depend on the circumstances of the restructuring. They may include the re-assignment of councillors for a transferred area to the council of the receiving principal area; this would allow the transferred area to be represented on the council of the receiving area until the next ordinary elections by which time there will have been time for a review of the electoral arrangements of the enlarged receiving area.

425. Subsections (2)(b) to (g) will enable restructuring regulations to make provision about a range of issues concerned with elections, executive arrangements, terms of office and remuneration in restructuring councils. Restructuring councils are the council under consideration and those councils which will receive part of the area of that council or be merged with part or all of that area. It may be necessary for example to cancel ordinary elections in the area being abolished, postpone ordinary elections in one or more of the receiving areas and extend the terms of councillors serving on the councils. If a council being abolished has a directly elected mayor it may be necessary to extend their term of office to end on the transfer date; if a receiving council has a directly elected mayor, it may be

necessary to re-define the area of their jurisdiction to accommodate the new parts of the council area and it may also be appropriate to consider the remuneration arrangements of elected members in the councils. It may be appropriate in some circumstances to change the name and status of a receiving area to also acknowledge the name and status of the area from which the incoming part was transferred (hence subsection (2)(i) and (j)).

### **Section 132 – Restructuring regulations which constitute a new principal area**

426. If restructuring regulations include provision which entails the creation of a new principal area (by virtue of abolishing one or more other principal areas and merging it or them with all or part of the area under consideration), the regulations must include the details set out in subsection (1) of this section. In this circumstance, not only the principal area under consideration will be abolished, but also any other principal area(s) with which all or part of the area of the council under consideration will be merged.
427. The new area must have a shadow council and subsection (1)(e) provides that unless specified otherwise the shadow council will be an elected shadow council. Subsection (4) enables the Welsh Ministers, if they consider it appropriate, to provide that the shadow council will be a designated shadow council. Subsection (7) defines the two types of shadow council which may be provided for.

### **Section 133 – Restructuring regulations: supplementary**

428. Section 133 enables restructuring regulations to include provision in addition to that set out in sections 131 and 132 to help give effect to a restructuring of any description.
429. Subsection (1) enables restructuring regulations to apply specified provision which will apply to voluntary mergers as set out elsewhere in the Bill. Section 133(1)(a) allows such tailoring of the provisions in Chapter 4 to this Part of the Bill (remuneration arrangements (see below) so they are appropriate and practicable to the circumstances of a restructuring which entails the creation of a new principal area (as provided under section 130(b)). Section 133(1)(b) and (c) enables restructuring regulations to include provision which tailors the provision set out in section 126 (elections and councillors) and paragraphs 2 and 3 of Schedule 10 (transition committees - see below) so it is appropriate and practicable to the circumstances of all types of restructuring.
430. The discretion given in section 133(1) to tailor other provision does not enable the regulations to include completely new provision; it must be intended to achieve the same objectives as the provision set out in the sections specified and any adaptation etc. is intended merely to accommodate the circumstances of the restructuring in question.
431. Section 133(2) enables restructuring regulations to include provision for the establishment of a committee to provide advice and recommendations to specified persons about the transfer of functions, liabilities and etc. (from one principal council to another). Such a committee might be needed in the circumstances of restructuring regulations where a principal council was abolished and its area was allocated among several other existing principal councils. A transition committee as provided for in Schedule 10 (as would be established where a new principal area is created) might not be practicable and

a committee including the abolished council and all the receiving councils might be provided for under this provision to consider the range of issues involved.

432. Subsection (2) also enables restructuring regulations to include provision for the establishment of a body corporate with responsibilities as described. Such a body (“a residuary body”) would not be needed where the principal council under consideration is merged in its entirety with another principal council to create a new principal area and council. In a restructuring where the area of the council under consideration is allocated between two or more other principal councils the successor council would not always be clear-cut. A residuary body might be established to take over the ownership and dispose of surplus property.
433. If the Welsh Ministers decide not to make restructuring regulations, they must notify all the principal councils which have been involved in the process up to that point.
434. Subsection (4) states, in specifying the voting system to be used at the first ordinary elections to a new principal council established under restructuring regulations, the restructuring regulations may specify only FPTP or STV. The choice of voting systems is introduced by section 7 of this Bill. The provisions introducing the choice of voting system are intended to come into force on 6 May 2022, the day after the next scheduled ordinary local government elections. If the Welsh Ministers have given notice of their proposals in respect of a restructuring under section 128(6) before the choice of voting system provisions come into force, the first elections to the resulting new council will have to be held using FPTP (subsection (5)).

## **Facilitating restructuring**

### **Section 134 – Duties on restructuring councils to facilitate transfer**

435. This section places a duty on restructuring councils to take all reasonable steps to facilitate the transfer of functions, staff etc. to give effect to the restructuring. The Welsh Ministers will have a power to direct a restructuring council to take action or not to take action if they consider the council is not discharging its duty under this section.

## **Chapter 3 – Functions Relating to Mergers and Restructuring**

### **Section 135 and Schedule 11 – Transition Committees**

436. Section 135 introduces Schedule 11 which make provision about the establishment of transition committees in merging and restructuring authorities.

## **Part 1 – Merging Councils**

### **Paragraph 1 – Transition committees for merging councils.**

437. Immediately after making an application for voluntary merger, the applicant councils (“the merging councils”) must establish a transition committee.

### **Paragraph 2 – Membership of transition committees for merging councils**

438. A transition committee is to be made up of an equal number of elected members of the merging councils, with a minimum number of 5 members per council. The senior executive member (i.e. the executive leader or directly elected mayor if the

council has one) of each of the merging councils must be a member of the transition committee. A merging council's executive member responsible for finance (who may also be the executive leader) must also be appointed to the transition committee.

439. A transition committee may co-opt additional persons to serve as members on the committee, but co-optees do not have voting rights. A merging council's membership of a transition committee must reflect the political balance of the merging council, in accordance with the requirements set out in Schedule 1 to the 1989 Act.

### **Paragraph 3 - Functions of transition committees and sub-committees for merging councils**

440. A transition committee must advise and make recommendations to the councils and to the shadow council for the new principal area. The purpose is to ensure that the transition committee helps identify the issues which need to be addressed in the transition from the old councils to the new council and makes recommendations to address the issues identified.
441. A transition committee must also give advice and recommendations to the Welsh Ministers on any issue the Welsh Ministers may specify in a direction to the committee.

## **Part 2 – Restructuring councils**

### **Paragraph 4 – Transition committees for restructuring councils**

442. After giving notice under section 128(6) of the Bill that they propose to restructure specified councils, the Welsh Ministers may direct the councils specified in the direction (“the restructuring councils”) to establish a transition committee; the functions and membership of the transition committee may be specified by the Welsh Ministers in the direction.

## **Part 3 – Transition committees of merging councils and restructuring councils**

### **Paragraph 5 – Sub-committees of transition committees for merging councils or restructuring councils**

443. Paragraph 5 enables a transition committee (under Part 1 or Part 2 of this Schedule) to establish one or more sub-committees to provide the transition committee with advice on matters the transition committee refers to it. Anyone appointed to a sub-committee who is not an elected member of one of the merging or restructuring councils will not be entitled to vote on matters before the sub-committee.

### **Paragraph 6 – Provision of funding, facilities and information to transition committees for merging councils or restructuring councils**

444. The merging councils or restructuring councils must meet the costs of the transition committee. If the councils fail to agree the apportionment of costs between themselves the Welsh Ministers will determine the proportion of cost to be borne by each council. The merging or restructuring councils must provide facilities, resources including staff and information reasonably requested to the transition committee or any sub-committee of a transition committee to enable the committee to undertake its functions.

### **Paragraph 7 - Transition committees for merging councils or restructuring councils: further provision**

445. The Welsh Ministers may direct one or more transition committees to require them to exercise their functions in accordance with the direction and a transition committee must comply with any direction given.
446. Neither an audit committee nor an overview or scrutiny committee of a merging council or a restructuring council may exercise its functions in respect of anything done by the transition committee. Transition committees will not be empowered to take decisions on policy, strategic or operational matters in respect of the new or existing council; their roles will be advisory and to make recommendations. The relevant audit and scrutiny committees are able to consider any decisions taken by the existing councils in light of advice or recommendations from the transition committees.

### **Section 136 and Schedule 12 – Restraint of transactions and recruitment**

447. Section 136 introduces Schedule 12 which enables the Welsh Ministers to impose restraints and certain controls on specified activities of merging councils and restructuring councils.

### **Paragraph 1 - Restraining transactions and recruitment etc. by direction**

448. The Welsh Ministers may direct a merging council or a restructuring council not to undertake a “restricted activity” without either considering the opinion of a person specified in the direction or obtaining the written consent of a person specified in the direction. The persons who may be specified in the direction are such bodies or persons as the Welsh Ministers consider appropriate, which may include the Welsh Ministers themselves, transition committees and shadow councils (see paragraph 2(2)).
449. Paragraph 1(2), describes the restricted activities in respect of which directions under this Schedule can be issued.
450. Paragraph 1(3) enables the Welsh Ministers to direct a merging council or a restructuring council seeking to appoint or designate a person to a “restricted post” to comply with specified requirements about the appointment or designation; the “restricted posts” are set out in paragraph 1(4).
451. Paragraph 1(5) requires a merging council or a restructuring council to provide details of a proposal to carry out a restricted activity to the person specified in a direction and to provide the Welsh Ministers with details of a proposal to appoint or designate a person to a restricted post.
452. Paragraph 1(6) requires a merging council or a restructuring council to publish its reasons for determining to proceed with a restricted activity when the person specified in a direction has given the opinion that it would not be appropriate for the merging council or restructuring council to do so.

### **Paragraph 2 - Directions under paragraph 1: supplementary**

453. Paragraph 2 enables a direction under paragraph 1 to be tailored so different persons may be specified to provide an opinion/consent in relation to different matters. Directions can also provide for different requirements in relation to the same restricted activities of differing values; for example, the direction could

provide that land purchases of a lower value may require the consent of a shadow council whereas higher value purchases may require the consent of the Welsh Ministers.

**Paragraph 3 - Directions under paragraph 1: further provision about reserves**

454. Paragraph 3 allows for a direction under paragraph 1 to permit the inclusion of specified descriptions of reserves, or reserves of up to a specified threshold, in a calculation of the budget requirement without needing the opinion/consent of a specified person.

**Paragraph 4 - Directions under paragraph 1(3): supplementary**

455. Paragraph 4 enables a direction under paragraph 1(3) concerning restricted posts to be tailored so different requirements may be specified for different descriptions of posts in the same council.

**Paragraph 5 - Directions: enforcement and consequences of contravention**

456. The consequences of failing to comply with a direction issued in relation to a restricted activity are set out in paragraph 5. In the event of a failure to comply, the contract or agreement entered into will be unenforceable; the land transaction or capital acquisition will be void, any grant or other financial assistance or a relevant loan will be repayable, and the use of unauthorised reserves in setting a budget requirement will be treated as though the budget calculation had not been made thereby preventing the merging authority from setting and collecting its council tax.

**Paragraph 6 - Interpretation of paragraphs 1 and 7**

457. Paragraph 6 sets out the minimum thresholds in relation to the restricted activities specified in paragraph 1. A direction issued by the Welsh Ministers under paragraph 1 could only apply to transactions at and above the thresholds set in this paragraph. The Welsh Ministers may amend by regulations, the thresholds set out in this paragraph. Transactions in relation to the activities described in paragraph 1 which are below the specified thresholds will not be subject to the regime set out in this Schedule.

**Paragraph 7 - Determining whether financial limits have been exceeded**

458. Paragraph 7 sets out how to determine whether the financial thresholds have been exceeded, including taking into account and adding together similar contracts etc. This is to guard against councils splitting contracts etc. merely to avoid having to comply with the requirements of the transactions regime. In terms of considering a sequence of similar contracts etc., the similar contracts entered into by a council from the “relevant date” will be taken into account and added together. For a merging council, the relevant date will be the date on which the merger application was received by the Welsh Ministers; for a restructuring council the relevant date will be the date on which the Welsh Ministers gave notice to that council under section 114(6) of the restructuring proposal.

**Paragraph 8 - Financial limits: further provision**

459. If there is disagreement about whether a threshold has been exceeded or not, the matter will be decided by the Welsh Ministers.



### **Paragraph 9 - Guidance in relation to transactions, recruitment etc.**

460. The Welsh Ministers may issue guidance about the matters in this Schedule, to which any person mentioned in a direction under paragraph 1 must have regard. Principal councils are subject to a duty to have regard to guidance issued by the Welsh Ministers by virtue of section 145.

### **Section 137 - Reviews of electoral arrangements**

461. The Welsh Ministers may direct the Commission to conduct an initial review of electoral arrangements for principal areas which are the subject of a voluntary merger application or the principal areas to be included in a restructuring proposal for which the Welsh Ministers have given notice under section 128(6). If the restructuring involves the transfer of part of an area to be abolished to another principal area, the direction must specify the area which is to be subject to the initial review (since it may not be necessary to include the whole of the receiving area in the review); a direction for an initial review for such areas may also specify that certain matters set out in paragraph 3(1) of Schedule 1 to the Bill (which would normally be considered in an initial review of whole principal area) will not need to be considered in the review of what is a more limited area.
462. A direction under this section must specify the voting system in relation to which the electoral arrangements are to be reviewed.
463. The section introduces Schedule 1 (for which see paragraphs 60 to 86 of these Notes) which makes provision for the conduct of an initial review by the Commission in respect of mergers and restructurings.
464. Subsection (6) enables the Welsh Ministers to amend by regulations section 29(3) of the 2013 Act. The power will enable the Welsh Ministers to re-set the start of the 10-year review period during which the Commission must undertake a review of electoral arrangements for all principal councils in Wales. The existing 10-year review cycles start from 30 September 2013, when section 29(3) of the 2013 Act came into force.

### **Section 138 - Prohibition of changes to executive arrangements**

465. On receipt of a voluntary merger application or having given notice of a restructuring proposal under section 128(6), the Welsh Ministers may direct the merging councils or the restructuring councils that they must not take any steps to change their executive arrangements (including holding a referendum on a proposal to change) until merger or restructuring regulations have come into force or the Welsh Ministers have given notice to the principal councils concerned that they do not propose to make such regulations. While a direction is in force, a council is subject to no duty imposed by or under another enactment to take steps to change its form of executive. A council under a direction would therefore not be required to act on a petition from local government electors under section 34 of the 2000 Act calling for a referendum on a proposal to introduce or to abolish a directly elected mayor.

### **Section 139 - Requirement on principal councils to provide information to the Welsh Ministers**

466. The Welsh Ministers may direct any principal council which is involved in a voluntary merger or a restructuring to provide the Welsh Ministers with any

information they consider appropriate for the purposes of achieving the merger or the restructuring.

#### **Section 140 – Requirement on principal councils to provide information to other bodies**

467. The Welsh Ministers may direct any principal council which is involved in a voluntary merger or a restructuring to provide to specified relevant bodies any information the Welsh Ministers consider appropriate for the purposes of achieving the merger or the restructuring. The relevant bodies are defined as any other principal council involved in the merger or restructuring, a transition committee and any shadow councils.

#### **Chapter 4 - Remuneration arrangements for new principal councils**

468. These sections make provision for the remuneration arrangements for shadow council and new councils, with reference to the existing arrangements whereby the Panel exercises functions under Part 8 of the 2011 Measure. The Panel has statutory responsibility for determining the range and level of allowances payable to elected members of principal local authorities and in relation to the salaries of chief executives of principal councils.

#### **Section 141 - Directions to Independent Remuneration Panel for Wales**

469. Section 141 enables the Welsh Ministers to direct the Panel to perform “the relevant functions” in relation to shadow councils and new principal councils for the financial year in which the transfer date falls (i.e. the date on which the shadow council assumes the full range of functions and replaces the merging / restructuring councils which are abolished). The relevant functions are those set out in section 142 of the 2011 Measure (which concerns payments to be made to elected members) and section 143 of the 2011 Measure (pensions for elected members).
470. The Panel must follow the procedures set out in Part 8 of the 2011 Measure (other than section 143A of that Measure) subject to the provisions in section 141 of this Bill and the modifications to the application of Part 8 of the 2011 Measure which are described in subsection (4)(a)-(e).
471. Subsection (4)(a) provides that the shadow council is a “relevant authority” for the purposes of Part 8 of the 2011 Measure; “relevant authority” being defined in section 144(2) of the 2011 Measure. Subsection (4)(b) relates to the requirements in sections 147 and 148 of the 2011 Measure about the dates by which the Panel must publish its annual report and drafts of the annual report. The transfer date for a new principal council will almost always be 1 April, but the annual report and draft annual report in which the Panel will make its determinations for the first year of that council will be published in the months before the transfer takes place. Subsection (4)(b) provides that in this circumstance the Panel may make determinations in respect of “the council-in-waiting” before it is established, as if it were already established.
472. Subsection (5) will allow the Panel to address the circumstances where a designated shadow council has become the fully vested council on the transfer date (almost always 1 April) and is not replaced by the elected council for the new area until the first ordinary elections are held, probably in May of the same year. Subsection (5) enables the Panel, in making determinations for the first

financial year of the new authority, to be able to make different determinations for the periods before and after the first set of elections.

### **Section 142 - Reports of Panel relating to shadow councils and new principal councils**

473. Section 142(2) requires the Panel to include its first determinations on pay and pensions for members of the shadow council in a report which must be published by a date set out in the direction given to the Panel by the Welsh Ministers under section 141(1). The “first report” in respect of the shadow council may be an annual report or a supplementary report; this will enable the report to be published at a time which is appropriate in relation to the establishment of the shadow council, rather than be conditioned by the timetable required under section 147 of the 2011 Measure. Additionally, section 148(1A)(b) of the 2011 Measure is dis-applied if the first report is a supplementary report, so the period for representations on a draft report in this circumstance is not conditioned by the restrictions in section 148(1A)(b) and may be as long as is considered appropriate.
474. Subsection (5) sets out to whom the Panel must send a copy of a draft of a report (whether an annual or a supplementary) which relates to a shadow council or the council for a new principal area which will not have been published at the time of the report’s publication.
475. Where the first report is a supplementary report, subsections (6) to (8) provide that the specified requirements which may be applied by an annual report under the 2011 Measure may be applied in this particular circumstance by the supplementary report.

### **Section 143 – Guidance to Panel**

476. Section 143 requires the Panel to have regard to guidance issued by the Welsh Ministers about the exercise of its functions under sections 141 and 142.

### **Section 144 - Pay policy statements**

477. Section 144 requires a shadow council to prepare and approve a pay policy statement (as provided for in sections 38 and 39 of the Localism Act 2011) for the periods set out in subsection (3). The purpose is to ensure the shadow council has in place a public statement which articulates shadow council’s policies on a range of issues relating to the pay of its future workforce, particularly its chief officers and its lowest paid employees. To assist the shadow council, subsection (1) requires a transition committee to publish recommendations for the pay policy statement to be prepared by the shadow council, no later than six weeks before the day the shadow council is elected or established. Shadow councils are prohibited from appointing a chief officer until the pay policy statement for the period mentioned in subsection (3) has been prepared and approved.
478. The term “chief officer” has the same meaning as in section 43(2) of the Localism Act 2011 and covers the following officers of a principal council:
- (a) the head of paid service (designated under section 4(1) of the 1989 Act;
  - (b) its chief executive (appointed under section 59 of this Bill);
  - (c) a monitoring officer (designated under section 5(1) of the 1989 Act);
  - (d) a statutory chief officer mentioned in section 2(6) of the 1989 Act, i.e.:
    - the director of children’s services

- the director of public health
  - the chief education officer
  - the director of social services
  - an officer responsible for the administration of the authority's financial affairs.
- (e) a non-statutory chief officer mentioned in section 2(7) of the 1989 Act, i.e.:
- a person for whom the head of paid service is directly responsible
  - a person who, as respects all or most of their duties, is required to report directly or is directly accountable to the head of paid service
  - any person who, as respects all or most of their duties, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (f) a deputy chief officer mentioned in section 2(8) of the 1989 Act, i.e. a person who, as respects all or most of their duties, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers. This does not include a person whose duties are solely secretarial or clerical or otherwise in the nature of support services.
479. Subsection (6) applies section 143A of the 2011 Measure to shadow councils. Accordingly, the Panel will be enabled to make recommendations to a shadow council about any policy in the shadow council's pay policy statement and any proposed change to the salary of the shadow council's chief executive. A shadow council must have regard to any recommendation from the Panel when performing its functions under section 38 and 39 of the Localism Act 2011. If the shadow council proposes to make a change to the salary of its chief executive which is not commensurate with a change to the salaries of the council's other staff, the shadow council must consult the Panel about the change and have regard to any recommendation received from the Panel.
480. A shadow council must make arrangements to publish its pay policy statement (subsection (4)(c)).

### **Section 145 – Guidance**

481. The bodies listed in section 145 must have regard to guidance issued by the Welsh Ministers for the purposes of Part 7 (mergers and restructuring).

## **Chapter 5 – Supplementary**

### **Section 146 – Other consequential etc. provision**

482. Section 146 enables the Welsh Ministers to include in merger and restructuring regulations such supplementary, incidental, consequential, transitional and saving provision and to make such provision as they consider appropriate to give full effect to the merger or restructuring provided for in the merger or restructuring regulations. The Welsh Ministers may also make regulations of general application to deal with consequences which may have an impact beyond the merger or restructuring specified in the merger or restructuring regulations. The section identifies some of the specific uses of these powers, including for the transfer of staff, property and liabilities (including criminal liabilities) from merging authorities to the successor authority.
483. Subsection (8) provides that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (TUPE) apply to a transfer of staff

made under these regulations, apart from regulations 4(6) and 10. Excluding TUPE regulation 4(6) means that the liability of an abolished council to be prosecuted for, convicted of and sentenced for any offence will be transferred to the new council. Without this provision any criminal liability of an abolished council under or in connection with contracts of employment transferred to the new council would disappear when the councils are abolished. Excluding TUPE regulation 10 preserves the occupational pension rights of staff being transferred under or by virtue of merger regulations. Without this provision, the new council would not be under a legal obligation to honour pension rights, duties or liabilities under existing contracts of employment.

### **Section 147 – Initial procedure for restructuring regulations**

484. Section 147 sets out an enhanced procedure for the approval of restructuring regulations by the Senedd.
485. The Welsh Ministers must lay before the Senedd a proposed draft of the restructuring regulations, an explanation of why the Welsh Ministers are satisfied that, unless restructuring regulations are made, effective and convenient local government is not likely to be achieved in the area of the council under consideration and give details of the consultation undertaken about the restructuring proposal.
486. The proposed draft of the restructuring regulations and the required accompanying documents must lay before the Senedd for no less than 60 days. At the end of the 60 days, the Welsh Ministers may lay before the Senedd the draft statutory instrument containing the restructuring regulations; this must be accompanied by a statement which sets out what representations have been received since the proposed draft regulations were laid and what changes, if any, have been made in the final draft regulations.
487. The enhanced procedure does not apply to regulations made only for the purpose of amending restructuring regulations.

### **Section 148 – Terms used in this Part**

488. Section 148 defines certain terms used in Part 6 of the Bill

### **Section 149 – Repeals of other enactments**

489. Section 149 repeals certain specified legislation, namely:
- (a) Chapter 2 of Part 9 of the 2011 Measure to remove the existing power and procedure whereby the Welsh Ministers may amalgamate two or three principal councils; the power and procedure in the 2011 Measure will be replaced by those in this bill enabling the Welsh Ministers to make restructuring regulations.
  - (b) Section 23(4)(e)(ii) and (iii) of the 2013 Act. Section 23 of the 2013 Act enables the Commission, of its own initiative or at the request of a principal council, to conduct a review of one or more principal areas. In relation to such a review the Commission may make such “principal area boundary changes” as it considers appropriate. Section 24(4)(e) defines “principal boundary changes”; this amendment removes the option that the Commission could make recommendations for abolishing a principal area (sub-paragraph (e)(ii)) and for constituting a new principal area (sub-paragraph (e)(iii)). This will be replaced by the powers and procedures for restructuring regulations set out in Part 7 of this Bill.

- (c) Section 1(1), 2 to 39 and 44 of the Local Government (Wales) Act 2015. This Act provided for preparatory work and voluntary mergers in the context of a proposed wholesale reorganisation of local government to be achieved by 1 April 2020. That programme is not being pursued so the specified provisions are now either obsolete or spent.

## **PART 8 – LOCAL GOVERNMENT FINANCE**

### **Section 150 - Powers of billing authorities to require the supply of information relating to hereditaments**

490. This section amends Schedule 9 to the Local Government Finance Act 1998, to enable a billing authority in Wales to serve notice on a person requiring them to supply the authority with information of a specified nature to assist it in carrying out its non-domestic rating function.

### **Section 151 – Requirement to supply to billing authorities information relevant to determining liability to non-domestic rates**

491. This section provides the Welsh Ministers with powers (by Regulations) to require persons to provide Billing Authorities with information of a specified nature. The enabling power enables Regulations to allow a Billing Authority to impose a financial penalty on persons who do not provide the information. The Regulations may also provide for a person who knowingly or recklessly provides false information to be liable on summary conviction to a fine. The Regulations must also provide for a person to appeal to imposition of a penalty.

### **Section 152 - Powers of billing authorities to inspect properties**

492. This section provides Billing Authorities with a power to enter and survey hereditaments in an authority area to assist the authority in carrying out its billing functions relating to non-domestic rates. Before exercising its power, a Billing Authority must obtain the approval of the Valuation Tribunal for Wales and provide ratepayers with at least 24 hours notice of an inspection. Section 151 sets out that a person who wilfully delays or obstructs an inspection is liable on summary conviction to a fine.

### **Section 153 - Multipliers**

493. This section amends Schedule 7 to the Local Government Finance Act 1988 so that the Consumer Prices Index applies for the measure of inflation when calculating the non-domestic rates multiplier (previously it was the Retail Prices Index). A power is also provided to the Welsh Ministers to change the measure of inflation to a figure or description laid out in regulations.

### **Section 154 – Amendment of Chapter 3 of Part 5 of the Local Government Finance Act 1988**

494. This section amends existing provision in sections 84J, 84K, 84M, 84N and 84P of the Local Government Finance Act 1988 to correct incorrect cross references, the consequences of which make that provision not fully effective.

### **Section 155 – Joint and several liability to pay council tax**

495. This section amends Schedule 1 to the Local Government Finance Act 1992 to enable the Welsh Ministers to specify in regulations that classes of persons disregarded for the purposes of a council tax discount are also not to be jointly or severally liable for council tax in relation to any chargeable dwelling.

### **Section 156 – Removal of power for imprisonment of council tax debtors**

496. This section amends paragraph 8 of Schedule 4 to the Local Government Finance Act 1992. It limits the enabling power so that the power to make Regulations for the enforcement of council tax debt by way of committal to prison can only be made in relation to billing authorities in England.

### **Section 157 – Procedure for certain regulations and orders made under the Local Government Finance Act 1992**

497. This section sets out the procedure which must be followed when making certain regulations and orders under the Local Government Finance Act 1992.

## **PART 9 - MISCELLANEOUS**

### **Section 158 – Information sharing**

498. This section provides that, for the purposes of carrying out a specified function in relation to a principal council, a member of the information sharing group may request information from another member of the information sharing group. That member is required to comply with such a request if the information was obtained or created in the exercise of that member's specified functions, and if it is reasonably practicable to provide the information. The members of the information sharing group, and the specified functions of each member are set out in the table.
499. This section also provides that a member of the information sharing group may provide information created or obtained otherwise than in the exercise of their specified functions, to the Auditor General for Wales or the Welsh Ministers for the purpose of exercising their functions under Part 4, Chapter 1 of Part 6 and Chapter 2 of Part 7 of the Bill.
500. The Welsh Ministers may make regulations to amend the table listing the members of the information sharing group and their specified functions. Before making any regulations to amend the table, the Welsh Ministers must consult with bodies representing the interest of principal councils as the Ministers think appropriate, the Auditor General for Wales, and the person to whom the new or amended entry relates or the person to whom an entry to be omitted relates.
501. Subsection (10) partially repeals section 33 of the 2009 Measure in so far as it overlaps with the provisions of this section. This partial repeal retains the provisions relating to information sharing in connection with the Auditor General for Wales' relevant functions under section 17 and 19 of the 2009 Measure. The full repeal of section 33 is contained in section 112.

### **Section 159 Head of democratic services**

502. Section 8 of the 2011 Measure requires a local authority to designate one of its officers as its head of democratic services. This officer is responsible for discharging the functions set out in section 9 of the Measure.
503. Before amendment, section 8(4)(b) of the 2011 Measure prevented a local authority from designating their monitoring officer as their head of democratic services. Section 159 removes this restriction

504. This section also amends section 8(4) to provide that an authority's chief executive cannot be their head of democratic services.
505. Subsection (2) amends section 43 of the Localism Act 2011 to designate the post of head of democratic services a chief officer for the purposes of the council pay policy statement. This aligns with changes made to the Local Authorities Standing Orders (Wales) (Amendment) Regulations 2014 which provide for the head of democratic services to be afforded the same statutory protection as other officers critical to effective governance.

### **Section 160 and Schedule 13 – Abolition of polls consequent on a community meeting**

506. Section 160 introduces Schedule 13 which provides for the abolition of community polls, with the exception of, community governance polls, which enable a community to hold a poll in respect of a proposal to establish or dissolve a community council or to group with other communities under a common community council.
507. Paragraph 6(5) amends Schedule 12 of the 1972 Act providing for a Regulation making power that will allow the Welsh Ministers to make Regulations about the conduct of community governance polls

### **Section 161 – Appointment by Local Democracy and Boundary Commission of its chief executive**

508. Section 161 amends Section 8 of the 2013 Act removing the requirement for Welsh Ministers to appoint the Chief Executive and enabling the Commission to appoint its Chief Executive.
509. The section provides for Welsh Ministers to elect to appoint a Chief Executive in circumstances where the Commission has been unable to appoint to the post during a six month period immediately following the point at which the office becomes vacant.
510. Neither the Commission nor the Welsh Ministers may appoint a person to the role of Chief Executive if that person holds one of the positions set out in subsection (5).

### **Section 162 – Directions under section 48 of the Local Government (Democracy) (Wales) Act 2013**

511. This section amends section 48 of the 2013 Act to provide a power for the Welsh Ministers to direct the Commission, under certain circumstances to either:
- conduct a further review
  - stop conducting a review
  - not to conduct a review

### **Section 163 and Schedule 14 – Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015**

512. Section 163 amends Chapter 3 of Part 4 of the WFG Act to:
- Remove the requirement that the same Local Health Board is a member of each merging public services board
  - Enable PSBs which have merged to de-merge;



- Clarify what steps need to be taken regarding the preparation of local well-being plans following the merger or demerger of boards.
513. Subsection (2) removes Section 47(3) of the WFG Act which states that boards may only merge if the same Local Health Board is a member of each board seeking or being directed to merge, and no other Local Health Board is a member of any of those boards.
  514. Subsection (3) adds additional subsections to section 47 of the WFG Act. The new subsections (7) to (9) provide that a merged board can demerge, or partially demerge (or be directed by Welsh Ministers to do so) if it is considered that it would assist in contributing to the achievement of the well-being goals. This mirrors the existing provisions for merger.
  515. The new subsections (5), (6), (10) and (11) in section 47 of the WFG Act clarify what steps need to be taken regarding the preparation of local well-being plans following the merger, demerger or partial demerger of boards.
  516. The WFG Act has previously been silent on what happens following a merger. The act of merger does not trigger the production of a new well-being plan. These are only triggered by local government elections ('ordinary elections' under section 26 of the 1972 Act). The same will be the case for demerger or partial demerger.
  517. This leaves doubt as to what local well-being plan a newly merged, or demerged, PSB would be working to until the next set of local government elections took place; which depending on the point at which a merger or demerger took place could be a number of years.
  518. In practice the newly merged, or demerged, PSBs would draw on the local well-being plans in place for the relevant areas immediately prior to merger or demerger. The new provisions are intended to reflect this.
  519. Following a merger or demerger, the PSB is given the flexibility to adopt and adapt the local well-being plans in effect for its area immediately before it was established) to whatever extent the newly formed PSB considers appropriate (which could be entirely, not at all, or anything in between).
  520. There is no requirement to revisit the assessment of local well-being. This is only triggered by the production of a new local well-being plan published under subsection (7) of section 39 of the WFG Act (i.e. in relation to a local government election). On the whole the assessments are produced to provide a reliable evidence base for a whole government election cycle. PSBs are entitled to draw on evidence additional to the assessments so if there are factual changes which they think should be reflected in their plans post-merger/demerger, they are able to draw on that information without having to produce new assessments of well-being.
  521. The new subsection (12) provisions state that before publishing a plan following a merger or demerger, a board must consult the Future Generations Commissioner and the Welsh Ministers. Since a merger or demerger may be triggered by a direction from the Welsh Ministers, it makes sense for PSBs to be required to consult the Welsh Ministers on their revised plans so that Welsh

Ministers have a formal opportunity to satisfy themselves that the revised plans are likely to promote the purpose behind the Ministerial direction.

- 522. The PSB will have discretion over whoever else it consults. Statutory guidance under the WFG Act gives guidance about the bodies a PSB might consult.
- 523. If a PSB considers it appropriate to consult its invited partners, (and the likelihood is it will), the duty to prepare and publish ‘as soon as reasonably practicable’ must be read in the light of the time it will take for the PSB to consult them.
- 524. This section introduces Schedule 14 which sets out amendments to existing legislation in light of the changes made to the WFG Act. Paragraph 1 relates to consequential amendments to the WFG Act for example adding references to the demerger of PSBs where there is a reference to a merger. Subsection (6) of section 39 is being removed (and any other references to this subsection in the WFG Act) because boards have already produced their first well-being plans following commencement of the section.
- 525. Paragraphs 2 to 9 make amendments to other Acts which refer to local well-being plans.

#### **Section 164 – Combined Fire and Rescue Authorities: inquiries**

- 526. This section amends sections 2 and 4 of the Fire and Rescue Services Act 2004 to remove the requirement for the Welsh Ministers to hold an inquiry when varying a Fire and Rescue Authority’s combination order, except where the variation alters the area served by a FRA, or would revoke the combination order with a view to creating a wholly different configuration of FRAs in Wales. However, no inquiry would be required if the area served were to change as a result of an order under Part 3 of the 2013 Act, or regulations under Part 6 of this Bill.
- 527. Section 164 also amends section 34(3) of the 2013 Act to require the Commission to consult any FRA for an area which may be affected by a proposed review of local government arrangements.

#### **Section 165 – Performance and governance of Fire and Rescue Authorities**

- 528. This section inserts a new section 21A into the Fire and Rescue Services Act 2004 to provide powers for the Welsh Ministers to make regulations requiring FRAs in Wales to develop strategic plans. Such plans would need to relate to the exercise of the authority’s functions and the regulations may require the plans to describe the extent to which they reflect the objectives and priorities set out in the Fire and Rescue National Framework prepared by Welsh Ministers under section 21 of that Act. Such regulations may also specify the performance management arrangements to be used to assess an authority’s performance against these plans.
- 529. Section 21A(1), (2) and (3) gives the Welsh Ministers powers to make regulations requiring FRAs in Wales to make a plan in relation to the exercise of their functions, and to impose requirements in respect of that plan, including its content, preparation and revision, publication and the period to which it relates. In relation to the plans’ content, the Welsh Ministers may, in particular, impose a requirement to set out the authority’s priorities and objectives, an explanation of the extent to which the plan reflects the National Framework prepared by the

Welsh Ministers under section 21, the actions the FRA will take to deliver these, and how it intends to assess its performance.

530. Section 21A(4) gives the Welsh Ministers powers to make regulations making provision for assessing and reporting on an FRA's performance, including imposing requirements on FRAs for doing so. This may include specifying a range of performance measures, for example, performance indicators, qualitative techniques (case studies and surveys) and analytical techniques (benchmarking) for FRAs to use to assess their performance and progress against the strategic plans. It may also include information on the appropriate timing of, and audience for, performance reporting.
531. Section 21A(5) requires the Welsh Ministers to consult FRAs (or persons representing FRAs), employee representatives, and any other persons whom the Welsh Ministers consider appropriate before making regulations under this section.

#### **Section 166 – Fire and rescue authorities: disapplication of the 2009 Measure**

532. Section 166 removes “fire and rescue authorities” from the definition of “Welsh improvement authority” in section 1 of the 2009 Measure and makes other amendments so that the improvement regime set out in Part 1 of the 2009 Measure ceases to apply to FRAs.

#### **Section 167 – National Park authorities: disapplication of the 2009 Measure**

533. Section 167 removes “a National Park authority for a National Park in Wales” from the definition of “Welsh improvement authority” in section 1 of the 2009 Measure and makes other amendments so that the improvement regime set out in Part 1 of the 2009 Measure ceases to apply to NPAs.

#### **Section 168 – Repeal of the 2009 Measure**

534. This section repeals the 2009 Measure and amends other enactments to remove references to the provisions of the 2009 Measure.

### **PART 10 - GENERAL**

#### **Section 169 – Interpretation**

535. Section 169 sets out the defined terms used in the Bill.

#### **Section 170 – Directions**

536. Section 170 sets out the requirements for Directions made under the Bill.

#### **Section 171 – Power to make consequential and transitional provision etc.**

537. Section 171 provides the Welsh Ministers with a power to make regulations where they consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of the Bill to make supplementary, incidental or consequential provisions or transitional, transitory or saving provision. The regulations made may amend, modify, repeal or revoke any enactment.

#### **Section 172 – Regulations under this Act**

538. Section 172 makes provision about how regulations under the Bill are to be made in terms of the procedure of the Senedd, and describes the ancillary provision

(supplemental, incidental, consequential, transitional, transitory or saving provision) that may be made in regulations.

**Section 173 – Coming into force**

539. Section 173 sets out when the provisions of this Bill comes into force.

**Section 174 – Short Title**

540. Section 174 provides that the short title of the Bill is the Local Government and Elections (Wales) Act 2021.

## Annex 2: Table of Derivations

The table below is intended to provide information on the derivation of the provisions of the Local Government and Elections (Wales) Bill. The table does not provide definitive or exhaustive guidance, and should be read in conjunction with the Bill and with the explanatory notes to the Bill. While care has been taken to ensure that the document is as accurate as reasonably practicable, it does not purport to be, and should not be relied on as, authoritative.

### Key to abbreviations in this Annex

RPA 1983	Representation of the People Act 1983
LGA 1972	Local Government Act 1972
LGA 2000	Local Government Act 2000
LG Measure 2009	Local Government (Wales) Measure 2009
PCPA 2004	Planning and Compulsory Purchase Act 2004
SI 949/2006	The Public Services Ombudsman for Wales (Standards Investigations) Order 2006

### Part 1 Elections

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
1 to 12	New	
13	Section 36 RPA 1983	No
14 to 18	New	
19	New	
20	Section 80 LGA 1972	Yes
21	Section 116 LGA 1972	Yes
22	Section 36 RPA 1983	Yes
23	Section 199B RPA 1983	No
24	New	
<b>Schedule 1: Initial Reviews of Electoral Arrangements</b>		
1 to 14	New	
<b>Schedule 2: Minor and consequential amendments relating to Part 1: Elections</b>		
<b>Part 1: Primary Legislation</b>		
1	New	
2	Subparagraph (4) derives from section 36 RPA 1983	No
3 to 15	New	
<b>Part 2: Subordinate Legislation</b>		
16 to 18	New	
19	Largely derives from section 199B RPA 1983	No

## Part 2 General Power of Competence

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Chapter 1 The General Power</b>		
25 to 30	New	
<b>Chapter 2 Eligible Community Councils</b>		
31 to 38	New	
<b>Schedule 3: Amendments Relating to Part 2: General Power of Competence</b>		
<b>Part 1 Amendments Relating to Chapter 1 Of Part 2: The General Power</b>		
1 to 8	New	
<b>Part 2 Amendments Relating to Chapter 2 Of Part 2: Eligible Community Councils</b>		
9 to 15	New	

## Part 3 Promoting Access to Local Government

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Chapter 1 Overview of Part</b>		
39	New	
<b>Chapter 2 Public Participation in Decision Making by Principal Councils</b>		
40 to 45	New	
<b>Chapter 3 Constitution Guides</b>		
46	New	
<b>Chapter 4 Access to Meetings of Local Authorities</b>		
47 to 50	New	
<b>Chapter 5 Annual Reports by Community Councils</b>		
51	New	
<b>Schedule 4: Notice of Local Authority Meetings and Access to Documents</b>		
1 to 14	New	

## Part 4 Local Authority Executives, Members, Officers and Committees

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
52 - 62	New	
63	Section 70(1)(2) LGA 2000 SI 949/2006	Yes
62 to 64	New	
<b>Schedule 5: Consequential amendments relating to Chief Executives</b>		
1 to 20	New	

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Schedule 6: Consequential Amendments and Modifications Relating to Assistants to Local Authority Executives</b>		
1 to 6	New	
<b>Schedule 7: Job Sharing By Executive Leaders and Executive Members</b>		
1 to 7	New	
<b>Schedule 8: Conduct of Local Government Members: Investigations by the Public Services Ombudsman for Wales</b>		
1 to 10	Section 70(1)(2) LGA 2000 SI 949/2006	Yes

## Part 5 Collaborative Working by Principal Councils

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Chapter 1 Terms Used in Part</b>		
67	New	
<b>Chapter 2 Guidance about Collaborative Working</b>		
68	New	
<b>Chapter 3 Establishing Corporate Joint Committees where request has been made</b>		
69 to 72	New	
<b>Chapter 4 Establishing Corporate Joint Committees where no request has Been Made</b>		
73 to 74	New	
<b>Chapter 5 Further Provision relating to Corporate Joint Committees and Joint Committee Regulations</b>		
75 to 87	New	
<b>Schedule 9: Amendments related to corporate joint committees</b>		
<b>Part 1: Creation of strategic planning functions for certain corporate joint committees and repeal of powers to establish strategic planning panels etc.</b>		
1 to 3	New	
4	Sections 60D to 60J PCPA 2004	Yes
5 to 49	New	
<b>Part 2: Repeal of power to establish joint transport authorities</b>		
50 to 51	New	

## Part 6 Performance and Governance of Principal Councils

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Chapter 1 Performance, Performance Assessments and Intervention</b>		
88	New	
89	Section 5 LG Measure 2009	Yes
90	Section 15 LG Measure 2009	Yes

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
91 to 93	New	
94	Section 21 LG Measure 2009 Section 22 LG Measure 2009	Yes
95 to 96	New	
97 to 99	Section 26 LG Measure 2009	Yes
100	Section 27 LG Measure 2009	Yes
101	Section 28 LG Measure 2009	Yes
102	New	
103	Section 29 LG Measure 2009	Yes
104	New	
105 to 106	Section 29 LG Measure 2009	Yes
107 to 108	New	
109	Section 31 LG Measure 2009	Yes
110 to 114	New	
<b>Chapter 2 Governance and Audit Committees</b>		
116 to 118	New	
<b>Chapter 3 Co-Ordination between Regulators</b>		
119	Section 23 LG Measure 2009	Yes
120	Section 16 LG Measure 2009	Yes
<b>Schedule 10 Consequential amendments relating to renaming of Principal Council Audit Committees</b>		
1 to 10	New	

## Part 7 Mergers and Restructuring of Principal Areas

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
<b>Chapter 1 Voluntary Mergers of Principal Areas</b>		
120 to 127	New	
<b>Chapter 2 Restructuring Of Principal Areas</b>		
128 to 134	New	
<b>Chapter 3 Functions Relating to Mergers and Restructuring</b>		
135 to 140	New	*
<b>Chapter 4 Remuneration and Arrangements for New Principal Councils</b>		
141 to 144	New	
<b>Chapter 5 Supplementary</b>		
145 to 149	New	
<b>Schedule 11 Transition Committees of Merging Councils and Restructuring Councils</b>		
<b>Part 1 Merging Councils</b>		
1 to 3	New	
<b>Part 2 Restructuring Councils</b>		



Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
4	New	
<b>Part 3 Transition Committees of Merging Councils and Restructuring Councils</b>		
5 to 7	New	
<b>Schedule 12 Restraints On Transactions And Recruitment etc. by Merging Councils and Restructuring Councils</b>		
1 to 9	New	

## **Part 8 Local Government Finance**

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
150 to 157	New	

## **Part 9 Miscellaneous**

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
158	Section 33 LG Measure 2009	Yes
159 to 168	New	
<b>Schedule 13 Abolition of Community Polls</b>		
1 to 12	New	
<b>Schedule 14 Amendments Relating to Merger and Demerger of Public Services Boards</b>		
1 to 9	New	

## **Part 10 General**

Section/Paragraph	Corresponding reference In existing legislation	Substantive Change
169 to 173	New	

## **Annex 3: Schedule of Amendments**

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### **Amendments to be made by the Local Government and Elections (Wales) Bill**

This document is intended to show how the provisions of the following legislation, as they applied in relation to Wales on 3 November 2020,, would look once amended by the Local Government and Elections (Wales) Bill (if enacted as amended at Stage 2)

#### **Primary Legislation**

- Representation of the People Act 1983
- Government of Wales Act 2006
- Local Government Act 1972
- Local Government Act 2000
- Representation of the People Act 1985
- Representation of the People Act 2000
- Senedd and Elections (Wales) Act 2020
- Local Government Act 2003
- Local Government (Wales) Measure 2011
- Local Government Finance Act 1988
- Local Government Finance Act 1992
- Local Government and Housing Act 1989
- Localism Act 2011
- Planning and Compulsory Purchase Act 2004
- Planning (Wales) Act 2015
- Transport (Wales) Act 2006
- Well-being of Future Generations (Wales) Act 2015
- Local Government (Democracy) (Wales) Act 2013
- Local Government (Wales) Act 2015
- Fire and Rescue Services Act 2004

#### **Subordinate Legislation**

- Local Elections (Principal Areas) (England and Wales) Rules 2006

Material to be deleted by the Local Government and Elections (Wales) Bill is shown in strikethrough, e.g. ~~omitted material looks like this~~.

Material to be added by the Local Government and Elections (Wales) Bill is underlined, e.g. added material looks like this.

References to the relevant amending provisions of the Bill are provided in the right hand column on each page.

Where relevant, related provisions from the Act, although not being amended, are included to aid understanding of the proposed amendments.

### **Warning**

This text has been prepared by officials of the Department for Local Government of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill.

It has been produced solely to help people understand the effect of the Local Government and Elections (Wales) Bill. It is not intended for use in any other context.

## The Representation of the People Act 1983

Section	Amended by
<p style="text-align: center;"><b>Part I Parliamentary and Local Government Franchise and its Exercise</b></p> <p style="text-align: center;">Parliamentary and local government franchise</p> <p><b>2 Local government electors</b></p> <p>(1) A person is entitled to vote as an elector at a local government election in any electoral area if on the date of the poll he—</p> <ul style="list-style-type: none"> <li>(a) is registered in the register of local government electors for that area;</li> <li>(b) is not subject to any legal incapacity to vote (age apart);</li> <li>(c) is a Commonwealth citizen, a citizen of the Republic of Ireland, <u>a relevant citizen of the Union or (in Wales) a qualifying foreign citizen</u>; and</li> <li>(d) is of voting age (that is, 18 years or over, <u>except in Wales (see subsection (1A))</u>).</li> </ul> <p><u>(1A) In Wales, voting age is 16 years or over.</u></p> <p>(2) A person is not entitled to vote as an elector—</p> <ul style="list-style-type: none"> <li>(a) more than once in the same electoral area at any local government election; or</li> <li>(b) in more than one electoral area at an ordinary election for a local government area which is not a single electoral area.</li> </ul>	<p>Part 1 Section 2</p>
<p><b>4 Entitlement to be registered as parliamentary or local government elector</b></p> <p>(1) A person is entitled to be registered in the register of parliamentary electors for any constituency or part of a constituency if on the relevant date he—</p> <ul style="list-style-type: none"> <li>(a) is resident in the constituency or that part of it;</li> <li>(b) is not subject to any legal incapacity to vote (age apart);</li> <li>(c) is either a qualifying Commonwealth citizen or a citizen of the Republic of Ireland; and</li> <li>(d) is of voting age.</li> </ul> <p>(2) . . .</p> <p>(3) A person is entitled to be registered in the register of local government electors for any electoral area if on the relevant date he—</p> <ul style="list-style-type: none"> <li>(a) is resident in that area;</li> <li>(b) is not subject to any legal incapacity to vote (age apart);</li> <li>(c) is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland, <u>a relevant citizen of the Union or (in relation to a local government election in Wales) a qualifying foreign citizen</u>; and</li> </ul>	<p>Part 1 Section 2</p>

<p>(d) is of voting age. <del>or, if resident in an area in Wales, is 16 years of age or older.</del></p> <p><del>(3A) A person is also entitled to be registered in the register of local government electors for any electoral area in Wales if on the relevant</del>  <del>date the person—</del></p> <p><del>(a) is resident in that area,</del></p> <p><del>(b) is not subject to any legal incapacity to vote (age apart) in an</del>  <del>election of members (or of a member) of Senedd Cymru,</del></p> <p><del>(c) is a qualifying foreign citizen, and</del></p> <p><del>(d) is 16 years of age or over.</del></p> <p>(4) The preceding provisions have effect—</p> <p>(a) subject to—</p> <p>(i) any enactment imposing a disqualification for registration as a parliamentary, or (as the case may be) local government, elector; and</p> <p>(ii) compliance with any prescribed requirements; and</p> <p>(b) (as respects registration as a parliamentary elector) without prejudice to section 2(1) of the Representation of the People Act 1985 (registration of British citizens overseas).</p> <p>(5) A person otherwise qualified is (despite subsection (1)(d) or (3)(d), as the case may be) entitled to be registered in a register of parliamentary electors or local government electors if he will attain voting age before the end of the period of 12 months beginning with the 1st December next following the relevant date, but—</p> <p>(a) his entry in the register shall give the date on which he will attain that age; and</p> <p>(b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date.</p> <p>(5A) If a person entitled to be registered by virtue of subsection (5) above has an anonymous entry in the register, the references in paragraphs (a) and (b) of that subsection to his entry in the register are to be read as references to his entry in the record of anonymous entries prepared in pursuance of paragraph 8A of Schedule 2 below.</p> <p><del>(5B) In relation to a register of local government electors for any electoral area in Wales, the reference to “voting age” in subsection (5) is to be interpreted as “16 years of age”.</del></p> <p>(6) In this section—</p> <p>“qualifying Commonwealth citizen” means a Commonwealth citizen who either—</p> <p>(a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or</p>	
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<p>(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave;</p> <p>“the relevant date”, in relation to a person, means—</p> <p>(a) the date on which an application for registration is made (or, by virtue of section 10A(2) below, is treated as having been made) by him;</p> <p>(b) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made</p>	
<p><b>7B Notional residence: declarations of local connection</b></p> <p>(1) A declaration under this section (“a declaration of local connection”)—</p> <p>(a) may be made only by a person to whom this section applies, but</p> <p>(b) may be made by such a person despite the fact that by reason of his age he is not entitled to vote.</p> <p>(2) This section applies to any person who on the date when he makes such a declaration is—</p> <p>(a) a person to whom section 7 above applies and who would not be entitled to be registered by virtue of residence at any place other than the mental hospital (within the meaning of that section) at which he is a patient, or</p> <p>(b) a person to whom section 7A applies and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained as mentioned in subsection (1) of that section, or</p> <p>(c) a person who does not fall within paragraph (a) or (b) above (and is not otherwise in legal custody) and who is not, for the purposes of section 4 above, resident at any address in the United Kingdom (a “homeless person”).</p> <p>(2A) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1)—</p> <p><del>(a) is under 18 years of age,</del></p> <p>(b) does not fall within any of the paragraphs (a) to (c) of subsection (2), and</p> <p>(c) meets any of the requirements specified in subsection (2B).</p> <p><del>(2B) The requirements are that—</del></p> <p><del>(a) the person is, or has been, a child who is looked after by a local authority, or</del></p> <p><del>(b) the person is being kept in any secure accommodation specified in regulations made by the Welsh Ministers in circumstances specified in the regulations.</del></p> <p><u>(2B) The requirements are that the person—</u></p> <p><u>(a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or</u></p>	<p>Schedule 2 Paragraph 2</p>

(b) is being kept in secure accommodation.

~~(2C) The power to make regulations under subsection (2B)(b) is exercisable by statutory instrument and is subject to annulment in pursuance of a resolution of the Senedd.~~

(2D) In subsection (2B)—

(a) the reference to a child who is looked after by a local authority has the same meaning as in the Social Services and Well-being (Wales) Act 2014 (anaw 1) (see section 74);

(b) “secure accommodation” means accommodation ~~for the purpose of restricting the liberty of persons under the age of 18 in the United Kingdom provided for the purpose of lawfully~~ restricting the liberty of persons under the age of 18, other than a penal institution within the meaning given in section 3(2)(b).

(3) A declaration of local connection shall state—

(a) the name of the declarant and either—

(i) an address to which correspondence for him from either the registration officer concerned or the returning officer can be delivered, or

(ii) that he is willing to collect such correspondence periodically from the registration officer's office;

(b) the date of the declaration;

(c) that on the date of the declaration the declarant falls into one of the categories of persons to whom this section applies, specifying—

(i) the category in question, and

(ii) (in the case of a person falling within subsection (2)(a) or (b) above) the name and address of the mental hospital at which he is a patient or (as the case may be) of the place at which he is detained;

(d) the required address (as defined by subsection (4) below);

(e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland or (if the declaration is made for the purposes only of local government elections other than in Scotland) a relevant citizen of the Union or (if the declaration is made for the purposes only of the registration of local government electors in Scotland) a qualifying foreign national or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen;

(f) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth.

(4) For the purposes of this section “the required address” is—

(a) in the case of a person falling within subsection (2)(a) or (b) above—

(i) the address in the United Kingdom where he would be residing if he were not such a patient, or detained, as mentioned in that provision, or

<p>(ii) if he cannot give such an address, an address in the United Kingdom at which he has resided;</p> <p>(b) in the case of a homeless person, the address of, or which is nearest to, a place in the United Kingdom where he commonly spends a substantial part of his time (whether during the day or at night);</p> <p>(c) in the case of a person falling within subsection (2A), any of the following—</p> <ul style="list-style-type: none"> <li>(i) an address in Wales at which the person has previously been resident, or</li> <li>(ii) an address used by a council of a county or county borough in Wales in which the person has previously been resident.</li> </ul> <p>(d) in the case of a convicted person falling within subsection (2D)—</p> <ul style="list-style-type: none"> <li>(i) the address in Scotland where the convicted person would be residing but for the person's detention,</li> <li>(ii) if the convicted person cannot give an address under sub-paragraph (i), the address in Scotland at which the person was resident immediately before the person's detention (but not the address of a penal institution) or, if the person was homeless at that time, the address of, or which is nearest to, a place in Scotland where the person commonly spent a substantial part of the person's time (whether during the day or at night), or</li> <li>(iii) if the convicted person cannot give an address under sub-paragraph (i) or (ii) (or can only give an address at which the person would be prevented from residing because of an order of any court), the address of the penal institution at which the convicted person is detained unless the person has a home outwith Scotland or would otherwise not be resident in Scotland but for the person's detention.</li> </ul> <p>(5) [repealed].</p> <p>(6) Where a declaration of local connection made by a homeless person is delivered to the registration officer concerned during the period—</p> <ul style="list-style-type: none"> <li>(a) beginning with the date when a vacancy occurs— <ul style="list-style-type: none"> <li>(i) in the seat for the parliamentary constituency within which the required address falls, or</li> <li>(ii) in the seat for any Scottish Parliament constituency or National Assembly for Wales constituency within which it falls, and</li> </ul> </li> <li>(b) ending on the final nomination day (within the meaning of section 13B below) for the parliamentary by-election, or (as the case may be) the election under section 9 of the Scotland Act 1998 or section 10 of the Government of Wales Act 2006, held in respect of that vacancy,</li> </ul> <p>the declaration must state that, during the period of three months ending on the date of the declaration, the declarant has</p>	
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commonly been spending a substantial part of his time (whether during the day or at night) at, or near, the required address.

(7) No declaration of local connection shall be specially made by a person for the purposes of local government elections, and any such declaration made for the purposes of parliamentary elections shall have effect also for the purposes of local government elections; but—

(a) a declaration of local connection may be made for the purposes only of local government elections by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections or by a relevant citizen of the Union; and

(b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other declarations of local connection.

(7A) Despite anything in subsection (7), in relation to Wales, a relevant declaration made by a person has effect only for the person's registration as a local government elector.

(7B) In subsection (7A) a “relevant declaration” means—

(a) a declaration of local connection made by virtue of subsection (2A);

(aa) a declaration of local connection made by virtue of subsection (2D);

(ab) a declaration of local connection made by a qualifying foreign national;

(b) a declaration of local connection made by a qualifying foreign citizen;

(c) any other declaration of local connection made by a person who, on the date on which the declaration is made, is—

(i) under the age of 17, and

(ii) not entitled to be registered in the register of parliamentary electors.

(7C) A relevant declaration referred to in subsection (7A) must be marked to show that it is available only for the purposes of registration as a local government elector, but otherwise is to be the same as other declarations of local connection.

(8) If a person—

(a) makes a declaration of local connection stating more than one address under subsection (3)(d) above, or

(b) makes more than one declaration of local connection bearing the same date and stating different addresses under that provision,

the declaration or declarations shall be void.

(9) A declaration of local connection may be cancelled at any time by the declarant.

(10) A declaration of local connection shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the date of the declaration.

<p>Registration of parliamentary and local government electors</p> <p><b>9 Registers of electors</b></p> <p>(1) Each registration officer shall maintain—</p> <ul style="list-style-type: none"> <li>(a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and</li> <li>(b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.</li> </ul> <p>(2) Subject to any other provision of this Act, each register shall contain—</p> <ul style="list-style-type: none"> <li>(a) the names of persons who appear to the registration officer to be entitled to be registered in it and in respect of whom a successful application for registration has been made;</li> <li>(b) (subject to any prescribed exceptions) the qualifying addresses of the persons registered in it; and</li> <li>(c) in relation to each such person, that person's electoral number.</li> </ul> <p><u>(2A) In relation to each register of local government electors for an area in Wales, the names of persons the registration officer has decided to register in accordance with section 9ZA must also be contained in the register, along with the information mentioned in paragraphs (b) and (c) of subsection (2) relating to those persons.</u></p> <p>(3) A person's electoral number is such number (with or without any letters) as is for the time being allocated by the registration officer to that person as his electoral number for the purposes of the register in question.</p> <p>(4) Electoral numbers shall be allocated by a registration officer in such a way as to ensure, so far as is reasonably practicable, that in each separate part of a register the numbers run consecutively.</p> <p>(5) The registers of parliamentary electors and of local government electors shall so far as practicable be combined, the entries of persons registered only as parliamentary electors or local government electors being marked to indicate that fact.</p> <p>(5A) In relation to the registration of local government electors in Wales, the entry in the combined registers of any person aged 16 or 17 who is registered only as a local government elector must give the date on which the person will attain the age of 18.</p> <p>(6) [repealed]</p> <p>(7) Where under this section two or more registration officers maintain registers of parliamentary electors in respect of different parts of the same constituency, then in relation to that constituency any reference in this Act (whether express or implied) to the register of parliamentary electors for a constituency shall be read—</p> <ul style="list-style-type: none"> <li>(a) as a reference to one of those registers, or</li> <li>(b) in relation to one of those registration officers, as the register maintained by him,</li> </ul> <p>as the context may require.</p>	<p>Part 1 Section 18</p>
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<p>(8) In this Act—</p> <p>(a) any reference, in relation to a registration officer, to “his” registers is a reference to the registers maintained by him under this section; and</p> <p>(b) “qualifying address”, in relation to a person registered in a register of electors, is the address in respect of which he is entitled to be so registered.</p>	
<p><b><u>9ZA Registration of local government electors in Wales without application</u></b></p> <p><u>(1) This section applies to the registration of local government electors in Wales.</u></p> <p><u>(2) If the registration officer is satisfied that a person not in the register of local government electors is entitled to be registered, the officer may decide to register the person without an application, subject to the provisions of this section.</u></p> <p><u>(3) Before deciding to register a person, the registration officer must notify the person in writing of—</u></p> <p><u>(a) the officer’s intention to register the person without an application after the end of the notice period required by subsection (5).</u></p> <p><u>(b) the person’s right to request exclusion from the edited register.</u></p> <p><u>(c) the person’s right to apply for anonymous registration.</u></p> <p><u>(d) the type of elections in which the person will be entitled to vote following registration under this section, and</u></p> <p><u>(e) the type of elections in which the person will not be entitled to vote following registration under this section, unless an application for registration is made.</u></p> <p><u>(4) The notice under subsection (3) must be in a form specified in regulations made by the Welsh Ministers; and the regulations may make further provision about giving notice for the purposes of this section.</u></p> <p><u>(5) The registration officer must not register the person under this section—</u></p> <p><u>(a) before the end of a period of 28 days beginning with the day on which the notice is issued;</u></p> <p><u>(b) at any time when there is an undetermined application by the person for an anonymous entry in the local government register under section 9B.</u></p> <p><u>(6) The registration officer must keep a separate list of the persons registered under this section.</u></p> <p><u>(7) The power to make regulations under this section is exercisable by statutory instrument.</u></p> <p><u>(8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru, unless it also contains provisions subject to an affirmative procedure in Senedd Cymru.</u></p>	<p>Part 1 Section 18</p>

<p><b>9E Maintenance of registers: invitations to register in Great Britain</b></p> <p>(1) A registration officer in Great Britain must give a person an invitation to apply for registration in a register maintained by the officer if—</p> <ul style="list-style-type: none"> <li>(a) the officer is aware of the person’s name and address,</li> <li>(b) the person is not registered in the register, and</li> <li>(c) the officer has reason to believe that the person may be entitled to be registered in the register.</li> </ul> <p><u>(1A) The duty in subsection (1) does not apply if the registration officer intends to register the person without an application under section 9ZA and gives notice to the person in accordance with that section.</u></p> <p>(2) Regulations may make provision about invitations under subsection (1), including—</p> <ul style="list-style-type: none"> <li>(a) provision about the form and contents of invitations;</li> <li>(b) provision about the giving of invitations (for example, provision about the manner in which they must be given or how often they must be given);</li> <li>(c) provision requiring invitations to be accompanied by, or combined with, application forms or other documents (including partially completed application forms).</li> </ul> <p>(3) Regulations under subsection (2) may confer functions on the Electoral Commission (for example, the Commission may be required to design an invitation).</p> <p>(4) A registration officer who gives a person an invitation under subsection (1) may subsequently require the person to make an application for registration by a specified date.</p> <p>(5) A requirement under subsection (4) is of no effect if the person is not entitled to be registered.</p> <p>(6) Regulations—</p> <ul style="list-style-type: none"> <li>(a) may make provision about requirements under subsection (4) (including provision for them to be cancelled in specified circumstances);</li> <li>(b) may specify steps that a registration officer must take before imposing a requirement.</li> </ul> <p>(7) A registration officer may impose a civil penalty on a person who fails to comply with a requirement imposed by the officer under subsection (4).</p> <p>(7A) In relation to the registration of local government electors in Wales, subsection (7) does not apply to a person who was under the age of 16 at the time the requirement was imposed.</p> <p>(8) For more about civil penalties under this section, see Schedule ZA1.</p>	<p>Part 1 Section 18</p>
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**10ZE Removal of electors in Great Britain from register**Part 1  
Section 18

(1) Where a person is entered in a register in respect of an address in Great Britain, the person is entitled to remain registered until the registration officer concerned determines that—

- (a) the person was not entitled to be registered in respect of the address,
- (b) the person has ceased to be resident at the address or has otherwise ceased to satisfy the conditions for registration set out in section 4, or
- (c) the person was registered as the result of an application under section 10ZC made by some other person or the person's entry has been altered as the result of an application under section 10ZD made by some other person.

(2) Where a person's entitlement to remain registered terminates by virtue of subsection (1), the officer must remove the person's entry from the register.

(2A) Where a person is entered in a register of local government electors in Wales by virtue of section 9ZA, the registration officer must also remove the person's entry from the register if the officer determines that the person is not entitled to be registered in the register of local government electors for reasons other than those mentioned in subsection (1).

(3) A registration officer may make house to house inquiries for the purpose of deciding whether or not to make a determination under subsection (1) or (2A).

(4) Regulations may make provision about the procedure for making determinations under subsection (1), which may include provision requiring an officer to take prescribed steps before making a determination.

(4A) The Welsh Ministers may by regulations make provision about the procedure for making determinations under subsection (2A), which may include provision requiring an officer to take prescribed steps before making a determination.

(5) A registration officer in Great Britain must consider whether to make a determination under subsection (1) if the officer—

- (a) receives an objection to a person's registration in a register maintained by the officer, or
- (b) otherwise becomes aware of information that causes the officer to suspect that a condition in subsection (1)(a) to (c) may be met in relation to a person's entry in such a register.

(5A) In relation to a person registered under section 9ZA, a registration officer for a local government area in Wales must consider whether to make a determination under subsection (2A) if the officer—

- (a) receives an objection to the person's registration in the register, or
- (b) otherwise becomes aware of information that causes the officer to suspect that the person is not entitled to be registered in the register of local government electors.

<p><u>(5B) The Welsh Ministers' power to make regulations under subsection (4A) is exercisable by statutory instrument.</u></p> <p><u>(5C) A statutory instrument containing regulations under subsection (4A) is subject to annulment in pursuance of a resolution of Senedd Cymru, unless it also contains provisions subject to an affirmative procedure in Senedd Cymru.</u></p> <p>(6) Subsection (5)(a)—</p> <p>(a) applies only if the objection to the person's registration is made in accordance with the prescribed requirements by someone whose name appears in the register, and</p> <p>(b) does not apply if the person has an anonymous entry in the register.</p> <p>(7) Nothing in this section applies in relation to the registration of persons in pursuance of—</p> <p>(a) applications for registration made by virtue of section 7(2) or 7A(2), or</p> <p>(b) declarations of local connection, service declarations or overseas electors' declarations.</p> <p>(8) In this section “resident” means resident for the purposes of section 4.”</p>	
<p><b>13A Alteration of registers.</b></p> <p>(1) This section applies where, at any time (“the relevant time”) after the publication of a revised version of a register by a registration officer under section 13 above, the registration officer—</p> <p>(za) is required by section 10ZC(1) to enter a person in the register;</p> <p>(zb) is required by section 10ZD(1) to alter a person's entry in the register;</p> <p><u>(zc) in the case of a registration officer for a local government area in Wales, decides to register a person under section 9ZA;</u></p> <p>(a) on an application for registration in Northern Ireland being made by any person in accordance with the prescribed requirements, determines that that person is entitled to be so registered;</p> <p>(b) is required, by virtue of any provision of this Part of this Act, to remove a person's entry from the register;</p> <p>(c) is notified of any decision on an appeal by virtue of section 56 or 58 below which requires any such alteration in the register as is mentioned in subsection (4) of that section; or</p> <p>(d) determines that the register contains any clerical error.</p> <p>(2) In such a case the registration officer shall (subject to subsection (3) below) issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—</p> <p>(a) the notice shall be so issued by him—</p> <p>(i) on the first day of the month which follows that in which the relevant time falls, or</p>	<p>Part 1 Section 18</p>

<p>(ii) if that day is less than 14 days after that time, on the first day of the month immediately following that month; and</p> <p>(b) (subject to sections 13B(1) and 13BA(1) below) the alteration in question shall have effect as from the beginning of the day on which the notice is issued.</p> <p>(2A) Subject to subsection (2B) below, an application for registration under subsection (1)(a) above in respect of an address in Northern Ireland shall include—</p> <p>(a) the signature of each of the persons to whom the application relates;</p> <p>(b) the date of birth of each such person; and</p> <p>(c) in relation to each such person—</p> <p>(i) his national insurance number or a statement that he does not have one,</p> <p>(ii) a statement of whether or not he has been resident in Northern Ireland for the whole of the three-month period ending on the date of the application, and</p> <p>(iii) any other address in the United Kingdom in respect of which he is or has applied to be registered,</p> <p>and the power in subsection (1)(a) above to prescribe requirements includes power to give effect to the requirements of this subsection.</p> <p>(2B) The Chief Electoral Officer for Northern Ireland may dispense with the requirement mentioned in subsection (2A)(a) above in relation to any person if he is satisfied that it is not reasonably practicable for that person to sign in a consistent and distinctive way because of any incapacity of his or because he is unable to read.</p> <p>(3) Subsection (2) above does not require a registration officer to issue a notice under that subsection in a case where (apart from this subsection) that subsection would require the notice to be issued—</p> <p>(a) at the beginning of the month containing the date on which a revised version of the register is next due to be published in accordance with section 13(1) or (3) above, or</p> <p>(b) at the beginning of either of the two months preceding that containing the date on which a revised version of the register is next due to be published in accordance with section 13(1)(a) above,</p> <p>and in such a case the alteration in question shall be made in that revised version of the register.</p> <p>(3A) Subsection (2)(a)(ii) also does not require a registration officer in Great Britain to issue a notice under subsection (2) in a case where the month which follows that in which the relevant time falls is the month containing the date on which a revised version of the register is next due to be published in accordance with section 13(1)(a); and in such a case the alteration in question shall be made in that revised version of the register.</p>	
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<p>(4) Subsection (2) above also does not require a registration officer to issue a notice under that subsection in a case where section 13AB(2), 13B(3), (3B) or (3D) or 13BA(3), (6) or (9) below requires him to issue a notice under that provision.</p> <p>(5) No alteration affecting a published version of a register of electors shall be made otherwise than in accordance with this section, section 13AB, 13B or 13BA below or section 13BB below.</p> <p>(6) For the purposes of subsection (1) above “determines” means determines in accordance with regulations; and section 119 below shall apply for the purposes of subsection (2)(a) above as if it were contained in Part II of this Act.</p>	
<p><b>13AB Alteration of registers: interim publication dates</b></p> <p>(1) Subsections (2) and (3) apply in relation to an interim publication date where—</p> <p>(a) at any time before the interim publication date, section 13A applies to a registration officer (by virtue of section 13A(1)) in connection with a determination, requirement or decision within section 13A(1)(za), (zb), <u>(zc)</u>, (b), (c) or (d),</p> <p>(b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant election area, and</p> <p>(c) no alteration made in consequence of the determination, requirement or decision has already taken effect, or is due to take effect, under a relevant provision on or before the interim publication date.</p> <p>(2) On the interim publication date the registration officer must issue, in the prescribed manner, a notice specifying the appropriate alteration in the register.</p> <p>(3) The alteration takes effect from the beginning of the interim publication date.</p> <p>(4) There are two interim publication dates (in relation to a registration officer and an election to which this section applies).</p> <p>(5) The first interim publication date is the last day on which nomination papers may be delivered to the returning officer for the purposes of the election.</p> <p>(6) The second interim publication date is to be determined by the registration officer, but must be a day after the first interim publication date and before the appropriate publication date.</p> <p>(7) In subsection (1)(c) “relevant provision” means—</p> <p>(a) in relation to the first interim publication date, section 13A(2) or 13BC(3) or (6);</p> <p>(b) in relation to the second interim publication date—</p> <p>(i) section 13A(2);</p> <p>(ii) section 13BC(3) or (6);</p> <p>(iii) subsection (3) of this section as it applies in relation to the first interim publication date.</p>	<p>Part 1 Section 18</p>



<p>(7A) In determining for the purposes of subsection (1)(c) whether an alteration made in consequence of the determination, requirement or decision is due to take effect under section 13BC(3) on or before the interim publication date, the reference to section 13AB in section 13BC(2) is to be disregarded.</p> <p>(8) This section applies to—</p> <ul style="list-style-type: none"> <li>(a) parliamentary elections in England, Wales or Scotland;</li> <li>(b) elections in England, Wales or Scotland to the European Parliament;</li> <li>(c) elections to the Scottish Parliament;</li> <li>(d) elections to the National Assembly for Wales;</li> <li>(e) local government elections in England, Wales or Scotland;</li> <li>(f) elections of police and crime commissioners in England and Wales.</li> </ul> <p>(9) Subsections (5) and (6) of section 13B apply for the purposes of this section as they apply for the purposes of that section.</p> <p>(10) Subsection (2) does not require a registration officer to issue a notice under that subsection in a case where section 13BC(3) or (6) requires the officer to issue a notice under that provision at an earlier time.</p>	
<p><b>13B Alteration of registers: pending elections</b></p> <p>(1) If, by virtue of section 13A(2) above, an alteration in a published version of a register is to take effect after the fifth day before the date of the poll for an election to which this section applies, the alteration does not have effect for the purposes of the election.</p> <p>(2) Subsection (3) below applies where—</p> <ul style="list-style-type: none"> <li>(a) at any time before the appropriate publication date in the case of an election to which this section applies, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a determination, requirement or decision falling within any of paragraphs (za), (zb), <u>(zc)</u>, (b), (c) and (d) of that subsection;</li> <li>(b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant election area; and</li> <li>(c) no alteration made in consequence of the determination, requirement or decision— <ul style="list-style-type: none"> <li>(i) has already taken effect, or</li> <li>(ii) is due to take effect,</li> </ul> under subsection (2) of that section, or under section 13AB(3) or section 13BC(3) or (6), on or before the fifth day before the date of the poll.</li> </ul> <p>(3) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—</p>	<p>Part 1 Section 18</p>

<p>(a) the notice shall be so issued by him on the appropriate publication date; and</p> <p>(b) the alteration shall take effect as from the beginning of that day.</p> <p>(3ZA) In determining for the purposes of subsection (2)(c) whether an alteration made in consequence of the determination, requirement or decision is due to take effect under section 13BC(3) on or before the fifth day before the date of the poll, the reference to section 13B in section 13BC(2) is to be disregarded.</p> <p>(3ZB) Subsection (3) does not require a registration officer to issue a notice under that subsection in a case where section 13BC(3) or (6) requires the officer to issue a notice under that provision at an earlier time.</p> <p>(3A) Subsection (3B) below applies where—</p> <p>(a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a notification mentioned in paragraph (c) of that subsection; and</p> <p>(b) in consequence of the notification—</p> <p>(i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or</p> <p>(ii) his entry in the register requires to be altered.</p> <p>(3B) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—</p> <p>(a) the notice shall be so issued by him when he receives the notification; and</p> <p>(b) the alteration shall take effect as from the beginning of the day on which the notice is issued.</p> <p>(3C) Subsection (3D) below applies where—</p> <p>(a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a determination falling within paragraph (d) of that subsection;</p> <p>(b) the determination was made following a representation made by or on behalf of a person to the registration officer; and</p> <p>(c) in consequence of the determination—</p> <p>(i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or</p> <p>(ii) his entry in the register requires to be altered.</p>	
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<p>(3D) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—</p> <ul style="list-style-type: none"> <li>(a) the notice shall be so issued by him when he makes the determination; and</li> <li>(b) the alteration shall take effect as from the beginning of the day on which the notice is issued.</li> </ul> <p>(3E) In subsection (3C)(b) above, “representation” means a representation made in accordance with prescribed requirements to the effect that the register contains a clerical error.</p> <p>(4) This section applies to the following elections—</p> <ul style="list-style-type: none"> <li>(a) parliamentary elections in England, Wales or Scotland,</li> <li>(b) elections to the European Parliament in England, Wales or Scotland,</li> <li>(c) elections to the Scottish Parliament,</li> <li>(d) elections to the National Assembly for Wales,</li> <li>(e) [repealed]</li> <li>(f) local government elections in England, Wales or Scotland, and</li> <li>(g) elections of police and crime commissioners in England and Wales.</li> </ul> <p>(5) In this section—</p> <p>“the appropriate publication date”, in relation to a registration officer and an election to which this section applies, means either the sixth or the fifth day before the date of the poll, as the registration officer may determine;</p> <p>“the final nomination day”, in relation to such an election, means the last day on which nomination papers may be delivered to the returning officer for the purposes of the election;</p> <p>“the relevant election area”, in relation to a registration officer and such an election, means—</p> <ul style="list-style-type: none"> <li>(a) the area for which the registration officer acts, or</li> <li>(b) if the election is held in only part of that area, the part of that area in question.</li> </ul> <p>(6) Section 119 below shall apply for the purposes of this section as if—</p> <ul style="list-style-type: none"> <li>(a) it were contained in Part II of this Act; and</li> <li>(b) each of the days referred to in this section were the day on which anything is required or permitted to be done by or in pursuance of that Part of this Act</li> </ul>	
<p><i>Place and manner of voting at local government elections</i></p> <p><b>31 Polling districts and stations at local government elections</b></p> <p>(1) For elections of county councillors in England the county council may divide an electoral division into polling districts, and may alter any polling district, and for elections of London borough or district councillors the London borough or district council may divide the</p>	<p>Schedule 2 Paragraph 2</p>

<p>London borough or district or any ward thereof into polling districts, and may alter any polling district.</p> <p>(1A) For elections of county or county borough councillors in Wales, the county or county borough council may divide an electoral <u>ward</u> into polling districts and may alter any polling district.</p> <p>(1B) For any Authority elections, a London borough council or the Common Council may divide their area into polling districts and may alter any polling district.</p> <p>For the purposes of this subsection the Inner Temple and the Middle Temple shall be treated as forming part of the City.</p> <p>(2) In Scotland, for elections of local authority councillors the local authority may divide an electoral ward into polling districts and may alter any polling district, but in the absence of special circumstances those polling districts shall be those which were last designated for the purpose of parliamentary elections under section 18A above.</p> <p>(3) Any power to constitute polling districts for the purpose of local government elections shall be exercised so that electors from any parliamentary polling district wholly or partly within the electoral area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the electoral area.</p> <p>(4), (5), (6), (7) [repealed]</p>	
<p>Conduct of local government elections in England and Wales</p> <p><b>36 Local elections in England and Wales</b></p> <p>(1) Elections of councillors for local government areas in England <del>and Wales</del> shall be conducted in accordance with rules made by the Secretary of State.</p> <p>(2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act, subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.</p> <p>(2A) As regards the Greater London Authority—</p> <p>(a) Authority elections, and</p> <p>(b) the return of London members of the London Assembly otherwise than at an election,</p> <p>shall be conducted in accordance with rules made under this subsection by the Secretary of State.</p> <p>Rules made under this subsection need not comply with the requirements of subsection (2) above.</p> <p>(2B) As regards lists of candidates submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members), the provision that may be made by rules under subsection (2A) above includes provision for or in connection with any of the following—</p> <p>(a) the inclusion, withdrawal, addition or removal of persons;</p>	<p>Part 1 Section 13</p> <p>Schedule 2 Paragraph 2</p>

<p>(b) cases where a person included in such a list is or becomes, or seeks to become, an individual candidate to be a London member of the London Assembly.</p> <p>(3) Where the polls at—</p> <p>(a) the ordinary election of district councillors for any district ward or an election to fill a casual vacancy occurring in the office of such a councillor, and</p> <p>(b) the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor,</p> <p>are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.</p> <p><del>(3AB) Where the polls at—</del></p> <p><del>(a) the ordinary election of councillors for any electoral division of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and</del></p> <p><del>(b) the ordinary election of community councillors for any community or an election to fill a casual vacancy occurring in the office of such a councillor,</del></p> <p><del>are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.</del></p> <p>(3AC) Where the polls at—</p> <p>(a) the ordinary election of councillors for any electoral division of a county in England in which there are no district councils or an election to fill a casual vacancy occurring in the office of such a councillor, and</p> <p>(b) the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor,</p> <p>are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.</p> <p>(3A) For the purposes of this section electoral areas are related if they are coterminous or if one is situated within the other.</p> <p>(3B) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.</p> <p>(3C) The Secretary of State may by regulations make such provision as he thinks fit in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.</p> <p>(4) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area in England (that is, a county, <del>a county borough</del> a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.</p>	
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<p>(4B) All expenditure properly incurred by a returning officer in relation to the holding of an Authority election shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the Greater London Authority, exceed that scale, be paid by the Greater London Authority.</p> <p>(5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the district in which the parish is situated, exceed that scale, be paid by the district council, but any expenditure so incurred shall, if the district council so require, be repaid to that council by the council of the parish for which the election is held.</p> <p><del>(5A) All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the county or county borough in which the community is situated ("the principal council"), exceed that scale, be paid by the principal council; and if the principal council so require, any expenditure so incurred shall be repaid to them by the community council.</del></p> <p>(6) Before a poll is taken at an election of a councillor for any local government area in England <del>and Wales</del> the council of that area or, in the case of an election of a parish <del>or community</del> councillor, the council who appointed the returning officer shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.</p> <p>(6A) Subsection (6) above shall apply in relation to an Authority election as it applies in relation to an election of a councillor for any local government area in England <del>and Wales</del>, but taking the reference to the council of the area as a reference to the Greater London Authority.</p> <p>(7) Rules made under this section shall be—</p> <p>(a) made by statutory instrument;</p> <p>(b) subject to annulment in pursuance of a resolution of either House of Parliament.</p>	
<p><b><u>36A Rules for local elections in Wales</u></b></p> <p><u>(1) Elections of councillors for local government areas in Wales must be conducted in accordance with rules made by the Welsh Ministers.</u></p> <p><u>(2) In relation to the election of councillors to a county council or a county borough council, rules under subsection (1) must—</u></p> <p><u>(a) require polls to be conducted if elections are contested,</u></p> <p><u>(b) establish the requirements for becoming a candidate for election,</u></p> <p><u>(c) require votes at polls to be given by ballot, and</u></p> <p><u>(d) provide for polls to be conducted under the voting systems authorised by sections 5 to 9 of the Local Government and</u></p>	<p>Part 1 Section 13</p>

<p><u>Elections (Wales) Act 2020, which are a simple majority system and a single transferable vote system.</u></p> <p><u>(3) In relation to the election of community councillors for a community council, rules under subsection (1) must—</u></p> <p><u>(a) require polls to be conducted if elections are contested,</u></p> <p><u>(b) establish the requirements for becoming a candidate for election,</u></p> <p><u>(c) require votes at polls to be given by ballot, and</u></p> <p><u>(d) provide for polls to be conducted under a simple majority system.</u></p> <p><u>(4) Rules under subsection (1) may make any other provision for the conduct of elections of councillors for local government areas in Wales.</u></p> <p><u>(5) Rules made by the Welsh Ministers may, for the purposes of, in consequence of, or for giving full effect to rules made under subsection (1), make supplementary, incidental, consequential, transitional, transitory or saving provision</u></p> <p><u>(6) Rules under subsection (5) may amend, modify, repeal or revoke any enactment (including an enactment contained in this Act).</u></p> <p><u>(7) Before making rules under this section, the Welsh Ministers must consult such persons as they consider appropriate</u></p> <p><u>(8) The requirement to consult imposed by subsection (7) may be satisfied by consultation undertaken before the coming into force of this section.</u></p> <p><u>(9) The power to make rules under this section—</u></p> <p><u>(a) is exercisable by statutory instrument;</u></p> <p><u>(b) includes power to make different provision for different purposes.</u></p> <p><u>(10) A statutory instrument containing rules under this section must not be made unless a draft of the instrument has been laid before and approved by resolution of Senedd Cymru.</u></p>	
<p><b><u>36B Combination of local elections in Wales</u></b></p> <p><u>(1) Where the polls at—</u></p> <p><u>(a) the ordinary election of councillors of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and</u></p> <p><u>(b) the ordinary election of community councillors or an election to fill a casual vacancy occurring in the office of such a councillor,</u></p> <p><u>are to be taken on the same day and the elections are for related electoral areas, the polls at those elections must be taken together.</u></p> <p><u>(2) For the purposes of this section electoral areas are related if they are coterminous or if one is situated within the other.</u></p> <p><u>(3) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost</u></p>	<p>Schedule 2 Paragraph 2</p>

<p><u>solely attributable to one election) and any cost attributable to their combination must be apportioned equally among the elections.</u></p> <p><u>(4) The Welsh Ministers may by regulations make provision in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.</u></p> <p><u>(5) Before making regulations under this section the Welsh Ministers must consult such persons as they consider appropriate.</u></p> <p><u>(6) The requirement to consult imposed by subsection (5) may be satisfied by consultation undertaken before the coming into force of this section.</u></p> <p><u>(7) The power to make regulations under this section is exercisable by statutory instrument.</u></p> <p><u>(8) Regulations must not be made under this section unless a draft of the regulations has been laid before and approved by a resolution of Senedd Cymru.</u></p>	
<p><b><u>36C Expenditure by returning officers at local elections in Wales</u></b></p> <p><u>(1) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a county or county borough in Wales must, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.</u></p> <p><u>(2) All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor must, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the county or county borough in which the community is situated ("the principal council"), exceed that scale, be paid by the principal council; and if the principal council so require, any expenditure so incurred must be repaid to them by the community council.</u></p> <p><u>(3) Before a poll is taken at an election of a councillor for any local government area in Wales the council of that area or, in the case of an election of a community councillor, the council who appointed the returning officer must, at the request of the returning officer (including any person acting as returning officer), advance to the officer such reasonable sum in respect of the officer's expenses at the election as the officer may require.</u></p>	<p>Part 1 Section 22</p>
<p><b><u>37ZA Ordinary day of local elections in Wales</u></b></p> <p><u>(1) In every year the ordinary day of election of councillors is the same for all local government areas in Wales and, subject to section 37B, and unless subsection (2) applies or an order under subsection (1A) provides otherwise, is—</u></p> <p style="padding-left: 40px;"><u>(a) the first Thursday in May;</u></p> <p style="padding-left: 40px;"><u>(b) such other day as may be fixed by the Welsh Ministers by order made not later than 1st February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect.</u></p>	<p>Part 1 Section 17</p>



<p><u>(1A) The Welsh Ministers may by order fix a different day to the one specified in or fixed under subsection (1) as the ordinary day of election of—</u></p> <p><u>(a) councillors for one or more counties or county boroughs in Wales, or</u></p> <p><u>(b) community councillors for one or more communities in Wales.</u></p> <p><u>(1B) An order under subsection (1) or (1A) may fix a day for one or more years.”</u></p> <p>(2) The ordinary day of election of councillors is not the day specified in or fixed under subsection (1) <u>or fixed under subsection (1A)</u> if that day is the day of the poll at an ordinary general election of members of the National Assembly for Wales.</p> <p>(3) Where under subsection (2) the ordinary day of election of councillors is not the day specified in or fixed under subsection (1) <u>or fixed under subsection (1A)</u>, it is such other day as the Welsh Ministers may by order specify.</p> <p>(4) The power to make an order under subsection (1)(b) or (3) is exercisable by statutory instrument.</p> <p>(5) A statutory instrument containing an order under <u>this section</u> may not be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.</p> <p><u>(6) Before making an order under this section, the Welsh Ministers must consult—</u></p> <p><u>(a) each council affected by the order,</u></p> <p><u>(b) any bodies appearing to the Welsh Ministers to represent the interests of the councils affected by the order, and</u></p> <p><u>(c) such other persons as the Welsh Ministers consider appropriate.”</u></p>	
<p><b>Supplemental provisions as to local government elections</b></p> <p><b><u>46 Further provision as to local election voting in England</u></b></p> <p>(1) At a local government election for any electoral area <u>in England</u> no person shall as an elector and no person shall as proxy for any one elector—</p> <p>(a) give more than one vote for any one candidate; or</p> <p>(b) give more votes in all than the total number of councillors to be elected for the electoral area</p> <p>but this subsection does not apply in relation to Authority elections (where the votes allowed to be given are as specified in the applicable provisions of section 4, 10 or 16 of the 1999 Act).</p> <p>(2) No person is subject to any incapacity to vote at a local government election <u>in England</u> by reason of his being or acting as returning officer at that election.</p>	<p>Schedule 2 Paragraph 2</p>
<p><b><u>46A Further provision as to local election voting in Wales</u></b></p>	<p>Schedule 2 Paragraph 2</p>

<p><u>(1) Subsection (2) applies to a local government election for an electoral area in Wales where a simple majority system applies.</u></p> <p><u>(2) An elector or person acting as proxy for an elector—</u></p> <p><u>(a) may not give more than one vote for any one candidate;</u></p> <p><u>(b) may not give more votes in all than the total number of councillors to be elected for the electoral ward.</u></p> <p><u>(3) Subsection (4) applies to an election for an electoral ward of a county council or county borough council in Wales where a single transferable vote system applies.</u></p> <p><u>(4) An elector or a person acting as proxy for an elector may not give more than one vote (whether as first preference or any subsequent preference) for any one candidate.</u></p> <p><u>(5) No person is subject to an incapacity to vote at a local government election in Wales by reason of the fact that the person is, or is acting as, the returning officer at that election.</u></p>	
<p style="text-align: center;"><b>Supplemental provisions as to parliamentary and local government elections</b></p> <p><b>49 Effect of registers</b></p> <p>(1), (2), (3) [repealed]</p> <p>(4) Any entry in the register of parliamentary or local government electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.</p> <p>(4A) Subsection (4) applies to an entry in the record of anonymous entries as it applies to an entry in the register of parliamentary or local government electors.</p> <p>(5) A person registered as a parliamentary or local government elector, or entered in the list of proxies, shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.</p> <p>The grounds are—</p> <ul style="list-style-type: none"> <li>(a) that he is not of voting age;</li> <li>(b) that he is not or was not at any particular time— <ul style="list-style-type: none"> <li>(i) a Commonwealth citizen;</li> <li>(ii) a citizen of the Republic of Ireland;</li> <li>(iii) in the case of a person registered as a parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;</li> <li>(iv) in the case of a person registered as a local government elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;</li> </ul> </li> </ul>	<p>Schedule 2 Paragraph 2</p>

<p><u>(v) in the case of a person registered as a local government elector in Wales or entered in the list of proxies by virtue of being a qualifying foreign citizen, a qualifying foreign citizen,</u></p> <p>(c) that he is or was at any particular time otherwise subject to any other legal incapacity to vote.</p>	
<p><b>56 Registration appeals: England and Wales</b></p> <p>(1) An appeal lies to the county court—</p> <p>(a) from any decision of a registration officer not to register a person following an application under section 10ZC,</p> <p>(aza) from any decision of a registration officer to register a person following an application under section 10ZC in a case where an objection has been made under that section,</p> <p>(azb) from any decision of a registration officer not to alter a register following an application under section 10ZD,</p> <p>(azc) from any decision of a registration officer to alter a register following an application under section 10ZD in a case where an objection has been made under that section,</p> <p>(azd) from any decision of a registration officer under section 10ZE, or any other provision of this Act, as a result of which a person's entitlement to remain registered terminates,</p> <p>(aa) from any decision of a registration officer not to make a determination under section 10ZE(1) following an objection under section 10ZE(5)(a),</p> <p><u>(azaa) from any decision of a registration officer for a local government area in Wales to register a person under section 9ZA;</u></p> <p>(ab) from a determination of the registration officer under section 9B(2) above,</p> <p>(b) from any decision under this Act of the registration officer disallowing a person's application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only,</p> <p>(c), (d) [repealed]</p> <p>but an appeal does not lie where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.</p> <p>(2) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this section.</p> <p>(3) An appeal to the county court or Court of Appeal by virtue of this section which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.</p> <p>(4) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this section, and the</p>	<p>Part 1 Section 18</p>

<p>registration officer shall, in accordance with sections 13A, 13AB, 13B and 13BC above, make such alterations in the register as may be required to give effect to the decision.</p> <p>(4A) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of subsection (4) above takes effect under section 13(5), 13A(2), 13AB(3) or 13B(3) above on or before the last day on which nomination papers nominating candidates at an election may be delivered to the returning officer 13B(3) or (3B) or 13BC(3) or (6) above on or before the date of the poll, subsection (3) above does not apply to that appeal as respects that election.</p> <p>(5) The registration officer shall undertake such duties in connection with appeals brought by virtue of this section as may be prescribed and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this subsection.</p>	
<p style="text-align: center;"><b>Part V General and Supplemental</b></p> <p style="text-align: center;">Supplemental</p> <p><b>199B Translations etc. of certain documents</b></p> <p>(1) Subsections (2) and (3) below apply to any document which under or by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a parliamentary or local government election.</p> <p>(2) The person who is required or authorised to give or display the document must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate—</p> <ul style="list-style-type: none"> <li>(a) the document in Braille;</li> <li>(b) the document in languages other than English;</li> <li>(c) graphical representations of the information contained in the document;</li> <li>(d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.</li> </ul> <p>(3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.</p> <p>(4) Subsections (2) and (3) above do not apply to—</p> <ul style="list-style-type: none"> <li>(a) the nomination paper;</li> <li>(b) the ballot paper.</li> </ul> <p>(5) The returning officer at a parliamentary election or a local government election may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper.</p> <p>(6) The sample copy mentioned in subsection (5) above—</p> <ul style="list-style-type: none"> <li>(a) in the case of a parliamentary election or a local government election where only one candidate is to be elected, must have</li> </ul>	<p style="text-align: center;">Part 1 Section 23</p>

<p>printed the words “VOTE FOR ONE CANDIDATE ONLY” both at the top and immediately below the list of candidates,</p> <p>(b) in the case of a local government election where more than one candidate is to be elected, must have printed the words “VOTE FOR NO MORE THAN here insert the maximum number of candidates to be elected CANDIDATES” both at the top and immediately below the list of candidates, and</p> <p>(c) in each case, below the second occurrence of those words, may include a translation of those words into such other languages as the returning officer thinks appropriate.</p> <p>(7) The returning officer at a parliamentary election or a local government election must provide at every polling station in the election an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted.</p> <p>(8) The sample copy mentioned in subsection (7) above must be clearly marked as a specimen provided only for the guidance of voters.</p> <p>(9) In the application of subsection (2)(b) to Northern Ireland any question as to whether a person is to give or display or otherwise make available a document in a language other than English is to be decided by the returning officer.</p> <p>(10) This section does not apply to a local government election in Scotland.</p> <p><u>(11) This section does not apply to a local government election in Wales.</u></p>	
<p><b><u>199C Local government elections in Wales: translations etc. of certain documents</u></b></p> <p><u>(1) Subsections (2) and (3) apply to any document which under or by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a local government election in Wales.</u></p> <p><u>(2) The person (“P”) who is required or authorised to give or display the document must, as P thinks appropriate, give or display or otherwise make available in such form as P thinks appropriate—</u></p> <p><u>(a) the document in Braille;</u></p> <p><u>(b) the document in languages other than English and Welsh;</u></p> <p><u>(c) graphical representations of the information contained in the document;</u></p> <p><u>(d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.</u></p> <p><u>(3) P must, as P thinks appropriate, make available the information contained in the document in such audible form as P thinks appropriate.</u></p> <p><u>(4) Subsections (2) and (3) do not apply to—</u></p> <p><u>(a) the nomination paper; or</u></p> <p><u>(b) the ballot paper.</u></p>	<p>Part 1 Section 23</p>

Interpretation	Schedule 2 Paragraph 2
<p><b>203 Local government provisions as to England and Wales</b></p> <p>(1) In this Act, unless the context otherwise requires, in relation to England and Wales—</p> <p>“the 1999 Act” means the Greater London Authority Act 1999;</p> <p>“Assembly constituency” has the same meaning as in the 1999 Act (see section 2(4) and (5) of that Act);</p> <p>“Authority election” means—</p> <ul style="list-style-type: none"> <li>(a) any election of the Mayor of London;</li> <li>(b) any election of a constituency member of the London Assembly; or</li> <li>(c) the election of the London members of the London Assembly at an ordinary election;</li> </ul> <p>“constituency member”, in relation to the London Assembly, has the same meaning as in the 1999 Act;</p> <p>“election of a constituency member of the London Assembly” means—</p> <ul style="list-style-type: none"> <li>(a) any such election at an ordinary election; or</li> <li>(b) an election under section 10 of the 1999 Act (election to fill a vacancy in an Assembly constituency);</li> </ul> <p>“election of the Mayor of London” means—</p> <ul style="list-style-type: none"> <li>(a) any such election at an ordinary election; or</li> <li>(b) an election under section 16 of the 1999 Act (election to fill a vacancy in the office of Mayor of London);</li> </ul> <p>“electoral area” means</p> <ul style="list-style-type: none"> <li><u>(a) in England, any electoral division or ward or, in the case of a parish in which there are no wards, the parish, for which the election of councillors is held under the local government Act;</u></li> <li><u>(aa) in Wales, any electoral ward of a county council or county borough council or community ward or, in the case of a community in which there are no wards, the community, for which the election of councillors is held under the local government Act;</u></li> <li>(b) Greater London, in the case of— <ul style="list-style-type: none"> <li>(i) any election of the Mayor of London; or</li> <li>(ii) the election of the London members of the London Assembly at an ordinary election;</li> </ul> </li> <li>(c) any Assembly constituency for which the election of a constituency member of the London Assembly is held;</li> </ul> <p>“local authority” means the Greater London Authority, a county council, a county borough council, a district council, a London borough council or a parish or community council;</p> <p>“local government Act” means the Local Government Act 1972;</p>	

<p>“local government area” means Greater London, a county, county borough, London borough district, parish or community;</p> <p>“local government election” means</p> <ul style="list-style-type: none"> <li>(a) the election of councillors for any electoral area; or</li> <li>(b) any Authority election</li> </ul> <p>“London member”, in relation to the London Assembly, has the same meaning as in the 1999 Act;</p> <p>“qualifying foreign citizen” means a person who—</p> <ul style="list-style-type: none"> <li>(a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union, and</li> <li>(b) either— <ul style="list-style-type: none"> <li>(i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or</li> <li>(ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.</li> </ul> </li> </ul> <p><u>“simple majority system” has the meaning given by section 6(1) of the Local Government and Elections (Wales) Act 2020;</u></p> <p><u>“single transferable vote system” has the meaning given by section 6(2) of the Local Government and Elections (Wales) Act 2020.”</u></p> <p>(1A) In the application of this Act in relation to England and Wales, unless the context otherwise requires, any reference to—</p> <ul style="list-style-type: none"> <li>(a) a local government election, or</li> <li>(b) an election under the local government Act,</li> </ul> <p>shall be taken to include a reference to an Authority election.</p> <p>(1B) Any reference in this Act to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election shall be construed in accordance with section 4(5)(a) of, and Part II of Schedule 2 to, the 1999 Act; and related expressions shall be construed accordingly.</p> <p>(2) The following provisions of this Act, namely—</p> <ul style="list-style-type: none"> <li>(a) Part I, so far as it has effect for the purposes of parliamentary elections, and</li> <li>(b) Parts I to III, so far as they have effect for the purposes of Authority elections,</li> </ul> <p>shall (subject to any express provision contained in the Part or Parts in question) apply in relation to the City as if the City were a London borough and the Common Council were a London borough council.</p> <p>For the purposes of this subsection the Inner Temple and the Middle Temple shall be treated as forming part of the City.</p> <p>(3) The modifications made by subsection (2) above do not affect section 52(4) above.</p>	
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<p>(4) This Act applies in relation to the Isles of Scilly as if those isles were a county and as if the council of those isles were a county council, except that—</p> <p>(a) the council shall appoint an officer of the council to be registration officer for the isles and paragraph 1(1) of Schedule 2 shall apply as if the isles were a district and the council were a district council;</p> <p>(b) the provisions of Part I relating to the conduct of local government elections shall have effect in relation to those isles subject to such adaptations as the Secretary of State may by regulations prescribe.</p> <p>(5) For the purposes of section 265 of the Local Government Act 1972 (application to Isles of Scilly) the provisions of this Act as to rules made by the Secretary of State under section 36 above shall be deemed to be contained in a public general Act relating to local government.</p>	
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## Government of Wales Act 2006

Section	Amended by
<p style="text-align: center;"><b>Part 1 Establishment of the Senedd</b></p> <p style="text-align: center;">Parliamentary and local government franchise</p> <p><b>12 Entitlement to vote</b></p> <p>(1) The persons entitled to vote at an election of Assembly members (or of an Assembly member) in an Assembly constituency are those who on the day of the poll—</p> <p style="padding-left: 40px;">(a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the Assembly constituency <del>or fall within the extended franchise for Senedd elections as described in this section</del>, and</p> <p style="padding-left: 40px;">(b) are registered in the register of local government electors at an address within the Assembly constituency.</p> <p><del>(1A) A person falls within the extended franchise for Senedd elections if the person—</del></p> <p style="padding-left: 40px;"><del>(a) has attained the age of 16, but not the age of 18, and</del></p> <p style="padding-left: 40px;"><del>(b) would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.</del></p> <p><del>(1B) A person falls within the extended franchise for Senedd elections if the person—</del></p> <p style="padding-left: 40px;"><del>(a) is a qualifying foreign citizen (within the meaning given by section 203(1) of the Representation of the People Act 1983 (c. 2)), and</del></p> <p style="padding-left: 40px;"><del>(b) would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.</del></p> <p>(2) But a person is not entitled as an elector—</p> <p style="padding-left: 40px;">(a) to cast more than one constituency vote, or more than one electoral region vote, in the same Assembly constituency at any general election,</p> <p style="padding-left: 40px;">(b) to vote in more than one Assembly constituency at any general election, or</p> <p style="padding-left: 40px;">(c) to cast more than one vote in any election held under section 10.</p>	<p>Part 1 Section 2</p>

Disqualification	Schedule 2 Paragraph 12
<p><b>17E Exception from disqualification by virtue of being a councillor: ordinary election of councillors within 372 days</b></p> <p>(1) This section applies if—</p> <ul style="list-style-type: none"> <li>(a) a member of the council of a county or county borough in Wales is returned as a Member of Senedd Cymru, and</li> <li>(b) the expected day of the next ordinary election of members of the council is within the period of 372 days beginning with the day the person is so returned (“the return day”).</li> </ul> <p>(2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—</p> <ul style="list-style-type: none"> <li>(a) beginning with the return day, and</li> <li>(b) ending with the fourth day after the day of the next ordinary election of members of the council.</li> </ul> <p>(3) For the purposes of subsection (1)(b) the expected day of the next ordinary election of members of the council is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).</p> <p>(4) For the purpose of determining the expected day, no account is to be taken of the possibility of—</p> <ul style="list-style-type: none"> <li>(a) an order under section 37ZA(1) <u>or 1A</u> of the Representation of the People Act 1983 (c. 2) (power to vary ordinary day of local elections), or</li> <li>(b) an order under section 87 of the Local Government Act 2000 (c. 22) (power to change year in which local election is held), being made after the relevant time.</li> </ul> <p>(5) References in this section and section 17F to the “day” of an election are to the day on which the poll at the election is held.</p>	

## Local Government Act 1972

Section	Amended by
<p><b>25 Term of office and retirement of councillors</b></p> <p>(1) Councillors for a principal area shall be elected by the local government electors for that area in accordance with this Act, <u>Part I of the Representation of the People Act 1983, and Part 1 of the Local Government and Elections (Wales) Act 2020.</u></p> <p>(2) For the purpose of the election of councillors, every principal area in Wales shall be divided into electoral <u>wards</u>, each returning such number of councillors as may be provided by an order under paragraph 2 of Schedule 5 to this Act or under or by virtue of the provisions of Part IV of this Act or Part 3 of the Local Government (Democracy) (Wales) Act 2013 (anaw 4), <u>or by regulations under paragraph 9 or 10 of Schedule 1 to the Local Government and Elections (Wales) Act 2020.</u></p> <p>(3) There shall be a separate election for each electoral <u>ward</u>.</p>	<p>Schedule 2 Paragraph 1</p>
<p><b>Part II Local Government Areas and Authorities in Wales</b></p> <p>Members of principal councils</p> <p><b>26 Elections of councillors.</b></p> <p>(1) The ordinary elections of councillors of the new principal councils shall take place in 2004 and in every <u>fifth</u> year after 2004.</p> <p>(2) The term of office of every such councillor shall be <u>five</u> years.</p> <p>(3) On the fourth day after any such ordinary election—</p> <p>(a) the persons who were councillors immediately before the election shall retire; and</p> <p>(b) the newly elected councillors shall assume office.</p>	<p>Part 1 Section 14</p>
<p>Communities</p> <p><b>33B Principal council's response to a community poll</b></p> <p>(1) <del>This section applies where a principal council has been given a notice under paragraph 38B(3) or (5)(a) of Schedule 12 to this Act which contains a determination that a question in relation to which a poll consequent on a community meeting was taken relates to the council's functions.</del></p> <p>(2) <del>The council must, during the relevant period, perform one of the actions described in subsection (4).</del></p> <p>(3) <del>If the council chooses to perform more than one action, the council may do so during or after the relevant period.</del></p> <p>(4) <del>The actions referred to in subsection (2) are as follows—</del></p> <p><del>(a) to exercise the council's functions in accordance with the question in relation to which the poll was taken;</del></p> <p><del>(b) to include the question of what action (if any) the council should take in response to the community poll within the business to be transacted at a meeting of the principal council</del></p>	<p>Schedule 12 Paragraph 2</p>

~~held within the relevant period (and for this purpose a meeting of a committee or sub-committee of the council does not count);~~

~~(c) to initiate a consultation exercise which seeks the views of such members of the public as the council considers appropriate about what action (if any) the council should take in response to the community poll;~~

~~(d) to hold a meeting open to members of the public, at such venue as the council considers appropriate, for the purpose of seeking the views of members of the public about what action (if any) the council should take in response to the community poll;~~

~~(e) to initiate research for the purpose of assisting the council to decide what action (if any) it should take in response to the community poll;~~

~~(f) to refer the question of what action (if any) the council should take in response to the community poll to an overview and scrutiny committee with a request that the committee reports its conclusions to the council.~~

~~(5) In this section the “relevant period” means the period of two months beginning on the day following that on which the notice referred to in subsection (1) was given.~~

### **33C Principal council’s explanation of its response to a community poll**

~~(1) As soon as is reasonably practicable following the end of the relevant period for the purposes of section 33B of this Act, a principal council must take all reasonable steps to give the chairman of, or person who presided at, the community meeting referred to in subsection (1) of that section a notice in writing which—~~

~~(a) describes what action the council has taken in response to the community poll to which the notice relates, and~~

~~(b) describes what further action (if any) the council intends to take.~~

~~(2) If notice cannot be given to the chairman of, or person who presided at, the community meeting—~~

~~(a) in the case of a community meeting convened under paragraph 30 of Schedule 12 to this Act, the notice must instead be given to the chairman of the community council for the community;~~

~~(b) in the case of a community meeting convened under paragraph 30A of Schedule 12 to this Act, the principal council must instead take all reasonable steps to give notice to each of the individuals who convened the community meeting.~~

~~(3) Subject to subsection (5), notice under subsection (2)(b) is to be given by sending the notice to the address given in respect of an individual in the relevant convening notice.~~

~~(4) In subsection (3), “relevant convening notice” means the notice given to the council under paragraph 30B of Schedule 12 to this Act which preceded the holding of the community meeting at which the poll in question was demanded.~~

<p><del>(5) Where an individual is an anonymous registrant in the register of local government electors (within the meaning of paragraph 29A of Schedule 12 to this Act), the duty under subsection (3) does not apply and notice shall instead be given, and related functions performed, in accordance with sub-paragraphs (4) to (8) of paragraph 29A of Schedule 12 to this Act.</del></p> <p><del>(6) The council must publish the notice on its website for a period of at least six months, beginning with the day on which the notice was given.</del></p>	
<p><b>35 Community councillors.</b></p> <p>(1) Community councillors shall be elected by the local government electors for the community in accordance with this Act and Part I of the Representation of the People Act 1983.</p> <p>(2) There shall be ordinary elections of community councillors in 2004 and in every <u>fifth</u> year thereafter.</p> <p>(2A) The term of office of the community councillors shall be <u>five</u> years.</p> <p>(2B) On the fourth day after any such ordinary election—</p> <p style="padding-left: 40px;">(a) the persons who were councillors immediately before the election shall retire; and</p> <p style="padding-left: 40px;">(b) the newly elected councillors shall assume office.</p> <p>(3) Where a community is not divided into community wards there shall be one election of community councillors for the whole community.</p> <p>(4) Where a community is divided into community wards there shall be a separate election of community councillors for each ward.</p>	<p>Part 1 Section 15</p>
<p><b>Part V General Provisions as to Members and Proceedings of Local Authorities</b></p> <p style="text-align: center;">Qualifications and disqualifications</p> <p><b>79 Qualifications for election and holding office as member of local authority</b></p> <p>(1) A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be elected and to be a member of a local authority if he is a qualifying Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union <u>or, in the case of a local authority in Wales, a qualifying foreign citizen</u> and on the relevant day he has attained the age of eighteen years and—</p> <p style="padding-left: 40px;">(a) on that day he is and thereafter he continues to be a local government elector for the area of the authority; or</p> <p style="padding-left: 40px;">(b) he has during the whole of the twelve months preceding that day occupied as owner or tenant any land or other premises in that area; or</p> <p style="padding-left: 40px;">(c) his principal or only place of work during that twelve months has been in that area; or</p>	<p>Part 1 Section 19</p>

(d) he has during the whole of those twelve months resided in that area; or

(e) in the case of a member of a parish or community council he has during the whole of those twelve months resided either in the parish or community or within three miles of it.

(2) In this section “relevant day”, in relation to any candidate, means—

(a) except in the case of an election not preceded by the nomination of candidates, the day on which he is nominated as a candidate and also, if there is a poll, the day of election; and

(b) in the said excepted case, the day of election.

(2A) In this section the expression “citizen of the Union” shall be construed in accordance with Article 20(1) of the Treaty on the Functioning of the European Union, and “relevant citizen of the Union” means such a citizen who is not a qualifying Commonwealth citizen or a citizen of the Republic of Ireland.

(2B) For the purposes of this section, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either—

(a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or

(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(c) for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(2C) But a person is not a qualifying Commonwealth citizen by virtue of subsection (2B)(a) if he does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).

(2D) For the purposes of this section, a person is a qualifying foreign citizen if the person—

(a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union, and

(b) either—

(i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or

(ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(2E) But a person is not a qualifying foreign citizen by virtue of subsection (2D)(b)(i) if the person does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).

<p><b>80 Disqualifications for election and holding office as member of a local authority in England</b></p> <p>(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority <u>in England</u> if he—</p> <p>(a) holds any paid office or employment (other than the office of chairman, vice-chairman, deputy chairman, presiding member or deputy presiding member or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or</p> <p>(aa) holds any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority; or</p> <p>(aa) holds any employment in an entity which is under the control of the local authority; or</p> <p>(b) is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB of the Insolvency Act 1986; or</p> <p>(c) [repealed]</p> <p>(d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or</p> <p>(e) is disqualified for being elected or for being a member of that authority under Part III of the Representation of the People Act 1983</p> <p>(2) Subject to the provisions of section 81 below, a paid officer of a local authority <u>in England</u> who is employed under the direction of—</p> <p>(a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or</p> <p>(b) a joint board, joint authority, economic prosperity board, combined authority or joint committee on which the authority are represented and any member of which is so appointed;</p> <p>shall be disqualified for being elected or being a member of that other local authority.</p> <p>(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee the membership of which includes—</p>	<p>Schedule 2 Paragraph 1</p>
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<p>(a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and</p> <p>(b) one or more members of one or more London borough councils appointed to the committee on the nomination of those councils,</p> <p>shall be disqualified for being elected or being a member of any of those London borough councils.</p> <p><del>(2AB) A person who is employed by or under the direction of a strategic planning panel is disqualified for being elected or being a member of a local authority which is a constituent local planning authority in relation to that panel (within the meaning of paragraph 3(3) of Schedule 2A to the Planning and Compulsory Purchase Act 2004).</del></p> <p>(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.</p> <p>(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.</p> <p>(3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.</p> <p>(3A) In subsection (1)(aa) as it applies in relation to a local authority in England, the reference to an entity under the control of the local authority has the meaning given by order under section 217 of the Local Government and Public Involvement in Health Act 2007.</p> <p><del>(3B) In subsection (1)(aa) as it applies in relation to a local authority in Wales, that reference has the meaning given by order under section 218 of that Act.</del></p> <p>(4) [repealed]</p> <p>(5) For the purposes of subsection (1)(d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction</p>	
<p><b><u>80A Disqualification for election or being a member of a local authority in Wales</u></b></p> <p><b><u>(1) A person is disqualified for being elected or being a member of a local authority in Wales if—</u></b></p> <p><b><u>(a) the person is the subject of—</u></b></p> <p><b><u>(i) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Schedule 2A to the Insolvency (Northern Ireland) Order 1989, or Part 13 of the Bankruptcy (Scotland) Act 2016;</u></b></p>	<p>Part 1 Section 20</p>



<p><u>(ii) a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 or Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989;</u></p> <p><u>(b) the person is disqualified for being elected or for being a member of the authority under Part 3 of the Representation of the People Act 1983 (corrupt or illegal practices);</u></p> <p><u>(c) the person is subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003;</u></p> <p><u>(d) the person has a relevant criminal conviction.</u></p> <p><u>(2) A person has a relevant criminal conviction if, during the period of five years ending with the day of the local authority election, or since the person's election, the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man of an offence for which the person has been sentenced to a term of imprisonment (whether suspended or not) of 3 months or more without the option of a fine.</u></p> <p><u>(3) A person is not disqualified under subsection (1)(c) at any time before the end of the ordinary period allowed for making—</u></p> <p><u>(a) an appeal or application in respect of the conviction or finding to which the notification requirements relate;</u></p> <p><u>(b) an appeal in respect of the order.</u></p> <p><u>(4) A person is not disqualified under subsection (1)(d) at any time before the end of the ordinary period allowed for making an appeal or application in respect of the conviction.</u></p> <p><u>(5) A person who makes an appeal or application of the kind mentioned in subsection (3) or (4) is not disqualified under subsection (1)(c) or (d) at any time before the end of the day on which the appeal or application is finally disposed of, or is abandoned, or fails by reason of non-prosecution.</u></p> <p><u>(6) A person who would be disqualified but for subsection (3), (4) or (5) must not act in the office of member of a local authority in Wales.</u></p> <p><b><u>80B Disqualification for being a member of local authority in Wales and holding local office or employment</u></b></p> <p><u>(1) A person who holds a relevant paid office or employment (see section 80C) is disqualified for being a member of a local authority in Wales, (but not for being elected as such a member).</u></p> <p><u>(2) A person is not disqualified under subsection (1) at any time before the person makes a declaration of acceptance of office in accordance with section 83.</u></p> <p><u>(3) Subsections (4), (5) and (6) apply where a person is elected as a member of a local authority in Wales and resigns from the relevant paid office or employment for the purpose of taking office as a member.</u></p> <p><u>(4) The resignation terminates the holding of the paid office or employment with immediate effect.</u></p>	
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(5) Any notice requirement in the terms and conditions under which the paid office or employment is held has no effect.

(6) Section 86(2) of the Employment Rights Act 1996 (requirement on employee to give minimum of one week's notice) does not apply.

(7) This section does not apply to a person who is disqualified for being elected or being a member of a local authority under section 1 of the Local Government and Housing Act 1989 (disqualification by virtue of holding politically restricted post).

**80C Paid office or employment to which disqualification applies**

(1) For the purposes of section 80B "a relevant paid office or employment" is a paid office or employment appointment or election to which is or may be made or confirmed by—

(a) the local authority to which the person was elected a member;

(b) a committee or sub-committee of the local authority;

(c) a joint committee or National Park authority on which the local authority is represented; or

(d) a holder of a paid office or employment of the kind described in paragraphs (a), (b) or (c).

(2) But a relevant paid office or employment in subsection (1) does not include the office of—

(a) chairman, vice-chairman, presiding member or deputy presiding member, or

(b) in the case of a local authority operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.

(3) Subsection (1) has effect in relation to a teacher in a school maintained by a local authority whether or not the appointment to the post was made in accordance with that subsection.

(4) Where the holder of a relevant paid office in a local authority in Wales ("local authority A") is employed under the direction of—

(a) a committee or sub-committee of local authority A any member of which is appointed on the nomination of another local authority in Wales ("local authority B"), or

(b) a joint board, a National Park authority, or joint committee on which local authority A is represented and any member of which is appointed on the nomination of local authority B.

section 80B applies in respect of the person's membership of local authority B.

(5) For the purposes of this section, a local authority is represented on a National Park authority if it is entitled to appoint a member of the local authority as a member of the National Park authority.

(6) For the purposes of section 80B, a person is to be treated as holding a relevant paid office in a local authority if the person is employed by or under the direction of a strategic planning panel in

<p><u>relation to which the local authority is a constituent local planning authority (within the meaning of paragraph 3(3) of Schedule 2A to the Planning and Compulsory Purchase Act 2004).</u></p>	
<p>Acceptance, resignation and vacation of office, and casual vacancies</p> <p><b>86 Declaration by local authority of vacancy in office in certain cases</b></p> <p>(1) Where a member of a local authority—</p> <p>(a) ceases to be qualified to be a member of the authority; or</p> <p>(b) becomes disqualified for being a member of the authority otherwise than under <u>section 80A(1)(c) of this Act</u>, section 79 of the Local Government Act 2000 or section 34 of the Localism Act 2011 or by virtue of a conviction or a breach of any provision of Part II of the Representation of the People Act 1983; or</p> <p>(c) ceases to be a member of the authority by reason of failure to attend meetings of the authority;</p> <p>the authority shall, except in any case in which a declaration has been made by the High Court under this Part of this Act, forthwith declare his office to be vacant.</p> <p>(2) In this section “local authority” includes a joint authority, an economic prosperity board and a combined authority</p>	<p>Schedule 2 Paragraph 1</p>
<p><b>87 Date of casual vacancies</b></p> <p>(1) For the purpose of filling a casual vacancy in any office for which an election is held under this Act, the date on which the vacancy is to be deemed to have occurred shall be—</p> <p>(a) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under this Part of this Act for the delivery of the declaration;</p> <p>(b) in the case of resignation, upon the receipt of the notice of resignation by the person or body to whom the notice is required to be delivered;</p> <p>(c) in the case of death, on the date of death;</p> <p>(d) in the case of a disqualification by virtue of a conviction, on the expiration of the ordinary period allowed for making an appeal or application with respect to the conviction or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;</p> <p><u>(da) in the case of disqualification of a member of a local authority in Wales under paragraph (c) of section 80A(1), on the date on which the person becomes disqualified under that paragraph;</u></p> <p>(e) in the case of an election being declared void on an election petition, on the date of the report or certificate of the election court;</p> <p>(ee) in the case of a disqualification under section 79 of the Local Government Act 2000 or section 34 of the Localism Act</p>	<p>Schedule 2 Paragraph 1</p>

<p>2011 or, on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant decision or order under that section or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;</p> <p>(f) in the case of a person ceasing to be qualified to be a member of a local authority, or becoming disqualified, for any reason other than one mentioned in paragraphs (a) to (ee) above, or ceasing to be a member of a local authority by reason of failure to attend meetings, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be; and</p> <p>(g) [repealed]</p> <p>(2) Public notice of a casual vacancy in any such office as is referred to in subsection (1) above shall be given by the local authority in which the office exists; and the steps required to be taken to give public notice in accordance with section 232 below shall be taken—</p> <p>(a) in a case where the local authority declare the office to be vacant, immediately after the declaration; and</p> <p>(b) in any other case, as soon as practicable after the date on which, by virtue of subsection (1) above, the vacancy is deemed to have occurred.</p>	
<p><b>89 Filling of casual vacancies in case of councillors</b></p> <p>(1) Subject to the provisions of this section, on a casual vacancy occurring in the office of councillor for any principal area, an election to fill the vacancy shall be held—</p> <p>(a) in a case in which the High Court or the council have declared the office to be vacant, within thirty-five days (computed in accordance with section 243(4) below) from the date of the declaration;</p> <p>(b) in any other case, within thirty-five days (so computed) after notice in writing of the vacancy has been given to the proper officer of the authority by two local government electors for the area.</p> <p>(2) The day of election to fill a casual vacancy in any office mentioned in subsection (1) above shall be fixed by the returning officer . . .</p> <p>(3) Where a casual vacancy in any such office occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election shall not be held under subsection (1) above unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election under subsection (1) above is not held, the vacancy shall be filled at the next ordinary election.</p> <p>(4) Where more than one casual vacancy in the office of councillor of a district in which councillors are elected by thirds is filled at the</p>	<p>Schedule 2 Paragraph 1</p>

same election, the person elected by the smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have first retired, and the person elected by the next smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have next retired and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement shall be determined by lot.

(5) Where an election to fill one or more casual vacancies in the office of councillor of any such district is combined with an ordinary election of councillors, the following provisions shall apply—

(a) where an election is contested—

(i) the persons who are elected by the smallest numbers of votes, or if any relevant votes are equal such persons as are determined by lot, shall be deemed elected to fill the casual vacancies;

(ii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes or, if the relevant votes are equal, such person as is determined by lot, shall hold office for the shorter period, and so with respect to the others;

(b) where the election is not contested—

(i) those declared elected (if fewer than the vacancies to be filled) shall be deemed elected to fill the vacancies in which they will hold office for the longest periods;

(ii) where there are two or more persons declared elected and they are to fill vacancies in which they will hold office for different periods, any retiring councillors elected shall be deemed elected to fill the vacancies in which they will hold office for the longest period, and the question which of the persons declared elected who are not retiring councillors is to be deemed elected to fill any of the vacancies not filled by retiring councillors shall be determined by lot.

(6) A casual vacancy among parish or community councillors shall be filled by election or by the parish or community council in accordance with rules made under section 36 of the Representation of the People Act 1983 in the case of a parish council or, in the case of a community council, made under section 36A of the 1983 Act.

(7) Where under this section any question is required to be determined by lot—

(a) in the case of a contested election, the lot shall be drawn by the returning officer immediately after the question has arisen; and

(b) in any other case, the lot shall be drawn at the next meeting of the council after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

**Part VA Access to Meetings and Documents of Certain Authorities, Committees and Sub-Committees.**

Schedule 4  
Paragraph 2

**100A Admission to meetings of principal councils**

(1) A meeting of a principal council shall be open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under subsection (2) below or by resolution under subsection (4) below.

(2) The public shall be excluded from a meeting of a principal council during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence; and nothing in this Part shall be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

(3) For the purposes of subsection (2) above, “confidential information” means—

(a) information furnished to the council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and

(b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;

and, in either case, the reference to the obligation of confidence is to be construed accordingly.

(4) A principal council may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I below.

(5) A resolution under subsection (4) above shall—

(a) identify the proceedings, or the part of the proceedings, to which it applies, and

(b) state the description, in terms of Schedule 12A to this Act, of the exempt information giving rise to the exclusion of the public,

and where such a resolution is passed this section does not require the meeting to be open to the public during proceedings to which the resolution applies.

(6) The following provisions shall apply in relation to a meeting of a principal council, that is to say—

(a) in relation to a principal council in England, public notice of the time and place of the meeting shall be given by posting it at the offices of the council five clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;

(aa) in relation to a principal council in Wales, public notice of the time and place of the meeting must be given by—

(i) posting the notice at the offices of the council, and

<p><u>(ii) publishing a copy of the notice electronically, at least three clear days before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;</u></p> <p>(b) while the meeting is open to the public, the council shall not have power to exclude members of the public from the meeting; and</p> <p>(c) subject to subsection (7D), while the meeting is open to the public, duly accredited representatives of newspapers attending the meeting for the purpose of reporting the proceedings for those newspapers shall, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the council or not on the telephone, for telephoning the report at their own expense.</p> <p>(7) Nothing in this section shall require a principal council to permit the taking of photographs of any proceedings, or the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later), or the making of any oral report on any proceedings as they take place.</p> <p>(8) This section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.</p>	
<p><b>100E Application to committees and sub-committees.</b></p> <p>(1) Sections 100A to 100D above shall apply in relation to a committee or sub-committee of a principal council as they apply in relation to a principal council.</p> <p>(2) In the application by virtue of this section of sections 100A to 100D above in relation to a committee or sub-committee—</p> <p>(a) section 100A(6)(a) shall be taken to have been complied with if the notice is given by posting it at the time there mentioned at the offices of every constituent principal council and, if the meeting of the committee or sub-committee to which that section so applies is to be held at premises other than the offices of such a council, at those premises;</p> <p>(b) for the purposes of section 100A(6)(c), premises belonging to a constituent principal council shall be treated as belonging to the committee or sub-committee; and</p> <p>(c) for the purposes of sections 100B(1), 100C(1) and 100D(1), offices of any constituent principal council shall be treated as offices of the committee or sub-committee.</p> <p>(3) Any reference in this Part to a committee or sub-committee of a principal council is a reference to—</p> <p>(a) a committee which is constituted under an enactment specified in section 101(9) below or which is appointed by one or more principal councils under section 102 below; or</p> <p><u>(aa) the requirement in section 100A(6)(aa)(i) is complied with if the notice is posted at the required time at the offices of every constituent principal council and, if the meeting of the committee or sub-committee to which the notice relates is to be</u></p>	<p>Schedule 4 Paragraph 3</p>

<p><u>held at premises other than the offices of such a council, at those premises:</u></p> <p><u>(ab) the requirement in section 100A(6)(aa)(ii) is complied with if a copy is published electronically at the required time by each constituent council;</u></p> <p>(b) a joint committee not falling within paragraph (a) above which is appointed or established under any enactment by two or more principal councils and is not a body corporate; or</p> <p>(bba) a committee in place by virtue of section 107D(3)(c)(ii) of the Local Democracy, Economic Development and Construction Act 2009; or</p> <p>(bbb) a joint committee in place by virtue of section 107E of that Act; or</p> <p>(bb) the Navigation Committee of the Broads Authority; or</p> <p>(c) a sub-committee appointed or established under any enactment by one or more committees falling within paragraphs (a) to (bb) above.</p> <p>(4) Any reference in this Part to a constituent principal council, in relation to a committee or sub-committee is a reference—</p> <p>(a) in the case of a committee, to the principal council, or any of the principal councils, of which it is a committee; and</p> <p>(b) in the case of a sub-committee, to any principal council which, by virtue of paragraph (a) above, is a constituent principal council in relation to the committee, or any of the committees which established or appointed the sub-committee.</p>	
<p><b>100H Supplemental provisions and offences</b></p> <p>(1) A document directed by any provision of this Part to be open to inspection shall be so open at all reasonable hours and—</p> <p>(a) in the case of a document open to inspection by virtue of section 100D(1) above, upon payment of such reasonable fee as may be required for the facility; and</p> <p>(b) in any other case, without payment.</p> <p>(2) In relation to a principal council in England, Where a document is open to inspection by a person under any provision of this Part, the person may, subject to subsection (3) below—</p> <p>(a) make copies of or extracts from the document, or</p> <p>(b) require the person having custody of the document to supply to him a photographic copy of or of extracts from the document, upon payment of such reasonable fee as may be required for the facility.</p> <p><u>(2A) In relation to a principal council in Wales, where a document is open to inspection by a person under any provision of this Part the person may, subject to subsection (3) below—</u></p> <p><u>(a) make copies of the document or parts of the document, or</u></p> <p><u>(b) require the person having custody of the document to provide a copy of the document or of parts of the document,</u></p>	<p>Schedule 4 Paragraph 9</p>



upon payment of such reasonable fee as may be required for the facility.

(3) Subsection (2) and subsection (2A) above do not require or authorise the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is a principal council, nothing done in pursuance of those subsections shall constitute an infringement of the copyright.

(4) If, without reasonable excuse, a person having the custody of a document which is required by section 100B(1), 100C(1) or 100EA(2) above to be open to inspection by the public—

(a) intentionally obstructs any person exercising a right conferred by this Part to inspect, or to make a copy of or extracts from, the document, or

(b) refuses to furnish copies to any person entitled to obtain them under any provision of this Part,

he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

(5) Where any accessible document for a meeting to which this subsection applies—

(a) is supplied to, or open to inspection by, a member of the public, or

(b) is supplied for the benefit of any newspaper, in pursuance of section 100B(7) above,

the publication thereby of any defamatory matter contained in the document shall be privileged unless the publication is proved to be made with malice.

(6) Subsection (5) above applies to any meeting of a principal council and any meeting of a committee or sub-committee of a principal council; and, for the purposes of that subsection, the “accessible documents” for a meeting are the following—

(a) any copy of the agenda or of any item included in the agenda for the meeting;

(b) any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in section 100B(7)(b) above;

(c) any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of section 100B(7)(c) above;

(d) any copy of the whole or part of a report for the meeting;

(e) any copy of the whole or part of any background papers for a report for the meeting, within the meaning of section 100D above.

(7) The rights conferred by this Part to inspect, copy and be furnished with documents are in addition, and without prejudice, to any such rights conferred by or under any other enactment.

<p><b>100J Application to new authorities, Common Council, etc.</b></p> <p>(1) Except in this section, and subject as follows, any reference in this Part to a principal council includes a reference to—</p> <ul style="list-style-type: none"> <li>(a) [repealed]</li> <li>(b) a joint authority;</li> <li>(ba) [repealed]</li> <li>(bb) [repealed]</li> <li>(bc) an economic prosperity board;</li> <li>(bd) a combined authority;</li> <li>(be) Transport for London;</li> <li>(bf) a sub-national transport body;</li> <li>(c) the Common Council;</li> <li>(cc) the Broads Authority</li> <li>(cd) a National Park authority;</li> <li>(d) a joint board or joint committee falling within subsection (2) below;</li> <li>(e) [repealed]</li> <li>(eza) [repealed]</li> <li>(ea) [repealed]</li> <li>(f) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;</li> <li>(g) the Homes and Communities Agency so far as it is exercising functions conferred on it in relation to a designated area by virtue of a designation order;</li> <li>(h) a Mayoral development corporation.</li> </ul> <p>(2) A joint board or joint committee falls within this subsection if—</p> <ul style="list-style-type: none"> <li>(a) it is constituted under any enactment as a body corporate; and</li> <li>(b) it discharges functions of two or more principal councils;</li> </ul> <p>and for the purposes of this subsection any body falling within paragraph (a), (b), (bc), (bd) or (c) of subsection (1) above shall be treated as a principal council.</p> <p>(2A) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, a reference in this Part to the offices of the council (however expressed)—</p> <ul style="list-style-type: none"> <li>(a) is to be treated as a reference to such premises located within the designated area as the Homes and Communities Agency considers appropriate, and</li> <li>(b) in the application of section 100A(6)(a) above to a case where the meeting is to be held at premises other than those mentioned in paragraph (a) above, includes a reference to those other premises.</li> </ul>	<p>Schedule 4 Paragraph 4</p>
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(3) In its application by virtue of subsection (1) above in relation to a body falling within paragraph (b), (bc), (bd), (be), (bf), (cc), (cd) (d), (f) or (h) of that subsection, section 100A(6)(a) above shall have effect with the insertion after the word “council” of the words “(and, if the meeting is to be held at premises other than those offices, at those premises)”.

(3YA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100E(3) has effect as if for paragraph (bb) there were substituted—

“(bb) a committee of Transport for London (with “committee”, in relation to Transport for London, here having the same meaning as in Schedule 10 to the Greater London Authority Act 1999); or”.

(3ZA) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, section 100E above shall have effect as if—

(a) in subsection (2), paragraph (c) was omitted, and

(b) in subsection (3), for paragraphs (a) to (c) there were substituted—

“(a) a committee established under paragraph 6(1) of Schedule 1 to the Housing and Regeneration Act 2008 for the purpose of exercising functions conferred on the Homes and Communities Agency in relation to a designated area by virtue of a designation order; or

(b) a sub-committee of such a committee established under paragraph 6(2) of that Schedule to that Act for that purpose.”

(3ZAA) In its application by virtue of subsection (1)(h) above in relation to a Mayoral development corporation, section 100E(3) has effect as if for paragraphs (a) to (c) there were substituted—

“(a) a committee which is established under Schedule 21 to the Localism Act 2011 by a principal council, or

(b) a sub-committee established under that Schedule by a committee within paragraph (a).”

(3ZB) In its application by virtue of subsection (1)(g) above in relation to the Homes and Communities Agency, section 100G(1) above shall have effect as if paragraph (a) was omitted.

(3B) In its application in relation to a National Park authority for an area in Wales by virtue of subsection (1)(cd)—

(a) section 100A(6)(aa) has effect as if sub-paragraph (ii) (and the preceding “and”) were omitted, and

(b) section 100E(2) has effect as if paragraph (ab) were omitted.”;

(3A) [repealed]

(3C) In its application in relation to a fire and rescue authority for an area in Wales by virtue of subsection (1)(f)—

(a) section 100A(6)(aa) has effect as if sub-paragraph (ii) (and the preceding “and”) were omitted, and

(b) section 100E(2) has effect as if paragraph (ab) were omitted

<p>(4) In its application by virtue of subsection (1) above, section 100G(1)(a) above shall have effect—</p> <p>(a) in relation to a joint authority, a sub-national transport body, an economic prosperity board, or a combined authority, with the substitution for the words after “together with” of the words “the name or description of the body or other person that appointed him”; and</p> <p>(aa) in relation to the Broads Authority or its Navigation Committee or any National Park authority, with the substitution for the words after “together with” of the words “the name of the person who appointed him”; and</p> <p>(b) in relation to a Mayoral development corporation, or a joint board or joint committee falling within subsection (2) above, with the omission of the words after “for the time being”; and</p> <p>(c) in relation to a fire and rescue authority falling within subsection (1)(f) above, with the substitution for the words “, in the case of a councillor, the ward or division” of the words “the constituent area”.</p> <p>(4A) [repealed]</p> <p>(4AA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100G shall have effect—</p> <p>(a) with the substitution for subsection (1)(a) and (b) of—</p> <p>    “(a) the name of every member of the council for the time being; and</p> <p>    (b) the name of every member of each committee or sub-committee of the council for the time being.”, and</p> <p>(b) with the insertion in subsection (2)(b) after “exercisable” of “, but not an officer by whom such a power is exercisable at least partly as a result of sub-delegation by any officer”.</p> <p>(4B) In this section “designated area” and “designation order” have the same meanings as in Part 1 of the Housing and Regeneration Act 2008.</p> <p>(5) [repealed]</p>	
<p><b>100K Interpretation and application of Part VA</b></p> <p>(1) In this Part—</p> <p>“committee” or “sub-committee of a principal council” shall be construed in accordance with section 100E(3) above (and see section 100J(3YA), (3ZA)(b) and (3ZAA) above);</p> <p>“constituent principal council” shall be construed in accordance with section 100E(4) above;</p> <p>“copy”, in relation to any document, includes a copy made from a copy;</p> <p>“exempt information” has the meaning given by section 100I above;</p> <p>“information” includes an expression of opinion, any recommendations and any decision taken;</p> <p>“newspaper” includes—</p>	<p>Schedule 4 Paragraph 5</p>

<p>(a) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and</p> <p>(b) any organisation which is systematically engaged in collecting news—</p> <p style="padding-left: 40px;">(i) for sound or television broadcasts; or</p> <p style="padding-left: 40px;">(ii) for inclusion in programmes to be included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;</p> <p>“principal council” shall be construed in accordance with section 100J above.</p> <p>(2) Any reference in this Part to a meeting is a reference to a meeting held after 1st April 1986.</p> <p>(3) The Secretary of State may by order amend sections 100A(6)(a) <u>and (aa)</u> and 100B(3) and (4)(a) above so as to substitute for each reference to three clear days such greater number of days as may be specified in the order.</p> <p>(4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.</p>	
<p style="text-align: center;"><b>Part VII Miscellaneous Powers of Local Authorities</b></p> <p style="text-align: center;">Staff</p> <p><b>112 Appointment of staff</b></p> <p>(1) Without prejudice to section 111 above but subject to the provisions of this Act, a local authority shall appoint such officers as they think necessary for the proper discharge by the authority of such of their or another authority’s functions as fall to be discharged by them and the carrying out of any obligations incurred by them in connection with an agreement made by them in pursuance of section 113 below.</p> <p>(2) An officer appointed under subsection (1) above shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the authority appointing him think fit.</p> <p>(2A) A local authority’s power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 41 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with pay policy statement) and in relation to a local authority in Wales, section 143A of the Local Government (Wales) Measure 2011 (functions of the Independent Remuneration Panel in relation to <u>renumeration</u> of <u>chief executives</u>).</p> <p>(3) Subject to subsection (4) below, any enactment or instrument made under an enactment which requires or empowers all local authorities or local authorities of any description or committees of local authorities to appoint a specified officer shall, to the extent that it makes any such provision, cease to have effect.</p>	<p>Schedule 5 Paragraph 1</p> <p>Part 4 Section 54</p>

<p>The reference in this section to committees of local authorities does not include a reference to any committee of which some members are required to be appointed by a body or person other than a local authority.</p> <p>(4) Subsection (3) above does not apply to the following officers, that is to say—</p> <p>(a) [repealed]</p> <p>(b) chief education officers appointed under section 532 of the Education Act 1996;</p> <p>(c) [repealed]</p> <p>(d), (e) [repealed]</p> <p>(f) agricultural analysts and deputy agricultural analysts appointed under section 67(3) of the Agriculture Act 1970; and</p> <p>(g) directors of social services appointed under section 6 of the Local Authority Social Services Act 1970 or section 144 of the Social Services and Well-being (Wales) Act 2014;</p> <p>and it is hereby declared that subsection (3) above does not apply to any other person appointed by a local authority to perform a specified function.</p> <p>(5) Without prejudice to the provisions of subsection (1) above, a parish or community council may appoint one or more persons from among their number to be officers of the council, without remuneration.</p> <p>(6) Nothing in this section affects the operation of section 5 of the 1963 Act or the Local Authorities (Goods and Services) Act 1970.</p>	
<p><b>116 Members of local authorities <u>in England</u> not to be appointed as officers</b></p> <p>A person shall, so long as he is, and for twelve months after he ceases to be, a member of a local authority <u>in England</u>, be disqualified for being appointed or elected by that authority to any paid office, other than to the office of chairman or vice-chairman or, in the case of a local authority <u>in England</u> which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive</p>	<p>Schedule 2 Paragraph 1</p>
<p><b>116A Members of local authorities in Wales not to be appointed as officers</b></p> <p><u>A member of a local authority in Wales is disqualified for being appointed or elected by that authority to any paid office other than the office of chairman, vice-chairman, or in the case of a local authority operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.</u></p>	<p>Part 1 Section 21</p>
<p>Miscellaneous</p> <p><b>137 Power of local authorities to incur expenditure for certain purposes not otherwise authorised</b></p> <p>(1) A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of, and will bring direct benefit to, their area or any part of it or all or some</p>	<p>Schedule 3 Paragraph 9</p>

<p>of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any expenditure</p> <p>(a) for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment; nor</p> <p>(b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.</p> <p>(1A) In any case where—</p> <p>(a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and</p> <p>(b) the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),</p> <p>the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitation or condition.</p> <p>(2) It is hereby declared that the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority's functions.</p> <p>(2A), (2B) [repealed]</p> <p>(2C) A local authority may incur expenditure under subsection (1) above on publicity only—</p> <p>(a) [repealed]</p> <p>(b) by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given;</p> <p>but the following provisions of this section apply to expenditure incurred by a local authority under section 142 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.</p> <p>(2D) In subsection (2C) above—</p> <p>“publicity” means any communication, in whatever form, addressed to the public at large or to a section of the public; and</p> <p>“voluntary organisation” means a body which is not a public body but whose activities are carried on otherwise than for profit.</p> <p>(3) A local authority may, subject, in the case of a parish or community council, to the following provisions of this section, incur</p>	
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expenditure on contributions to any of the following funds, that is to say—

- (a) the funds of any charitable body in furtherance of its work in the United Kingdom; or
- (b) the funds of any body which provides any public service (whether to the public at large or to any section of it) in the United Kingdom otherwise than for the purposes of gain; or
- (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by the Lord Mayor of London or the chairman of a principal council or by a committee of which the Lord Mayor of London or the chairman of a principal council is a member or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973.

(4) The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—

- (a) such sum as is for the time being appropriate to the authority under Schedule 12B to this Act, by
- (b) the relevant population of the authority's area.

(4AA) [repealed]

(4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

- (a) the amount of any expenditure which forms part of the authority's gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure);
- (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;
- (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure;
- (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the European Economic Community, in so far as the grant is in



respect of an activity in relation to which the authority incurred expenditure in that year under this section;

(e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and

(f) the amount of any expenditure—

(i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or

(ii) which is incurred by the authority in that year and is of a description so specified; or

(iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.

(4C) [repealed]

(5) A statutory instrument containing an order under this section may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.

(6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The accounts of a local authority by whom expenditure is incurred under this section shall include a separate account of that expenditure.

(7A) In relation to England, section 25 of the Local Audit and Accountability Act 2014 (inspection of statements of accounts etc) applies in relation to a separate account included in a local authority's accounts by virtue of subsection (7) above as it applies in relation to a statement of accounts prepared by the authority pursuant to section 3(3) of that Act.

(7B) In relation to Wales, section 29 of the Public Audit (Wales) Act 2004 (rights of inspection) applies in relation to a separate account included in a local authority's accounts by virtue of subsection (7) above as it applies in relation to a statement of accounts prepared by the authority pursuant to regulations under section 39 of that Act.

(8) [repealed]

(9) Subject to subsection (10) below, in this section "local authority" means—

(a) a parish council which is not an eligible parish council for the purposes of Chapter 1 of Part 1 of the Localism Act 2011 (general power of competence), or

(b) a community council which is not an eligible community council for the purposes of Part 2 of the Local Government and Elections (Wales) Act 2020 (general power of competence).

(10) In subsection (3) above "local authority" means—

(a) in relation to England, a county council, a district council, a London borough council, the Common Council or a parish council,

(b) in relation to Wales, a county council, a county borough council or a community council.	
<p style="text-align: center;"><b>Part VIII Finance</b></p> <p style="text-align: center;">Expenses and receipts</p> <p><b>150 Expenses of parish and community councils</b></p> <p>(1) [repealed]</p> <p>(2) In a parish having a separate parish council or in a community having a council, whether separate or common, the expenses of the parish meeting or any community meeting shall be paid by the parish or community council.</p> <p>(3) In a community not having a community council, whether separate or common, the expenses of any community meeting shall be paid by the council of the principal area in which the community is situated.</p> <p>(4), (5) [repealed]</p> <p>(6) Every parish or community council and the chairman of the parish meeting for a parish not having a separate parish council shall keep such accounts as may be prescribed of the receipts and payments of the council or parish meeting, as the case may be.</p> <p>(7) References in this section to the expenses of a parish or community meeting include references to the expenses of any poll consequent on a parish <del>or community</del> meeting <u>or of a community governance poll (as to which, see paragraph 34(8) of Schedule 12).</u></p>	<p>Schedule 13 Paragraph 3</p>
<p style="text-align: center;"><b>Part XI General Provisions as to Local Authorities</b></p> <p style="text-align: center;">Documents and Notices etc.</p> <p><b>232 Public notices</b></p> <p>(1) Save as otherwise expressly provided, a public notice required to be given by a local authority shall be given—</p> <p style="padding-left: 40px;">(a) by posting the notice in some conspicuous place or places within the area of the local authority; and</p> <p style="padding-left: 40px;">(b) in such other manner, if any, as appears to the local authority to be desirable for giving publicity to the notice.</p> <p>(1ZA) A public notice given by a <u>local authority in Wales</u> must, in addition to the requirements imposed by subsection (1), be published electronically.</p> <p>(1A) In subsection (1) above “local authority” includes a joint authority, an economic prosperity board, a combined authority, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, a police and crime commissioner and the Mayor’s Office for Policing and Crime .</p> <p>(2) This section shall apply to a public notice required to be given by the chairman of a parish meeting as it applies to public notices required to be given by a parish council.</p>	<p>Schedule 4 Paragraph 10</p>

<p style="text-align: center;"><b>Part XI General Provisions as to Local Authorities</b></p> <p style="text-align: center;">Miscellaneous provisions</p> <p><b>243 Computation of time and timing of elections, etc.</b></p> <p>(1) Where the day or the last day on which anything is required or permitted to be done by or by virtue of any provision to which this subsection applies is a Sunday, day of the Christmas break, of the Easter break or of a bank holiday break or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days specified above.</p> <p>(2) Subsection (1) above applies to any provision of this Act or of an instrument under this Act, except a provision in Part IX or X or a provision of regulations under paragraph 18 or rules under paragraph 34 of Schedule 12 to this Act and applies also to sections 31 and 32 of the Local Government Act 1985.</p> <p>(3) Where under subsection (4) below the day of a poll consequent on a parish <del>or community</del> meeting <u>or a community governance poll (as to which, see paragraph 34(8) of Schedule 12)</u> is postponed, the day to which it is postponed shall be treated for the purposes of this Act as the day of the poll.</p> <p>(4) In computing any period of time for the purpose of any regulations or rules mentioned in subsection (2) above or for the purposes of 89(1) above any day specified in subsection (1) above shall be disregarded, but where between the giving of a notice of the poll and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning, the foregoing provision, so far as it relates to any such regulations or rules, shall not operate to invalidate any act which would have been valid apart from that provision.</p> <p>(5) Subsection (4) above, so far as it relates to any such regulations or rules, shall have effect subject to the provisions of those regulations or rules.</p>	<p>Schedule 13 Paragraph 4</p>
<p style="text-align: center;"><b>Part XII Miscellaneous and General</b></p> <p style="text-align: center;">General</p> <p><b>270 General provisions as to interpretation</b></p> <p>(1) In this Act, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—</p> <p>“appropriate Minister”, in relation to the making of an order or regulation or the giving of a direction with respect to any matter, means the Minister in charge of any Government department concerned with that matter; but the validity of any order, regulation or direction purporting to be made or given by any Minister by virtue of a power conferred on the appropriate Minister by this Act shall not be affected by any question as to whether or not that Minister was the appropriate Minister for the purpose;</p>	<p>Schedule 4 Paragraph 7</p> <p>Schedule 6 Paragraph 1</p>

<p><u>“assistant to the executive”, in relation to a principal council in Wales, has the same meaning as in Schedule 1 to the Local Government Act 2000 (see paragraphs 3A of that Schedule);</u></p> <p>“bank holiday break” means any bank holiday not included in the Christmas break or the Easter break and the period beginning with the last week day before that bank holiday and ending with the next week day which is not a bank holiday;</p> <p>“the Broads” has the same meaning as in the Norfolk and Suffolk Broads Act 1988;</p> <p>“Christmas break” means the period beginning with the last week day before Christmas Day and ending with the first week day after Christmas Day which is not a bank holiday;</p> <p>“the City” means the City of London;</p> <p>“combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;</p> <p>“the Commissions” means both those Commissions;</p> <p>“Common Council” means the Common Council of the City;</p> <p>“county” without more, means, in relation to England, a metropolitan county or a non-metropolitan county, but in the expressions “county council”, “council of a county”, “county councillor” and “councillor of a county” means, in relation to England, a non-metropolitan county only;</p> <p>“district”, without more, means, in relation to England, a metropolitan district or a non-metropolitan district;</p> <p>“Easter break” means the period beginning with the Thursday before and ending with the Tuesday after Easter Day;</p> <p>“economic prosperity board” means an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;</p> <p>“elected mayor” has—</p> <ul style="list-style-type: none"> <li>(a) in relation to England, the same meaning as in Part 1A of the Local Government Act 2000, and</li> <li>(b) in relation to Wales, the same meaning as in Part II of the Local Government Act 2000;</li> </ul> <p>“electoral area” means any area for which councillors are elected to any local authority;</p> <p>“executive”, “executive arrangements” and “executive leader” have—</p> <ul style="list-style-type: none"> <li>(a) in relation to England, the same meaning as in Part 1A of the Local Government Act 2000, and</li> <li>(b) in relation to Wales, the same meaning as in Part II of the Local Government Act 2000;</li> </ul> <p>“existing”, in relation to a local government or other area or a local authority or other body, except in sections 1 and 20 above, means that area or body as it existed immediately before the passing of this Act;</p>	
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<p>“financial year” means the period of twelve months ending with 31st March in any year;</p> <p>“grouped”, in relation to a parish or community, means grouped by or by virtue of any provision of this Act or any previous corresponding enactment under a common parish or community council, and “grouping order” shall be construed accordingly;</p> <p>“joint authority” means an authority established by Part IV of the Local Government Act 1985;</p> <p>“land” includes any interest in land and any easement or right in, to or over land;</p> <p>“leader and cabinet executive” means—</p> <ul style="list-style-type: none"> <li>(a) in relation to England: a leader and cabinet executive (England);</li> <li>(b) in relation to Wales: a leader and cabinet executive (Wales);</li> </ul> <p>“leader and cabinet executive (England)” has the same meaning as in Part 1A of the Local Government Act 2000;</p> <p>“leader and cabinet executive (Wales)” has the same meaning as in Part 2 of the Local Government Act 2000;</p> <p>“local authority” means a county council, a district council, a London borough council or a parish council but, in relation to Wales, means a county council, county borough council or community council;</p> <p>“local government area” means—</p> <ul style="list-style-type: none"> <li>(a) in relation to England, a county, Greater London, a district, a London borough or a parish;</li> <li>(b) in relation to Wales, a county, county borough or community;</li> </ul> <p>“local government elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;</p> <p>“local statutory provision” means a provision of a local Act (including an Act confirming a provisional order) or a provision of a public general Act passed with respect only to the whole or part of an existing local government area or a provision of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act;</p> <p>“mayor and cabinet executive” has—</p> <ul style="list-style-type: none"> <li>(a) in relation to England, the same meaning as in Part 1A of the Local Government Act 2000, and</li> <li>(b) in relation to Wales, the same meaning as in Part II of the Local Government Act 2000;</li> </ul> <p>“new”, in relation to any area or authority, means an area or authority established by or under this Act including one established by virtue of any provision of the Local Government (Wales) Act 1994;</p> <p>“1933 Act” means the Local Government Act 1933;</p> <p>“1963 Act” means the London Government Act 1963;</p>	
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<p>“open space” has the meaning assigned to it by section 336(1) of the Town and Country Planning Act 1990;</p> <p>“prescribed” means prescribed by regulations made by the Secretary of State;</p> <p>“preserved county” means any county created by this Act as a county in Wales, as it stood immediately before the passing of the Local Government (Wales) Act 1994 but subject to any provision of the Act of 1994, or any provision made under this Act, redrawing its boundaries;</p> <p>“principal area” means a non-metropolitan county, a district or a London borough but, in relation to Wales, means a county or county borough;</p> <p>“principal council” means a council elected for a principal area;</p> <p>“public body” includes—</p> <ul style="list-style-type: none"> <li>(a) a local authority and a joint board on which, and a joint committee on which, a local authority or parish meeting are represented;</li> <li>(b) any trustees, commissioners or other persons who, for public purposes and not for their own profit, act under any enactment or instrument for the improvement of any place, for the supply of water to any place, or for providing or maintaining a cemetery or market in any place; and</li> <li>(c) any other authority having powers of levying or issuing a precept for any rate for public purposes;</li> </ul> <p>and “district” means, in relation to a public body other than a local authority, the area for which the public body acts;</p> <p>“specified papers”, in relation to a parish or community, means the public books, writings and papers of the parish or community (including any photographic copies thereof) and all documents directed by law to be kept therewith;</p> <p>“sub-national transport body” means a sub-national transport body established under section 102E of the Local Transport Act 2008;</p> <p>“the Temples” means the Inner Temple and the Middle Temple;</p> <p><u>(1A) A requirement imposed on a local authority in Wales by this Act to publish a notice or document electronically is, where such an authority has its own website, a requirement to publish on that website.”</u></p> <p>(2) In this Act and in any other enactment, whether passed before, at the same time as, or after this Act, the expression “non-metropolitan county” means any county other than a metropolitan county, and the expression “non-metropolitan district” means any district other than a metropolitan district.</p> <p>(3) Any reference in this Act to a proper officer and any reference which by virtue of this Act is to be construed as such a reference shall, in relation to any purpose and any local authority or other body or any area, be construed as a reference to an officer appointed for that purpose by that body or for that area, as the case may be.</p>	
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<p>(4) In any provision of this Act which applies to a London borough, except Schedule 2 to this Act,—</p> <p>(a) any reference to the chairman of the council or of any class of councils comprising the council or to a member of a local authority shall be construed as or, as the case may be, as including a reference to the mayor of the borough;</p> <p>(b) any reference to the vice-chairman of the council or any such class of councils shall be construed as a reference to the deputy mayor of the borough; and</p> <p>(c) any reference to the proper officer of the council or any such class of councils shall be construed as a reference to the proper officer of the borough.</p> <p>(4A) Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive, subsection (4) above shall have effect with the omission of paragraphs (a) and (b).</p> <p>(5) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.</p>	
<p><b>Schedule 12 Meetings and Proceedings of Local Authorities</b></p> <p>Part I Principal Councils</p> <p><b>4</b></p> <p>(1) Meetings of a principal council shall be held at such place, either within or without their area, as they may direct.</p> <p>(1A) Five clear days at least before a meeting of a principal council in England—</p> <p>(a) notice of the time and place of the intended meeting shall be published at the council's offices and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting; and</p> <p>(b) a summons to attend the meeting, specifying the business proposed to be transacted at the meeting, and authenticated by the proper officer of the council, shall be sent to every member of the council by an appropriate method.</p> <p>(1B) In sub-paragraph (1A)—</p> <p>(a) “authenticated” means signed or otherwise authenticated in such manner as the proper officer thinks fit; and</p> <p>(b) the reference to sending the summons to a member by an appropriate method is to—</p> <p>(i) leaving it at, or sending it by post to the member's usual place of residence, or</p> <p>(ii) where the member has specified an address other than the member's usual place of residence, leaving it at, or sending it by post to that different address, or</p>	<p>Schedule 4 Paragraph 8</p> <p>Schedule 4 Paragraph 12</p>



<p>(iii) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn), sending it in electronic form to that address.</p> <p>(2) Three clear days at least before a meeting of a principal council in Wales—</p> <p>(a) notice of the time and place of the intended meeting shall be published at the council's offices, and where the meeting is called by members of the council the notice shall be signed by those members and shall specify the business proposed to be transacted thereat; <del>and</del></p> <p><u>(aa) a copy of the notice mentioned in paragraph (a) must be published electronically; and</u></p> <p>(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and <u>authenticated</u> by the proper officer of the council, <u>must be sent to every member of the council by an appropriate method</u></p> <p><u>(3) In sub-paragraph (2)—</u></p> <p><u>(a) “authenticated” means signed or otherwise authenticated in such manner as the proper officer considers appropriate; and</u></p> <p><u>(b) the reference to sending the summons to a member by an appropriate method is to—</u></p> <p><u>(i) leaving it at, or sending it by post to, the member’s usual place of residence;</u></p> <p><u>(ii) where the member has specified an address other than the member’s usual place of residence, leaving it at, or sending it by post to, that different address; or</u></p> <p><u>(iii) where the council has resolved that summonses may be sent by e-mail, sending it to the e-mail address which must be specified by the member for that purpose</u></p> <p>(4) Want of service of a summons on any member of a principal council shall not affect the validity of a meeting of the council.</p> <p>(5) Except in the case of business required by or under this or any other Act to be transacted at the annual meeting of a principal council and other business brought before that meeting as a matter of urgency in accordance with the council's standing orders, no business shall be transacted at a meeting of the council other than that specified in the summons relating thereto.</p>	
<p><b>5</b></p> <p>(1) At a meeting of a principal council the chairman, if present, shall preside.</p> <p>(2) If the chairman is absent from a meeting of a principal council, then—</p> <p>(a) the vice-chairman of the council, if present, shall preside;</p> <p>(b) [repealed]</p> <p>(c) in the case of a London borough council, the deputy mayor, if at that time he remains a councillor and is chosen for that</p>	<p>Schedule 6 Paragraph 1</p>



<p>purpose by the members of the council then present, shall preside.</p> <p>(3) If—</p> <p>(a) in the case of a principal council , both the chairman and vice-chairman of the council are absent from a meeting of the council;</p> <p>(b) [repealed]</p> <p>(c) in the case of a London borough council, the mayor and deputy mayor are so absent or the deputy may or being present is not chosen;</p> <p>another member of the council chosen by the members of the council present shall preside.</p> <p>(4) A member of an executive of a principal council, <u>or an assistant to the executive</u> may not be chosen to preside under sub-paragraph (3) above.</p> <p>(5) Sub-paragraphs (2)(c) and (3)(c) above do not apply where a London borough council are operating executive arrangements which involve a mayor and cabinet executive</p>	
<p style="text-align: center;"><b>Part IV Community Councils</b></p> <p><b>26</b></p> <p><u>(1) Meetings of the community council and its committees and subcommittees are to be held at such place, either within or outside the council's area, as the council may direct.</u></p> <p>(2) Three clear days at least before a meeting of a community council—</p> <p>(a) notice of the time and place of the intended meeting shall be published electronically and fixed in some conspicuous place in the community and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting;</p> <p>(aa) any documents relating to the business to be transacted at the meeting must be published electronically (in so far as reasonably practicable); and</p> <p>(b) a summons to attend the meeting, specifying the business proposed to be transacted at the meeting and <u>authenticated</u> by the proper officer of the council, <u>must be sent to every member of the council by an appropriate method.</u></p> <p>(2A) The duty of a community council under sub-paragraph (2)(aa) to publish documents relating to the meeting does not apply where—</p> <p>(a) the documents relate to business which in the opinion of the council is likely to be transacted in private, or</p> <p>(b) the disclosure of such documents would be contrary to any enactment.</p>	<p>Schedule 4 Paragraph 12</p> <p>Schedule 4 Paragraph 13</p> <p>Schedule 4 Paragraph 14</p>

<p><u>(2B) In sub-paragraph (2)</u></p> <p><u>(a) “authenticated” means signed or otherwise authenticated in such manner as the proper officer considers appropriate; and</u></p> <p><u>(b) the reference to sending the summons to a member by an appropriate method is to—</u></p> <p><u>(i) leaving it at, or sending it by post to, the member’s usual place of residence;</u></p> <p><u>(ii) where the member has specified an address other than the member’s usual place of residence, leaving it at, or sending it by post to, that different address; or</u></p> <p><u>(iii) where the council has resolved that summonses may be sent by e-mail, sending it to the e-mail address which must be specified by the member for that purpose.</u></p> <p><u>(2C) At least three clear days before a meeting of a committee or subcommittee of a community council, notice of the time and place of the intended meeting must be published electronically and fixed in a conspicuous place in the community.</u></p> <p><u>(2D) If the chairman of a committee or sub-committee of a community council considers that a meeting of the committee or sub-committee should take place urgently, sub-paragraph (2C) has effect as if for the words “three clear days” there were substituted “twenty four hours”.</u></p> <p>(3) Want of service of any such summons as is referred to in sub-paragraph (2) (b) above on</p>	
<p><del><b>26A</b></del></p> <p><del>(1) This paragraph applies where a community council has been given a notice under sub-paragraph (4) or (5)(b) of paragraph 38B below.</del></p> <p><del>(2) The community council must ensure that the question of what action (if any) the council should take in response to the community poll, or the part of the community poll, to which the notice relates is included within the business to be transacted at a meeting of the community council held within the relevant period.</del></p> <p><del>(3) If it is necessary for the chairman of the community council to exercise his power under paragraph 25(1) above to call an extraordinary meeting of a community council in order for the community council to comply with sub-paragraph (2) above, the chairman must so exercise that power.</del></p> <p><del>(4) In sub-paragraph (2) “relevant period” means the period of six weeks beginning with the day following that on which the notice referred to in sub-paragraph (1) was given.</del></p>	<p>Schedule 13 Paragraph 5</p>
<p><b><u>27A</u></b></p> <p><u>(1) This paragraph applies in respect of a meeting or part of a meeting of a community council which is open to the public.</u></p> <p><u>(2) The person presiding over the meeting must give members of the public in attendance a reasonable opportunity to make representations about any business to be transacted at the meeting, unless that person considers that doing so is likely to prejudice the effective conduct of the meeting.</u></p>	<p>Part 3 Section 49</p>

<p><u>(3) In complying with sub-paragraph (2), the person presiding over the meeting must have regard to any guidance issued by the Welsh Ministers about the function in that sub-paragraph.</u></p>	
<p><b>29A-</b></p> <p><del>(1) This paragraph applies where—</del></p> <ul style="list-style-type: none"> <li><del>(a) a meeting of a community council has considered the question of what action (if any) the council is to take in response to a poll consequent on a community meeting,</del></li> <li><del>(b) that question was included within the business to be transacted at the meeting in order to comply with paragraph 26A(2) above, and</del></li> <li><del>(c) the poll was taken following a demand being made at a community meeting which was convened under paragraph 30A below.</del></li> </ul> <p><del>(2) The council must take all reasonable steps to give notice to each of the individuals who convened the community meeting referred to in sub-paragraph (1) above of what action (if any) the council intends to take in response to the poll, or that part of the poll which was considered at the meeting.</del></p> <p><del>(3) Notice under sub-paragraph (2) above must be given—</del></p> <ul style="list-style-type: none"> <li><del>(a) subject to sub-paragraph (4) below, in writing by sending it to the address given in respect of an individual in the relevant convening notice, and</del></li> <li><del>(b) as soon as is reasonably practicable after the meeting of the community council was held.</del></li> </ul> <p><del>(4) Where an individual falling within sub-paragraph (2) above is an anonymous registrant in the register of local government electors, sub-paragraph (3)(a) above does not apply and the notice must instead be given in writing to the principal council within whose area the community in question lies.</del></p> <p><del>(5) The notice under sub-paragraph (4) above must include the entry in respect of the individual which was included in the relevant convening notice.</del></p> <p><del>(6) Where a principal council is given notice under sub-paragraph (4)—</del></p> <ul style="list-style-type: none"> <li><del>(a) the council must, as soon as reasonably practicable, send the notice to the individual concerned, and</del></li> <li><del>(b) for that purpose and for the purposes of paragraph 30D below, section 9B(8) of the Representation of the People Act 1983 (communications with anonymous registrants) shall have effect as if the council were an officer referred to in that section.</del></li> </ul> <p><del>(7) The relevant registration officer must supply the principal council with any information that it is necessary for the council to have in order to comply with the duty under sub-paragraph (6) above.</del></p> <p><del>(8) In this paragraph—</del></p>	<p>Schedule 13 Paragraph 5</p>

<p><del>“anonymous registrant in the register of local government electors” means an individual in respect of whom the relevant convening notice included an entry referred to in paragraph 30B(6)(a) below;</del></p> <p><del>“relevant convening notice” means the notice given to the council under paragraph 30B below which preceded the holding of the community meeting at which the poll in question was demanded;</del></p> <p><del>“relevant registration officer” means the registration officer under section 8 of the Representation of the People Act 1983 in relation to the register of electors for the local government area (within the meaning of that Act) in which the community in question lies.</del></p>	
<p style="text-align: center;"><b>Community Meetings</b></p> <p><b>34</b></p> <p>(1) Subject to the provisions of this Act, each local government elector may, at a community meeting or at a <del>poll consequent thereon</del> <u>community governance poll</u>, give one vote and no more on any question.</p> <p>(2) A question to be decided by a community meeting shall, <del>in the first instance,</del> be decided by the majority of those present at the meeting and voting thereon, and the decision of the person presiding at the meeting as to the result of the voting shall be final <del>unless a poll is demanded.</del></p> <p>(3) In the case of an equality of votes, the person presiding at the meeting shall have a casting vote, in addition to any other vote he may have.</p> <p>(4) <del>A poll may be demanded before the conclusion of a community meeting on any question arising at the meeting; but no poll shall be taken unless—</del></p> <p style="padding-left: 40px;"><del>(a) the poll is demanded by a majority of the local government electors present at the meeting, and</del></p> <p style="padding-left: 40px;"><del>(b) the electors demanding a poll constitute not less than—</del></p> <p style="padding-left: 80px;"><del>(i) 10% of the local government electors for the community, or</del></p> <p style="padding-left: 80px;"><del>(ii) 150 of the electors (if 10% of the electors exceeds 150 electors).</del></p> <p>(5) <del>A poll consequent on a community meeting shall be a poll of those entitled to attend the meeting as local government electors, and shall be taken by ballot in accordance with rules made by the Secretary of State, and the provisions of the rules with respect to elections of community councillors under section 36 of the Representation of the People Act 1983 and of the enactments mentioned in section 187(1) of that Act shall, subject to any adaptations, alterations or exceptions made by the first mentioned rules, apply in the case of a poll so taken as if it were a poll for the election of councillors.</del></p> <p>(6) <del>Rules made under sub-paragraph (5) above shall be laid before each House of Parliament as soon as may be after they are made.</del></p>	<p>Schedule 2 Paragraph 1</p> <p>Schedule 13 Paragraph 6</p>

<p><u>(5) The Welsh Ministers may by regulations make provision about the conduct of community governance polls.</u></p> <p><u>(6) Regulations under sub-paragraph (5) may apply any enactment relating to elections or referendums (with or without modifications) to community governance polls.</u></p> <p><u>(7) A statutory instrument containing regulations under sub-paragraph (5) is subject to annulment in pursuance of a resolution of Senedd Cymru.</u></p> <p><u>(8) In this Part of this Schedule, “community governance poll” means a poll held on a proposal of a kind mentioned in section 27A, 27C, 27E, 27G, 27I or 27K.</u></p>	
<p><b>37</b></p> <p>(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of moneys provided by Parliament may on request be lent to the returning officer at a <u>community governance poll</u> on such terms and conditions as the Treasury may determine.</p> <p>(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority shall, on request and if not required for immediate use by that authority, be lent as aforesaid on such terms and conditions as may be agreed.</p>	<p>Schedule 13 Paragraph 7</p>
<p><b>38.</b></p> <p>If any person, in a <u>community governance poll</u>—</p> <p>(a) fraudulently defaces or fraudulently destroys any ballot paper or the official mark; or</p> <p>(b) without due authority supplies a ballot paper to any person; or</p> <p>(c) fraudulently puts into a ballot box any paper other than the ballot paper which he is authorised by law to put in; or</p> <p>(d) fraudulently takes out of the polling station any ballot paper; or</p> <p>(e) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the poll;</p> <p>he shall—</p> <p>(i) if he is a returning officer, or an authorised person appointed to assist in taking the poll or counting the votes, be liable on conviction on indictment to imprisonment for a term not exceeding two years; and</p> <p>(ii) in any other case, be liable, on conviction on indictment or summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the prescribed sum, or both.</p>	<p>Schedule 13 Paragraph 8</p>
<p><del><b>38A-</b></del></p> <p><del>(1) This paragraph applies to a poll (other than a poll to which sub-paragraph (2) below refers) consequent on a community meeting where a majority of those voting were in favour of the question in relation to which the poll was taken.</del></p>	<p>Schedule 13 Paragraph 9</p>

<p>(2) This paragraph does not apply to a poll taken on a question of a type specified in regulations made by the Welsh Ministers.</p> <p>(3) The returning officer in relation to the poll must give notice in writing to the monitoring officer (within the meaning of section 5 of the Local Government and Housing Act 1989) of the relevant principal council of—</p> <ul style="list-style-type: none"> <li>(a) the question posed by the poll, and</li> <li>(b) the fact that that a majority of those voting were in favour of that question.</li> </ul> <p>(4) In sub-paragraph (3) above, “relevant principal council” means the principal council in whose area lies the community of the community meeting at which the poll was demanded.</p> <p>(5) The power of the Welsh Ministers to make regulations under sub-paragraph (2) above is exercisable by statutory instrument.</p> <p>(6) A statutory instrument which contains regulations under sub-paragraph (2) above is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p>	
<p><b>38B-</b></p> <p>(1) Within a period of 14 days beginning with the day on which notice was given under paragraph 38A(3) above, the monitoring officer must determine whether, in the officer's opinion, the question in relation to which the poll was taken corresponds to any of the descriptions in sub-paragraph (2) below.</p> <p>(2) Those descriptions are—</p> <ul style="list-style-type: none"> <li>(a) a question which relates only to the functions of the principal council,</li> <li>(b) a question which relates only to the functions of a community council for the relevant community,</li> <li>(c) a question which relates to the functions of the principal council and the functions of a community council for the relevant community.</li> </ul> <p>(3) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(a) above, the officer must give notice of that determination to the principal council (see section 33B of this Act for the duties of the council upon being given such notice).</p> <p>(4) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(b) above, the officer must give notice of that determination to the community council (see paragraphs 26A and 29A above for the duties arising following the giving of such a notice).</p> <p>(5) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(c) above, the officer must—</p> <ul style="list-style-type: none"> <li>(a) to the extent that the determination concludes that the question relates to the functions of the principal council, give notice of the determination to the principal council (see section</li> </ul>	<p>Schedule 13 Paragraph 9</p>

<p><del>33B of this Act for the duties of the council upon being given such notice), and</del></p> <p><del>(b) to the extent that the determination concludes that the question relates to the functions of the community council, give notice of the determination to the community council (see paragraphs 26A and 29A above for the duties arising following the giving of such a notice).</del></p> <p><del>(6) A notice required to be given by this paragraph must—</del></p> <p><del>(a) be given in writing,</del></p> <p><del>(b) be given as soon as is reasonably practicable after the date of determination, and</del></p> <p><del>(c) include the monitoring officer's reasons for the determination to which the notice relates.</del></p>	
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## Local Government Act 2000

Section	Amended by
<p><b>Part I Promotion of Economic, Social or Environmental Well-Being etc.</b></p> <p>Promotion of well-being</p> <p><b>2 Promotion of well-being by community councils</b></p> <p>(1) Every <u>community council</u> is to have power to do anything which <u>it considers</u> is likely to achieve any one or more of the following objects—</p> <ul style="list-style-type: none"> <li>(a) the promotion or improvement of the economic well-being of <u>its</u> area;</li> <li>(b) the promotion or improvement of the social well-being of <u>its</u> area, and</li> <li>(c) the promotion or improvement of the environmental well-being of <u>its</u> area.</li> </ul> <p>(2) The power under subsection (1) may be exercised in relation to or for the benefit of—</p> <ul style="list-style-type: none"> <li>(a) the whole or any part of a <u>community council's</u> area, or</li> <li>(b) all or any persons resident or present in a <u>community council's</u> area.</li> </ul> <p>(3), (3A) [repealed]</p> <p><u>(3B) In determining whether or how to exercise the power under subsection (1), a community council must have regard to the local well-being plan published under Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by the public services board that includes as a member the county council or county borough council in whose area lies the community or communities for which the community council is established.</u></p> <p>(4) The power under subsection (1) includes power for a <u>community council</u> to—</p> <ul style="list-style-type: none"> <li>(a) incur expenditure,</li> <li>(b) give financial assistance to any person,</li> <li>(c) enter into arrangements or agreements with any person,</li> <li>(d) co-operate with, or facilitate or co-ordinate the activities of, any person,</li> <li>(e) exercise on behalf of any person any functions of that person, and</li> <li>(f) provide staff, goods, services or accommodation to any person.</li> </ul> <p>(5) The power under subsection (1) includes power for a <u>community council</u> to do anything in relation to, or for the benefit of, any person or area situated outside <u>its area</u> if <u>it considers</u> that it is likely to achieve any one or more of the objects in that subsection.</p>	<p>Schedule 3 Paragraph 1</p>



<p>(6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).</p>	
<p><b>3 Limits on power to promote well-being</b></p> <p>(1) The power under section 2(1) does not enable a <u>community council</u> to do anything which it <u>is</u> unable to do by virtue of any prohibition, restriction or limitation on <u>its</u> powers which is contained in any enactment (whenever passed or made).</p> <p>(2) The power under section 2(1) does not enable a <u>community council</u> to raise money (whether by precepts, borrowing or otherwise).</p> <p>(3) The Welsh Ministers may by order make provision preventing <u>community councils</u> from doing, by virtue of section 2(1), anything which is specified, or is of a description specified, in the order.</p> <p>(3A) The power under subsection (3) may be exercised in relation to—</p> <ul style="list-style-type: none"> <li>(a) all <u>community councils</u>,</li> <li>(b) particular <u>community councils</u>, or</li> <li>(c) particular descriptions of <u>community council</u>.</li> </ul> <p>(4) Subject to subsection (4A), before making an order under subsection (3), the Welsh Ministers must consult such representatives of local government and such other persons (if any) as <u>they consider</u> appropriate.</p> <p>(4A) Subsection (4) does not apply to an order under this section which is made only for the purpose of amending an earlier order under this section—</p> <ul style="list-style-type: none"> <li>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular <u>community council or to community councils</u> of a particular description, or</li> <li>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a <u>community council or to community councils</u> of a particular description.</li> </ul> <p>(5) Before exercising the power under section 2(1), a <u>community council</u> must have regard to any guidance for the time being issued by the Welsh Ministers about the exercise of that power.</p> <p>(6) Before issuing any guidance under subsection (5), the Welsh Ministers must consult such representatives of local government and such other persons (if any) as <u>they consider</u> appropriate.</p> <p>(7) [repealed]</p> <p>(8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).</p>	<p>Schedule 3 Paragraph 1</p>
<p><b><del>2 Promotion of well-being by community councils</del></b></p> <p><del>(1) Every <u>community council</u> is to have power to do anything which it <u>considers</u> is likely to achieve any one or more of the following objects—</del></p>	<p>Schedule 3 Paragraph 10</p> <p>Following commencement of General power</p>

<p><del>(a) the promotion or improvement of the economic well-being of <u>its</u> area;</del></p> <p><del>(b) the promotion or improvement of the social well-being of <u>its</u> area, and</del></p> <p><del>(c) the promotion or improvement of the environmental well-being of <u>its</u> area.</del></p> <p><del>(2) The power under subsection (1) may be exercised in relation to or for the benefit of—</del></p> <p><del>(a) the whole or any part of a community council's area, or</del></p> <p><del>(b) all or any persons resident or present in a community council's area.</del></p> <p><del>(3), (3A) [repealed]</del></p> <p><del>(3B) In determining whether or how to exercise the power under subsection (1), a community council must have regard to the local well-being plan published under Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by the public services board that includes as a member the county council or county borough council in whose area lies the community or communities for which the community council is established.</del></p> <p><del>(4) The power under subsection (1) includes power for a <u>community council</u> to—</del></p> <p><del>(a) incur expenditure,</del></p> <p><del>(b) give financial assistance to any person,</del></p> <p><del>(c) enter into arrangements or agreements with any person,</del></p> <p><del>(d) co-operate with, or facilitate or co-ordinate the activities of, any person,</del></p> <p><del>(e) exercise on behalf of any person any functions of that person, and</del></p> <p><del>(f) provide staff, goods, services or accommodation to any person.</del></p> <p><del>(5) The power under subsection (1) includes power for a <u>community council</u> to do anything in relation to, or for the benefit of, any person or area situated outside <u>its</u> area if it considers that it is likely to achieve any one or more of the objects in that subsection.</del></p> <p><del>(6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).</del></p>	<p>of competence – eligible community council provisions</p>
<p><b>3 Limits on power to promote well-being</b></p> <p><del>(1) The power under section 2(1) does not enable a <u>community council</u> to do anything which it is unable to do by virtue of any prohibition, restriction or limitation on <u>its</u> powers which is contained in any enactment (whenever passed or made).</del></p> <p><del>(2) The power under section 2(1) does not enable a <u>community council</u> to raise money (whether by precepts, borrowing or otherwise).</del></p>	<p>Schedule 3 Paragraph 10</p> <p>Following commencement of General power of competence – eligible community</p>

<p><del>(3) The Welsh Ministers may by order make provision preventing <u>community councils</u> from doing, by virtue of section 2(1), anything which is specified, or is of a description specified, in the order.</del></p> <p><del>(3A) The power under subsection (3) may be exercised in relation to—</del></p> <p style="padding-left: 40px;"><del>(a) all <u>community councils</u>,</del></p> <p style="padding-left: 40px;"><del>(b) particular <u>community councils</u>, or</del></p> <p style="padding-left: 40px;"><del>(c) particular descriptions of <u>community council</u>.</del></p> <p><del>(4) Subject to subsection (4A), before making an order under subsection (3), the Welsh Ministers must consult such representatives of local government and such other persons (if any) as <u>they consider</u> appropriate.</del></p> <p><del>(4A) Subsection (4) does not apply to an order under this section which is made only for the purpose of amending an earlier order under this section—</del></p> <p style="padding-left: 40px;"><del>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular <u>community council or to community councils</u> of a particular description, or</del></p> <p style="padding-left: 40px;"><del>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a <u>community council or to community councils</u> of a particular description.</del></p> <p><del>(5) Before exercising the power under section 2(1), a <u>community council</u> must have regard to any guidance for the time being issued by the Welsh Ministers about the exercise of that power.</del></p> <p><del>(6) Before issuing any guidance under subsection (5), the Welsh Ministers must consult such representatives of local government and such other persons (if any) as <u>they consider</u> appropriate.</del></p> <p><del>(7) [repealed]</del></p> <p><del>(8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).</del></p>	<p>council provisions</p>
<p><b><del>5 Power to amend or repeal enactments</del></b></p> <p><del>(1) If the Secretary of State thinks Welsh Ministers think that an enactment (whenever passed or made) prevents or obstructs local authorities from exercising their power under section 2(1) he they may by order amend, repeal, revoke or disapply that enactment.</del></p> <p><del>(2) The power under subsection (1) may be exercised in relation to—</del></p> <p style="padding-left: 40px;"><del>(a) all local authorities,</del></p> <p style="padding-left: 40px;"><del>(b) particular local authorities, or</del></p> <p style="padding-left: 40px;"><del>(c) particular descriptions of local authority.</del></p> <p><del>(3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.</del></p>	<p>Schedule 3 Paragraph 1</p>

<p><del>(3A) Subject to subsection (3B), a statutory instrument which contains an order under this section is not to be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.</del></p> <p><del>(3B) A statutory instrument containing an order under this section which is made only for the purpose of amending an earlier such order—</del></p> <p style="padding-left: 40px;"><del>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or</del></p> <p style="padding-left: 40px;"><del>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or authorities of a particular description,</del></p> <p style="padding-left: 40px;"><del>is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</del></p> <p><del>(4)—</del></p> <p><del>(4A)—</del></p> <p><del>(4B)</del></p> <p><del>(5)</del></p> <p><del>(6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).</del></p> <p><del>(7) The reference to local authorities in subsection (1) does not include community councils.</del></p>	
<p><b>7 Power to modify enactments concerning plans etc: Wales</b></p> <p>(1) Subject to subsections (4) and <del>(6)</del>, the Welsh Ministers may by order amend, repeal, revoke or disapply any enactment (whenever passed or made) which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter so far as that enactment has effect in relation to a local authority in Wales.</p> <p>(2) [repealed]</p> <p>(3) The power under subsection (1) may be exercised in relation to—</p> <p style="padding-left: 40px;">(a) all local authorities in Wales,</p> <p style="padding-left: 40px;">(b) particular local authorities in Wales, or</p> <p style="padding-left: 40px;">(c) particular descriptions of local authority in Wales.</p> <p>(4) The power under subsection (1) may be exercised in relation to a local authority only if the Welsh Ministers consider—</p> <p style="padding-left: 40px;">(a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or</p> <p style="padding-left: 40px;">(b) that any such enactment should be amended so that it operates more effectively in relation to the authority.</p> <p>(5) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.</p>	<p>Schedule 3 Paragraph 1</p>

<p>(6) [repealed]</p> <p>(7) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).</p> <p>(8) An order under this section may not make a provision which, if it were a provision of an Act of the National Assembly for Wales, would be outside the Assembly's legislative competence.</p> <p>(9) For the purposes of subsection (8), section 108A of the Government of Wales Act 2006 (legislative competence) has effect as if subsection (2)(c) of that section and paragraph 1 of Schedule 7B to that Act were omitted.</p> <p>(10) Subject to subsection (11), a statutory instrument which contains an order under this section is not to be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.</p> <p>(11) A statutory instrument containing an order under this section which is made only for the purpose of amending an earlier such order—</p> <ul style="list-style-type: none"> <li>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or</li> <li>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,</li> </ul> <p>is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p>	
<p style="text-align: center;">Procedure for orders under <u>this Part</u></p> <p><b>9A Procedure for orders made by the Welsh Ministers under section <del>5</del> 7</b></p> <p>(1) Before the Welsh Ministers make an order under section <del>5</del> 7 they must consult—</p> <ul style="list-style-type: none"> <li>(a) such local authorities in Wales,</li> <li>(b) such representatives of local government in Wales, and</li> <li>(c) such other persons (if any),</li> </ul> <p>as appear to them to be likely to be affected by their proposals.</p> <p>(2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section <del>5</del> 7 they must lay before the National Assembly for Wales a document which—</p> <ul style="list-style-type: none"> <li>(a) explains their proposals,</li> <li>(b) sets them out in the form of a draft order, and</li> <li>(c) gives details of consultation under subsection (1).</li> </ul> <p>(3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section <del>5</del> 7 to give effect to the proposals (with or without modifications) is to be laid before the National Assembly</p>	<p>Schedule 3 Paragraph 1</p>

<p>for Wales in accordance with section <del>5(3A) or</del> 7(10) until after the expiry of the period of sixty days beginning with the day on which the document was laid.</p> <p>(4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.</p> <p>(5) In preparing a draft order under section <del>5 or</del> 7 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).</p> <p>(6) A draft order under section <del>5 or</del> 7 which is laid before the National Assembly for Wales must be accompanied by a statement of the Welsh Ministers giving details of—</p> <ul style="list-style-type: none"> <li>(a) any representations considered in accordance with subsection (5), and</li> <li>(b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2).</li> </ul> <p>(7) Nothing in this section applies to an order under section <del>5 or</del> 7 which is made only for the purpose of amending an earlier order under that section—</p> <ul style="list-style-type: none"> <li>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or</li> <li>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description</li> </ul>	
<p style="text-align: center;"><b>Part II Local Authorities in Wales: Arrangements with respect to Executives etc</b></p> <p style="text-align: center;"><b>Local authority executives</b></p> <p><b>11 Local authority executives</b></p> <p>(1) The executive of a local authority must take a form specified in subsections (2) to (5) that is applicable to the authority.</p> <p>(2) The executive may consist of—</p> <ul style="list-style-type: none"> <li>(a) an elected mayor of the authority, and</li> <li>(b) two or more councillors of the authority appointed to the executive by the elected mayor.</li> </ul> <p>(2A) [repealed]</p> <p>(3) The executive may consist of—</p> <ul style="list-style-type: none"> <li>(a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and</li> <li>(b) two or more councillors of the authority appointed to the executive by one of the following— <ul style="list-style-type: none"> <li>(i) the executive leader, or</li> <li>(ii) the authority.</li> </ul> </li> </ul>	<p>Schedule 7 Paragraph 2</p>

<p>Such an executive is referred to in this Part as a leader and cabinet executive (Wales).</p> <p>(4) [repealed]</p> <p>(5) The executive may take any such form as may be prescribed in regulations made by the Welsh Ministers.</p> <p>(6) Regulations under subsection (5) may, in particular, provide for—</p> <ul style="list-style-type: none"> <li>(a) a form of executive some or all of the members of which are elected by the local government electors for the authority's area to a specified post in the executive associated with the discharge of particular functions,</li> <li>(b) a form of executive some or all of the members of which are elected by those electors but not to any such post,</li> <li>(c) the system of voting that will be used for elections under paragraph (a) or (b).</li> </ul> <p>(7) A local authority executive may not include the chairman or vice-chairman of the authority.</p> <p>(8) The number of members of a mayor and cabinet executive or a leader and cabinet executive (Wales) may not exceed 10.</p> <p><u>(8ZA) But if two or more councillors are elected to share office as executive leader (by virtue of paragraph 2(2A) of Schedule 1) or are appointed to the executive to share office (by virtue of paragraph 2A of Schedule 1), the number of members of the executive may exceed 10 but not 13; and where the number of members of the executive is—</u></p> <ul style="list-style-type: none"> <li><u>(a) 11 or 12, at least two of the members must have been elected or appointed to share office;</u></li> <li><u>(b) 13, at least three of the members must have been elected or appointed to share office.</u></li> </ul> <p>(8A) For the purposes of <u>subsections (8) and (8ZA)</u>, no account is to be taken of a member appointed to the executive on a temporary basis to cover the absence of a member exercising a right to a family absence under Part 2 of the Local Government Measure (Wales) 2011.</p> <p><u>(9) The Welsh Ministers may by regulations amend subsections (8) and (8ZA) so as to provide for different maximum numbers of members of an executive to which those subsections apply; but the power under this subsection may not be exercised so as to provide—</u></p> <ul style="list-style-type: none"> <li><u>(a) for a maximum number in subsection (8) which exceeds 10, or</u></li> <li><u>(b) for a maximum number in subsection (8ZA) which exceeds 13.</u></li> </ul> <p>(9A) [repealed]</p> <p>(10) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under</p>	
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subsection (3)(a) or appointing councillors to the executive under subsection (3)(b)(ii).	
<p style="text-align: center;"><b>Part II Arrangements with respect to executives etc.</b></p> <p style="text-align: center;">Provisions with respect to executive arrangements</p> <p><b>21 Overview and scrutiny committee not to include members of the executive</b></p> <p>(1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Part as overview and scrutiny committees).</p> <p>(2) Executive arrangements by a local authority must ensure that their overview and scrutiny committee has power (or their overview and scrutiny committees, and any joint overview and scrutiny committees, have power between them)–</p> <ul style="list-style-type: none"> <li>(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,</li> <li>(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,</li> <li>(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,</li> <li>(d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,</li> <li>(e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area,</li> <li>(f) in the case of the overview and scrutiny committee or committees of an authority to which section 184 of the National Health Service (Wales) Act 2006 applies, to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning given by that Act, as extended by that section) in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.</li> </ul> <p>(2A) In subsection (2), “joint overview and scrutiny committee”, in relation to a local authority (“the authority concerned”), means–</p> <ul style="list-style-type: none"> <li>(a) [repealed]</li> <li>(b) [repealed]</li> <li>(c) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 185 of the National Health Service (Wales) Act 2006 appointed by the authority concerned and one or more other local authorities,</li> </ul>	<p>Schedule 6 Paragraph 5</p>



<p>(d) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or</p> <p>(e) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned.</p> <p>(3) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—</p> <p>(a) to recommend that the decision be reconsidered by the person who made it, or</p> <p>(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.</p> <p>(4) An overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section, sections 21A and 21B or Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).</p> <p>(5) [repealed]</p> <p>(6) An overview and scrutiny committee of a local authority—</p> <p>(a) may appoint one or more sub-committees, and</p> <p>(b) may arrange for the discharge of any of its functions by any such sub-committee.</p> <p>(7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (6)(b).</p> <p>(8) [repealed]</p> <p>(9) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive <u>or any assistant to the executive (within the meaning of paragraph 3A of Schedule 1)</u>.</p> <p>(10) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority, but (subject to any provision made by or under paragraph 8 or 9 of Schedule 1) any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting.</p> <p>(10A) For provision about the appointment of persons to chair overview and scrutiny committees of local authorities, see sections 66 to 75 of the Local Government (Wales) Measure 2011.</p> <p>(11) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—</p> <p>(a) as a committee or sub-committee of a principal council for the purposes of Part VA of the Local Government Act 1972</p>	
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<p>(access to meetings and documents of certain authorities, committees and sub-committees), and</p> <p>(b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.</p> <p>(12) Subsections (2) and (5) of section 102 of the Local Government Act 1972 are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.</p> <p>(13) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—</p> <p>(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,</p> <p>(aa) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member under section 56 of the Local Government (Wales) Measure 2011, and</p> <p>(b) may invite other persons to attend meetings of the committee.</p> <p>(14) It is the duty of any member or officer mentioned in paragraph (a) or (aa) of subsection (13) to comply with any requirement mentioned in that paragraph.</p> <p>(15) A person is not obliged by subsection (14) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.</p> <p>(16) In exercising, or deciding whether to exercise, any of its functions—</p> <p>(a) [repealed]</p> <p>(b) an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Welsh Ministers.</p> <p>(17) Guidance under subsection (16) may make different provision for different cases or for different descriptions of committee or sub-committee.</p>	
<p><b>22 Access to information etc</b></p> <p>(1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.</p> <p>(2) Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.</p> <p>(3) A written record must be kept of prescribed decisions made at meetings of local authorities executives, or committees of such executives, which are held in private.</p>	<p>Part 4 Section 64</p>

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| <p>(4) A written record must be kept of prescribed decisions made by individual members of local authority executives.</p> <p>(5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.</p> <p>(6) Written records under subsections (3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Welsh Ministers.</p> <p>(7) Regulations under subsection (6) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.</p> <p>(8) The Welsh Ministers may by regulations make provision—</p> <ul style="list-style-type: none"> <li>(a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),</li> <li>(b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,</li> <li>(c) for or in connection with requiring written records falling within paragraph (b) to include reasons,</li> <li>(d) for or in connection with requiring any such written records to be made available to members of the public,</li> <li>(e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.</li> </ul> <p>(9) The Welsh Ministers may by regulations make provision—</p> <ul style="list-style-type: none"> <li>(a) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be open to the public,</li> <li>(b) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be held in private,</li> <li>(c) with respect to the information which is to be included in written records kept by virtue of this section,</li> <li>(d) with respect to the reasons which are to be included in any such written records,</li> <li>(e) with respect to the persons who are to produce, keep or make available any such written records,</li> <li>(f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,</li> <li>(g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,</li> </ul> |  |
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<p>(h) for or in connection with requiring information to be made available by electronic means,</p> <p>(i) for or in connection with conferring rights on members of the public, members of local authorities or overview and scrutiny committees or sub-committees in relation to records or documents,</p> <p>(j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section.</p> <p>(10) The Welsh Ministers may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or, <u>members of the authority, an overview and scrutiny committee of the authority or a sub-committee of such a committee.</u></p> <p>(11) The provision which may be made under subsection (10) includes provision—</p> <p>(a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,</p> <p>(b) as to the way or form in which prescribed information is to be made available.</p> <p>(12) The Welsh Ministers may by regulations make provision which, in relation to meetings of—</p> <p>(a) local authority executives or committees of such executives, or</p> <p>(b) joint committees, or sub-committees of such committees, falling within subsection (8)(a),</p> <p>applies or reproduces (with or without modifications) any provisions of Part VA of the Local Government Act 1972.</p> <p>(12A) The Welsh Ministers may by regulations make provision, in relation to—</p> <p>(a) the publication by executives of local authorities under section 21B of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or</p> <p>(b) the provision by such executives under that section of copies of such responses,</p> <p>which applies or reproduces (with or without modifications) any provisions of section 21D.</p> <p>(13) In this section—</p> <p>“joint committee” means a joint committee falling within section 101(5)(a) of the Local Government Act 1972,</p> <p>“prescribed” means prescribed by regulations made by the Welsh Ministers.</p>	
Local Authority Constitution	Part 3 Section 46

<p><b>37 Local authority constitution</b></p> <p>(1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—</p> <ul style="list-style-type: none"> <li>(a) such information as the Welsh Ministers may direct,</li> <li>(b) a copy of the authority's standing orders for the time being,</li> <li>(c) a copy of the authority's code of conduct for the time being under section 51, and</li> <li>(d) such other information (if any) as the authority consider appropriate.</li> </ul> <p><u>(1A) A local authority must prepare and keep up to date a document (referred to in this section as their constitution guide) which explains, in ordinary language, the content of their constitution.</u></p> <p>(2) A local authority must –</p> <ul style="list-style-type: none"> <li><u>(a) publish their constitution and their constitution guide electronically and in such other manner as they consider appropriate, and</u></li> <li><u>(b) ensure that copies of their constitution and their constitution guide are available at their principal office for inspection by members of the public at all reasonable hours.</u></li> </ul> <p>(3) A local authority must supply a copy of their constitution <u>or, as the case may be, their constitution guide to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.</u></p> <p>(4) In relation to an authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), the reference in subsection (1)(c) to the authority's code of conduct for the time being under section 51 is to the mandatory provisions which for the time being apply to the members and co-opted members of the authority.</p>	
<p style="text-align: center;"><b>Guidance</b></p> <p><b>38 Guidance</b></p> <p>(1) A local authority, <u>an elected mayor or an executive leader</u> must have regard to any guidance for the time being issued by the Welsh Ministers for the purposes of this Part.</p> <p><u>(1A) The guidance may, among other things, include provision designed to encourage good practice in relation to equality and diversity (within the meaning of section 8(2) of the Equality Act 2006).</u></p> <p>(2) Guidance under this section may make different provision for different cases or descriptions of local authority.</p>	<p style="text-align: center;">Part 4 Section 58</p>
<p style="text-align: center;"><b>Part II Arrangements with respect to executives etc.</b></p> <p style="text-align: center;">Elected mayors etc.</p>	<p style="text-align: center;">Part 1 Section 16</p>

<p><b>39 Elected mayors etc.</b></p> <p>(1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.</p> <p>(2) [repealed]</p> <p>(3) An elected mayor of a local authority is to be entitled to the style of "mayor" or “maer”.</p> <p>(4) In this Part “elected executive member” means an individual elected as a member of a local authority executive by the local government electors for the authority's area in accordance with the provisions made by or under this Part, but not include an elected mayor.</p> <p>(5A) A reference in any enactment (whenever passed or made) to—</p> <ul style="list-style-type: none"> <li>(a) a member of a local authority, or</li> <li>(b) a councillor of a local authority,</li> </ul> <p>does not include a reference to an elected mayor of the authority.</p> <p>(5B) But subsection (5A) is subject to—</p> <ul style="list-style-type: none"> <li>(a) regulations made by the Welsh Ministers under this paragraph which provide that an elected mayor is to be treated as member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and</li> <li>(b) any other contrary intention that appears in any enactment (whenever passed or made).</li> </ul> <p>(5C) Section 21(1A) of the Local Government Act 1972 is not to be taken to indicate any contrary intention for the purposes of subsection (5B)(b).</p> <p>(5D) A statutory instrument containing regulations made under subsection (5B)(a) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p> <p>(6) [repealed]</p> <p>(7) The term of office of an elected mayor of a local authority is to be <u>five</u> years.</p> <p>(8) This section is subject to regulations under section 41.</p>	
<p style="text-align: center;"><b>Part III Conduct Of Local Government Members And Employees</b></p> <p style="text-align: center;"><b>Chapter I Conduct Of Members</b></p> <p style="text-align: center;"><b>Standards of Conduct</b></p> <p><b><u>52A County and county borough councils: duties of leaders of political groups in relation to standards of conduct</u></b></p> <p><b><u>(1) A leader of a political group consisting of members of a county council or county borough council in Wales—</u></b></p>	<p style="text-align: center;">Part 4 Section 61</p>

<p><u>(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and</u></p> <p><u>(b) must co-operate with the council's standards committee (and any sub-committee of the committee) in the exercise of the standards committee's functions.</u></p> <p><u>(2) In complying with subsection (1), a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.</u></p> <p><u>(3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which—</u></p> <p><u>(a) members of a county council or county borough council in Wales are to be treated as constituting a political group;</u></p> <p><u>(b) a member of a political group is to be treated as a leader of the group.</u></p> <p><u>(4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they think appropriate.</u></p>	
<p style="text-align: center;">Standards committees</p> <p><b>54 Functions of standards committees</b></p> <p>(1) The general functions of a standards committee of a relevant authority are—</p> <p>(a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and</p> <p>(b) assisting members and co-opted members of the authority to observe the authority's code of conduct.</p> <p>(2) Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—</p> <p>(a) advising the authority on the adoption or revision of a code of conduct,</p> <p>(b) monitoring the operation of the authority's code of conduct, and</p> <p>(c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.</p> <p><u>(2A) A standards committee of a county council or county borough council in Wales also has the specific functions of—</u></p> <p><u>(a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and</u></p> <p><u>(b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.</u></p> <p>(3) A relevant authority may arrange for their standards committee to exercise such other functions as the authority consider appropriate.</p> <p>(3A) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), references in subsection (1)(b) and (2)(b) and</p>	<p style="text-align: center;">Part 4 Section 61</p>

<p>(c) to the authority's code of conduct are to those mandatory provisions.</p> <p>(4) [repealed]</p> <p>(5) The Welsh Ministers may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities</p> <p>(5A) Regulations made under subsection (5) may modify any provision of this Part, or any other enactment relating to a standards committee or to any functions of a standards committee, in relation to cases where a function of a standards committee is exercisable by a joint committee.</p> <p>(5B) In subsection (5A) “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978), whenever passed or made.</p> <p>(6) [repealed]</p> <p>(7) A standards committee must, in exercising any of its functions, have regard to any relevant guidance issued by the Welsh Ministers.</p>	
<p><b><u>56B Annual reports by standards committees</u></b></p> <p><u>(1) As soon as reasonably practicable after the end of each financial year, a standards committee of a relevant authority must make an annual report to the authority in respect of that year.</u></p> <p><u>(2) The annual report must describe how the committee's functions have been discharged during the financial year.</u></p> <p><u>(3) In particular, the report must include a summary of—</u></p> <p style="padding-left: 20px;"><u>(a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;</u></p> <p style="padding-left: 20px;"><u>(b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;</u></p> <p style="padding-left: 20px;"><u>(c) action taken by the committee following its consideration of such reports and recommendations;</u></p> <p style="padding-left: 20px;"><u>(d) notices given to the committee under Chapter 4 of this Part.</u></p> <p><u>(4) An annual report by a standards committee of a county council or county borough council in Wales must include the committee's assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A(1) during the financial year.</u></p> <p><u>(5) An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.</u></p> <p><u>(6) A relevant authority must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which the authority receives the report.</u></p> <p><u>(7) The function of considering the report may be discharged only by the relevant authority (and accordingly is not a function to which section 101 of the Local Government Act 1972 applies).</u></p>	<p>Part 4 Section 61</p>



(8) In this section "financial year" means a period of 12 months ending with 31 March."	
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<p style="text-align: center;"><b>CHAPTER III INVESTIGATIONS ETC: WALES</b></p> <p style="text-align: center;"><b>Investigations</b></p> <p><b>69 Investigations by the Public Services Ombudsman for Wales</b></p> <p>(1) The Public Services Ombudsman for Wales may investigate—</p> <p style="padding-left: 40px;">(a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed, or may have failed, to comply with the authority's code of conduct, and</p> <p style="padding-left: 40px;">(b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).</p> <p>(2) If the Public Services Ombudsman for Wales considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.</p> <p>(3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.</p> <p>(4) Those findings are—</p> <p style="padding-left: 40px;">(a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,</p> <p style="padding-left: 40px;">(b) that no action needs to be taken in respect of the matters which are the subject of the investigation,</p> <p style="padding-left: 40px;">(c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or</p> <p style="padding-left: 40px;">(d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1).</p> <p>(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he must decide to which of those monitoring officers to refer the matters concerned).</p>	<p>Schedule 8 Paragraph 2</p>
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<p><u>(6) Sections 69A to 69E apply in relation to the exercise of the functions of the Public Services Ombudsman for Wales under this section.</u></p>	
<p><b><u>69A Possible conflict of interest in an investigation</u></b></p> <p><u>(1) If subsection (2) or (4) applies in a case involving a member or coopted member (or former member or co-opted member) of a relevant authority, the Public Services Ombudsman for Wales (“the Ombudsman”) must exercise the power in paragraph 14 of Schedule 1 to the Public Services Ombudsman (Wales) Act 2019 to delegate—</u></p> <p><u>(a) the decision as to whether to investigate the case under section 69, and</u></p> <p><u>(b) any investigation of the case.</u></p> <p><u>(2) This subsection applies if at any time within the period of five years ending with the date mentioned in subsection (3) the Ombudsman was—</u></p> <p><u>(a) a member,</u></p> <p><u>(b) a member of a committee, sub-committee, joint committee or joint sub-committee, or</u></p> <p><u>(c) an officer,</u></p> <p><u>of the relevant authority concerned.</u></p> <p><u>(3) The date is—</u></p> <p><u>(a) if the case is within section 69(1)(a), the date on which the Ombudsman received the written allegation, or</u></p> <p><u>(b) if the case is within section 69(1)(b), the date on which the Ombudsman received the written allegation investigated under section 69(1)(a).</u></p> <p><u>(4) This subsection applies if the Ombudsman considers that the Ombudsman has, or is likely to have, an interest in the matters which may be investigated or the outcome of any investigation.</u></p> <p><u>(5) If subsection (4) applies the Ombudsman must disclose the nature of the interest to the person to whom any investigation under section 69 would or does relate, and to any person who has made an allegation as described in section 69(1)(a).</u></p> <p><u>(6) If the Ombudsman makes a decision as to whether to investigate a case, or investigates a case, in contravention of subsection (1), that contravention does not affect the validity of anything done by the Ombudsman.</u></p> <p><b><u>69B Investigation procedure</u></b></p> <p><u>(1) If the Ombudsman conducts an investigation under section 69, the Ombudsman must give the person to whom the investigation relates an opportunity to comment on whether that person has failed to comply with the code of conduct of the relevant authority of which that person is or was a member or co-opted member.</u></p> <p><u>(2) An investigation must be conducted in private.</u></p>	<p>Schedule 8 Paragraph 3</p>

(3) Subject to subsections (1) and (2), the procedure for conducting an investigation is that which the Ombudsman thinks appropriate in the circumstances of the case.

(4) The Ombudsman may, among other things—

(a) make any inquiries which the Ombudsman thinks appropriate;

(b) determine whether any person may be represented in the investigation by an authorised person or another person.

(5) In subsection (4) “authorised person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Act).

(6) The Ombudsman may pay to the person (if any) who made an allegation as described in section 69(1)(a) and to any other person who attends or supplies information for the purposes of the investigation—

(a) sums in respect of the expenses properly incurred by them, and

(b) allowances to compensate for the loss of their time.

(7) The Ombudsman may attach conditions to payments under subsection (6).

(8) The carrying out of an investigation under section 69 does not affect—

(a) the validity of any action taken by a relevant authority, or

(b) any power or duty of a relevant authority to take further action in respect of any matter under investigation.

### **69C Information, documents, evidence and facilities**

(1) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to an investigation under section 69 to do so.

(2) The Ombudsman has the same powers as the High Court in relation to—

(a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad), and

(b) the production of documents.

(3) The Ombudsman may require a person the Ombudsman thinks is able to supply information or produce a document relevant to an investigation to provide any facility the Ombudsman may reasonably require.

(4) The Ombudsman may require the relevant authority concerned to provide any facility the Ombudsman may reasonably require.

(5) Subject to subsection (6), no person may be compelled to give any evidence or produce any document which the person

could not be compelled to give or produce in civil proceedings before the High Court.

(6) The Crown is not entitled to any privilege in relation to the production of documents or the giving of evidence that would otherwise be allowed by law in legal proceedings.

(7) Where an obligation to maintain secrecy or other restriction on the disclosure of information obtained by or supplied to persons in Her Majesty's service has been imposed by an enactment or a rule of law, the obligation or restriction does not apply to the disclosure of information for the purposes of the investigation.

#### **69D Obstruction and contempt**

(1) If the Ombudsman is satisfied that the condition in subsection (2) is met in relation to a person, the Ombudsman may issue a certificate to that effect to the High Court.

(2) The condition is that the person—

(a) without lawful excuse, has obstructed the discharge of any of the Ombudsman's functions under this Part, or

(b) has done an act in relation to an investigation under section 69 which, if the investigation were proceedings in the High Court, would constitute contempt of court.

(3) But the condition in subsection (2) is not met in relation to a person merely because that person has taken action such as is mentioned in section 69B(8).

(4) If the Ombudsman issues a certificate under subsection (1), the High Court may inquire into the matter.

(5) If the High Court is satisfied that the condition in subsection (2) is met in relation to the person, it may deal with that person in the same manner as it may deal with a person who has committed contempt in relation to the High Court.

#### **69E Disclosure of information**

(1) This section applies to information obtained in the exercise of the Ombudsman's functions under this Part by—

(a) the Ombudsman;

(b) a member of the Ombudsman's staff or other person acting on the Ombudsman's behalf;

(c) a person assisting the Ombudsman.

(2) The information may be disclosed only—

(a) for the purposes of the Ombudsman's functions under—

(i) Chapter 3 or 4 of this Part;

(ii) Part 3 or 5 of the Public Services Ombudsman (Wales) Act 2019;

(b) for the purposes of the functions of the Adjudication Panel for Wales, including the functions of its President, Deputy President and tribunals, under Chapter 4 of this Part;

<p><u>(c) for the purposes of criminal proceedings or the investigation of a criminal offence;</u></p> <p><u>(d) if the disclosure is made to the Auditor General for Wales for the purposes of the Auditor General's functions under Part 2 of the Public Audit (Wales) Act 2004;</u></p> <p><u>(e) if the disclosure is made to the Electoral Commission for the purposes of any of its functions.</u></p> <p><b><u>69F Power of the Welsh Ministers to amend this Chapter</u></b>  <u>The Welsh Ministers may by regulations amend this Chapter to make further or different provision about the exercise of the functions of the Public Services Ombudsman for Wales under section 69."</u></p>	
<p><b><u>70 Ceasing investigations etc.</u></b>  <del>(1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).</del></p> <p><del>(2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—</del></p> <p style="padding-left: 40px;"><del>(a) any provisions of sections 60 to 63 as those sections had effect immediately before their repeal by the Localism Act 2011, or</del></p> <p style="padding-left: 40px;"><del>(b) any provisions of sections 13 to 15 and Part 2B of the Public Services Ombudsman (Wales) Act 2005.</del></p> <p>(3) The Public Services Ombudsman for Wales may cease an investigation under section 69 at any stage before its completion.</p> <p>(4) Where the Public Services Ombudsman for Wales ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.</p> <p>(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority, the Public Services Ombudsman for Wales may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.</p>	<p>Schedule 8 Paragraph 4</p>
<p style="text-align: center;"><u>Law of defamation</u></p> <p><b><u>74 Law of defamation: absolute privilege</u></b>  <u>For the purposes of the law of defamation a publication of a matter is absolutely privileged if—</u></p> <p style="padding-left: 40px;"><u>(a) the publication is made in the exercise of the functions of the Ombudsman under Chapter 3 and 4 of this Part;</u></p> <p style="padding-left: 40px;"><u>(b) the publication—</u></p>	<p>Schedule 8 Paragraph 5</p>

<p><u>(i) is made in communications with the Ombudsman or a person exercising a function of the Ombudsman, and</u></p> <p><u>(ii) is made for the purposes of, or in connection with, the Ombudsman's functions under Chapters 3 and 4 of this Part.</u></p>	
<p style="text-align: center;"><b>Chapter IV Elections</b></p> <p><b>85 Options for elections <u>England</u></b></p> <p>(1) For the purposes of this Part <u>as it applies in relation to a principal council for an area in <u>England</u></u>, the three options for the scheme for the ordinary elections of councillors of <u>such</u> a principal council are those set out in this section.</p> <p>(2) The first option is for a scheme under which—</p> <ul style="list-style-type: none"> <li>(a) the term of office of councillors is four years,</li> <li>(b) the elections are held in a given year and every fourth year after it,</li> <li>(c) all the councillors are elected in each year in which the elections are held, and</li> <li>(d) the councillors retire together.</li> </ul> <p>(3) The second option is for a scheme under which—</p> <ul style="list-style-type: none"> <li>(a) the term of office of councillors is four years,</li> <li>(b) the elections are held in a given year and every second year after it,</li> <li>(c) one half (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and</li> <li>(d) one half (or as nearly as may be) of the councillors retire in each year in which the elections are held.</li> </ul> <p>(4) The third option is for a scheme under which—</p> <ul style="list-style-type: none"> <li>(a) the term of office of councillors is four years,</li> <li>(b) the elections are held in a given year and every year after it other than every third year after it,</li> <li>(c) one third (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and</li> <li>(d) one third (or as nearly as may be) of the councillors retire in each year in which the elections are held.</li> </ul>	<p>Schedule 2 Paragraph 9</p>
<p><b>86 Power to specify a scheme for elections</b></p> <p>(A1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council in England is the scheme under the first option set out in section 85.</p> <p><del>(1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council in Wales is the scheme under such of the options set out in section 85 as is specified in the order.</del></p> <p>(2) A council is specified if it is—</p>	<p>Schedule 2 Paragraph 9</p>

<p>(a) a principal council (or one of the principal councils) specified by name in the order, or</p> <p>(b) a principal council falling within any description of principal council specified in the order.</p> <p>(3) An order may make provision in relation to a council if the scheme specified in the order is different from the scheme which prevails (whether by virtue of an earlier order under this section or otherwise) for the ordinary elections of its councillors.</p> <p>(4) An order may include provision specifying the years in which the ordinary elections are to be held.</p> <p>(5) In a case where the specified scheme is that under the second or third option, an order may include provision for identifying which councillors are to retire in a particular year, and such provision may include—</p> <p>(a) provision for identifying the electoral divisions or wards affected,</p> <p>(b) provision for identifying the councillors affected within particular electoral divisions or wards.</p> <p>(6) Provision under subsection (5) may include—</p> <p>(a) provision allowing the Secretary of State to direct councils to propose methods (complying with any guidance he may issue) for identifying electoral divisions, wards or councillors,</p> <p>(b) provision allowing him to give directions as to the methods to be adopted (whether those proposed or otherwise).</p> <p>(7) An order may include provision designed to secure the transition from a prevailing scheme to the one specified in the order, and such provision may include—</p> <p>(a) provision to secure the retirement of existing councillors at times different from those applying under a prevailing scheme,</p> <p>(b) in a case where the specified scheme is that under the second or third option, provision for the initial election of all the councillors, for the retirement of some of them before the end of the normal term of four years, and for identifying which of them are so to retire.</p>	
<p style="text-align: center;"><b>Part VI Supplemental</b></p> <p><b>106 Wales</b></p> <p>(1) In their application to Wales—</p> <p>(a) [repealed]</p> <p>(b) Part IV, and</p> <p>(c) section 105(2),</p> <p>have effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.</p> <p>(2) Section 105(5) to (7) does not apply to an order or regulations under this Act which is made by the National Assembly for Wales.</p>	<p>Part 4 Section 61</p> <p>Schedule 7 Paragraph 4</p> <p>Schedule 8 Paragraph 6</p>



<p>(3) Any reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an Act which is amended by this Act is to be treated as referring to that Act as amended by this Act.</p> <p>(4) Subsection (3) does not affect the power to make further Orders varying or omitting that reference.</p> <p><del>(5) The power of the Welsh Ministers to make an order under section 21A(13)(b) or section 21G or regulations under section 53(11) or 54(5) is exercisable by statutory instrument.</del></p> <p>(6) A statutory instrument which contains an order made by the Welsh Ministers under <u>section 11(9)</u>, section 21A(13)(b) or regulations made under <del>section 52A(3)</del>, section 53(11) or (subject to subsection (6A)) section 54(5) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p> <p>(6A) Where a statutory instrument contains regulations made under section 54(5) which include provision adding to, replacing or omitting any part of the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales, the instrument may not be made unless a draft of it has been laid before, and approved by a resolution of, the National Assembly for Wales.</p> <p>(7) A statutory instrument which contains an order under section 21G <u>or regulations under section 52A(3) or regulations under section 69F</u> may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.</p>	
<p style="text-align: center;"><b>Schedule 1 Executive Arrangements In Wales: Further Provision</b></p> <p><b>Mayor and cabinet executives</b></p> <p><b>1</b></p> <p>(1) This paragraph applies in relation to executive arrangements by a local authority which provide for a mayor and cabinet executive.</p> <p>(2) Subject to section 11(8) <u>and (8ZA)</u>, the executive arrangements must include provision which enables the elected mayor to determine the number of councillors who may be appointed to the executive under section 11(2)(b).</p> <p>(3) The executive arrangements must include provision which requires the elected mayor to appoint one of the members of the executive to be his deputy (referred to in this paragraph as the deputy mayor).</p> <p>(4) Subject to sub-paragraph (5), the deputy mayor, unless he resigns as deputy mayor or ceases to be a member of the authority, is to hold office until the end of the term of office of the elected mayor.</p> <p>(5) The elected mayor may, if he thinks fit, remove the deputy mayor from office.</p>	<p>Schedule 7 Paragraph 5</p>

<p>(6) Where a vacancy occurs in the office of deputy mayor, the elected mayor must appoint another person in his place.</p> <p>(7) If for any reason the elected mayor is unable to act or the office of elected mayor is vacant, the deputy mayor must act in his place.</p> <p>(8) If for any reason—</p> <ul style="list-style-type: none"> <li>(a) the elected mayor is unable to act or the office of elected mayor is vacant, and</li> <li>(b) the deputy mayor is unable to act or the office of deputy mayor is vacant,</li> </ul> <p>the executive must act in the elected mayor's place or must arrange for a member of the executive to act in his place.</p> <p>(9) The deputy mayor is entitled to the style of “dirprwy faer”.</p>	
<p><b>Leader and cabinet executives (Wales)</b></p> <p><b>2</b></p> <p>(1) This paragraph applies in relation to executive arrangements by a local authority which provide for a leader and cabinet executive (Wales).</p> <p>(2) The executive arrangements may include provision with respect to—</p> <ul style="list-style-type: none"> <li>(a) the election and term of office of the executive leader, and</li> <li>(b) the appointment and term of office of members of the executive appointed under section 11(3)(b)(ii).</li> </ul> <p><u>(2A) The executive arrangements must include provision under which two or more councillors may be elected by the authority to share office as executive leader; and references in any enactment to an executive leader include executive leaders elected by virtue of that provision.</u></p> <p>(3) Subject to section 11(8) <u>and (8ZA)</u>, the executive arrangements must include provision which either—</p> <ul style="list-style-type: none"> <li>(a) enables the authority to determine the number of councillors who may be appointed to the executive under section 11(3)(b), or</li> <li>(b) enables the executive leader to determine the number of councillors who may be so appointed.</li> </ul> <p>(4) Section 101 of the Local Government Act 1972 does not apply to the function of determining the number of councillors under sub-paragraph (3)(a).</p>	<p>Schedule 7 Paragraph 5</p>
<p><b><u>Appointment of councillors to executive to share the same position</u></b></p> <p><b><u>2A</u></b></p> <p><u>Executive arrangements by a local authority must include provision under which two or more councillors may be appointed to the executive to share office.</u></p>	<p>Schedule 7 Paragraph 5</p>

<p><b><u>Voting and quorum where members of executive share their position</u></b></p> <p><b><u>2B</u></b></p> <p><u>(1) This paragraph applies where two or more councillors of a local authority are—</u></p> <p><u>(a) appointed to a mayor and cabinet executive to share office,</u></p> <p><u>(b) appointed to a leader and cabinet executive (Wales) to share office, or</u></p> <p><u>(c) elected to share office as executive leader of a leader and cabinet executive (Wales).</u></p> <p><u>(2) The members of the executive who share the same office have between them one vote in respect of any matter on which they have a right to vote because they are a member of the executive.</u></p> <p><u>(3) Where any meeting is attended by more than one of the members who share the same office and those members are attending in their capacity as a member of the executive, they together count only as one person for the purpose of determining whether the meeting is quorate.</u></p>	
<p><b><u>Assistants to the executive</u></b></p> <p><b><u>3A</u></b></p> <p><u>(1) Executive arrangements by a local authority may make provision for councillors of the authority to be appointed to assist the executive in discharging functions which are the responsibility of the executive.</u></p> <p><u>(2) Such a councillor is referred to in this Schedule as an assistant to the executive of the authority.</u></p> <p><u>(3) Assistants to the executive of an authority are to be appointed—</u></p> <p><u>(a) in the case of an authority operating a mayor and cabinet executive, by the elected mayor;</u></p> <p><u>(b) in the case of an authority operating a leader and cabinet executive (Wales), by the executive leader or the authority.</u></p> <p><u>(4) Executive arrangements which make provision for the appointment of assistants to an executive may include provision about—</u></p> <p><u>(a) the number of assistants that may be appointed,</u></p> <p><u>(b) their term of office, and</u></p> <p><u>(c) their responsibilities.</u></p> <p><u>(5) The assistants to the executive of a local authority may not include—</u></p> <p><u>(a) the chairman and vice-chairman of the authority;</u></p> <p><u>(b) the presiding member and deputy presiding member of the authority (if the authority has a presiding member).</u></p>	<p>Part 4 Section 56</p>

<p><u>(6) An assistant to the executive of an authority is not a member of the executive of the authority.</u></p> <p><u>(7) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to a local authority's function of making appointments under sub-paragraph (3)(b).</u></p>	
<p><b>Meetings of executives and executive committees</b></p> <p><b>5</b></p> <p><u>(1) An assistant to the executive of a local authority is entitled to attend, and speak at, any meeting of the executive or of a committee of the executive.</u></p> <p><u>(2) A member of a local authority who is neither a member of the authority's executive nor an assistant to the executive is entitled to attend, and speak at, a meeting of the executive, or of a committee of the executive, which is held in private only if invited to do so.</u></p>	<p>Part 4 Section 56</p>

## Representation of the People Act 1985

Section	Amended by
<p>Combination and timing of polls</p> <p><b>15 Combination of polls at parliamentary, European Parliamentary and local elections</b></p> <p>(1) Where the polls at—</p> <ul style="list-style-type: none"> <li>(a) a parliamentary general election and a European Parliamentary general election;</li> <li>(b) an ordinary local government election and a parliamentary general election; or</li> <li>(c) an ordinary local government election and a European Parliamentary general election,</li> </ul> <p>are to be taken on the same date, they shall be taken together.</p> <p>(2) Where the polls at elections for related areas are to be taken on the same date but are not required by subsection (1) above or section 36 <u>or section 36B</u> of the principal Act to be taken together, they may nevertheless be so taken if the returning officer for each election thinks fit.</p> <p>(3) In subsection (2) above the reference to elections includes European Parliamentary elections but does not include elections under the local government Act which are not local government elections; and for the purposes of that subsection two areas are related if one is coterminous with or situated wholly or partly within the other.</p> <p>(3A) Where the polls at an election of the Northern Ireland Assembly are to be taken on the same date as the polls at one or more elections of the kind mentioned in subsection (1), the Chief Electoral Officer for Northern Ireland may direct that the polls at the election of the Assembly are to be taken together with the polls at the other election or elections.</p> <p>(4) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.</p> <p>(5) The Secretary of State may by regulations make such provision as he thinks fit in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.</p> <p>(5A) The power under subsection (5) above to make provision in connection with the combining under this section of polls at—</p> <ul style="list-style-type: none"> <li>(a) a local government election in England and Wales, and</li> <li>(b) the European Parliamentary general election in 2004,</li> </ul> <p>includes power to make provision modifying, in relation to such elections, any enactment relating to election of members of the European Parliament or any instrument made under any such enactment or under the Representation of the People Acts.</p>	<p>Schedule 2 Paragraph 3</p>

<p>(5B) The power under subsection (5) above to make provision in connection with the combining of polls under subsection (3A) includes power to modify—</p> <ul style="list-style-type: none"> <li>(a) Part 2 or 3 of the Schedule to the Elections Act 2001 (in addition to the power conferred by paragraph 32 of that Schedule);</li> <li>(b) any provision made under section 34(4) or 84(1) of the Northern Ireland Act 1998 or section 38(1)(a) of the Northern Ireland Constitution Act 1973 (see section 95(1) of the 1998 Act);</li> <li>(c) any provision made by or under Northern Ireland legislation relating to local elections.</li> </ul> <p>(5C) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Scotland, the Secretary of State must consult the Scottish Ministers.</p> <p>(5D) Before making provision under subsection (5) in connection with the combination of polls where one of the elections is a local government election in Wales, the Secretary of State must consult the Welsh Ministers.</p> <p>(6) In its application to Northern Ireland, subsection (1) above shall have effect as if the references to an ordinary local government election were to a local election.</p>	
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## The Representation of the People Act 2000

Section	Amended by
<p><b>11 Revision of procedures in the light of pilot schemes</b></p> <p>(1) If it appears to the Secretary of State, in the light of any report made under section 10 on a scheme under that section, that it would be desirable for provision similar to that made by the scheme to apply generally, and on a permanent basis, in relation to—</p> <ul style="list-style-type: none"> <li>(a) local government elections in England and Wales, or</li> <li>(b) any particular description of such elections,</li> </ul> <p>he may by order make such provision for and in connection with achieving that result as he considers appropriate (which may include provision modifying or disapplying any provision of an Act, including this Act).</p> <p>The power of the Secretary of State to make such an order shall, however, be exercisable only on a recommendation of the Electoral Commission.</p> <p>(2) An order under subsection (1)—</p> <ul style="list-style-type: none"> <li>(a) may except from the operation of any of its provisions any local government area specified in the order; but</li> <li>(b) subject to that, must make the same provision— <ul style="list-style-type: none"> <li>(i) in relation to local government elections, or</li> <li>(ii) if it applies only to a particular description of such elections, in relation to elections of that description,</li> </ul> </li> </ul> <p>throughout England and Wales.</p> <p>(3) An order under subsection (1) shall be made by statutory instrument; and no such order shall be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.</p> <p>(4) When laying such a draft before either House of Parliament the Secretary of State shall also lay before that House a copy of the report under section 10 of each relevant local authority (within the meaning of that section) in whose area a scheme making provision similar to that made by the order has been implemented.</p> <p>(5) An order which excepts any local government area as mentioned in subsection (2) shall, if apart from this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.</p> <p>(6) Rules made under section 36 of the 1983 Act (local elections in England and Wales) may make such provision as the Secretary of State considers appropriate in connection with any provision made <u>in relation to local government elections in England</u> by an order under subsection (1).</p> <p><u>(6A) Rules made under section 36A of the 1983 Act (local elections rules in Wales) may make such provision as the Welsh Ministers consider appropriate in connection with any provision made by an</u></p>	<p>Schedule 2 Paragraph 8</p>

<p><u>order under subsection (1) in relation to local government elections in Wales.</u></p> <p>(7) Nothing in this section shall be taken as prejudicing the generality of any power contained in any other Act to make subordinate legislation (within the meaning of the Interpretation Act 1978) with respect to elections of any description.</p>	
<p style="text-align: center;"><b>Schedule 4 Absent Voting in Great Britain</b></p> <p style="text-align: center;">Section 12</p> <p><b>Interpretation</b></p> <p><b>1</b></p> <p>(1) In this Schedule—</p> <p>“the appropriate rules” means—</p> <p>(a) in the case of a parliamentary election, the parliamentary elections rules, and</p> <p>(b) in the case of a local government election, rules made (or having effect as if made) under section 36, <u>section 36A</u> or, as the case may be, section 42 of the 1983 Act;</p> <p>“local government election” means a local government election in England, Wales or Scotland.</p> <p>(2) The 1983 Act and this Schedule shall have effect as if this Schedule were contained in Part I of that Act.</p> <p>(3) References in an enactment other than one contained in this Act or the 1983 Act to Part I of that Act include a reference to this Schedule.</p>	<p>Schedule 2 Paragraph 8</p>
<p><b>Proxies at Elections</b></p> <p><b>6</b></p> <p>(1) Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another (in this paragraph and paragraph 7 referred to as “the elector”) at any parliamentary or local government election and may vote in pursuance of the appointment.</p> <p>(2) The elector cannot have—</p> <p>(a) more than one person at a time appointed as proxy to vote for him at parliamentary elections (whether in the same constituency or elsewhere), or</p> <p>(b) more than one person at a time appointed as proxy to vote for him at local government elections in the same electoral area.</p> <p>(3) A person is not capable of being appointed to vote, or voting, as proxy at a parliamentary election unless the person is or will be registered in a register of parliamentary electors in Great Britain or Northern Ireland.</p> <p>(3A) A person is not capable of being appointed to vote, or voting, as proxy at a local government election unless the person is or will be registered in a register of local government electors in Great Britain or Northern Ireland.</p>	<p>Schedule 2 Paragraph 8</p>



(4) A person is not capable of being appointed to vote, or voting, as proxy at a parliamentary or local government election if the person is subject to any legal incapacity (age apart) to vote at that election as an elector.

(5) A person is not capable of voting as proxy at a parliamentary or local government election (other than a local government election in Wales) unless on the date of the poll he has attained the age of 18.

(5A) A person is not capable of voting as proxy at a local government election in Wales unless on the date of the election the person has attained the age of 16.

(6) A person is not entitled to vote as proxy—

- (a) at the same parliamentary election in any constituency, or
- (b) at the same local government election in any electoral area, on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at parliamentary elections, at local government elections or at both (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the prescribed requirements and he is satisfied that the elector is or will be—

- (a) registered in the register of parliamentary electors, local government electors or both (as the case may be), and
  - (b) shown in the record kept under paragraph 3 as voting by proxy at such elections,
- and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such elections.

(8) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular parliamentary or local government election, the registration officer shall make the appointment if the application meets the prescribed requirements and he is satisfied that the elector is or will be—

- (a) registered in the register of parliamentary or, as the case may be, local government electors, and
  - (b) entitled to vote by proxy at that election by virtue of an application under paragraph 4(2) or (3),
- and that the proxy is capable of being, and willing to be, appointed.

(9) The appointment of a proxy under this paragraph is to be made by means of a proxy paper in the prescribed form issued by the registration officer.

(10) The appointment may be cancelled by the elector by giving notice to the registration officer and shall also cease to be in force—

<p>(a) where the appointment related to a parliamentary election or parliamentary elections, on the issue of a proxy paper appointing a different person to vote for him at a parliamentary election or parliamentary elections (whether in the same constituency or elsewhere),</p> <p>(b) where the appointment related to a local government election or local government elections, on the issue of a proxy paper appointing a different person to vote for him at a local government election or local government elections in the same electoral area, or</p> <p>(c) where the appointment was for a particular period, once that period expires.</p> <p>(11) Subject to sub-paragraph (10), the appointment shall remain in force—</p> <p>(a) in the case of an appointment for a particular election, for that election, and</p> <p>(b) in any other case, while the elector is shown as voting by proxy in the record kept under paragraph 3 in pursuance of the same application under that paragraph.</p>	
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# Senedd and Elections (Wales) Act 2020

Section	Amended by
<p style="text-align: center;"><b>Part 3 Elections</b></p> <p style="text-align: center;">Electoral registration</p> <p><b>23 Protection of information about persons aged under 16</b></p> <p>(1) A registration officer must not publish, supply or otherwise disclose a young person's information, except in accordance with—</p> <ul style="list-style-type: none"> <li>(a) section 24, or</li> <li>(b) regulations under section 25.</li> </ul> <p>(2) In this section and sections 24 and 25—</p> <p>“a young person's information” (“gwybodaeth person ifanc”) means any entry in—</p> <ul style="list-style-type: none"> <li>(a) the register of local government electors, or</li> <li>(b) an absent voters record or list, relating to a person who, at the time of the publication, supply or other disclosure, is under the age of 16, and “young person” is to be interpreted accordingly;</li> <li>(c) <u>so far as relating to local government elections, a record kept under paragraph 3(4) or 7(6) of Schedule 4 to the Representation of the People Act 2000 (c. 2) (absent voting);</u></li> <li>(d) <u>so far as relating to local government elections, a list kept under paragraph 5 or 7(8) of that Schedule;”;</u></li> </ul> <p>“absent voters record or list” (“cofnod neu restr o bleidleiswyr absennol”) means any of the following—</p> <ul style="list-style-type: none"> <li>(a) a record kept under article 8(3), 9(6) or 12(6) of the 2007 Order;</li> <li>(b) a list kept under article 10 or 12(8) of the 2007 Order;</li> </ul> <p>“register of local government electors” (“cofrestr o etholwyr llywodraeth leol”) includes any notice of an alteration in the register under section 13A(2), 13AB(2) or 13B(3), (3B) or (3D) of the 1983 Act;</p> <p>“registration officer” (“swyddog cofrestru”) includes—</p> <ul style="list-style-type: none"> <li>(a) a deputy of a registration officer;</li> <li>(b) a person appointed to assist a registration officer in the carrying out of the registration officer's functions;</li> <li>(c) a person, in the course of the person's employment, assisting a registration officer in the carrying out of those functions</li> </ul>	<p>Schedule 2 Paragraph 16</p>

Part 6 General	Schedule 2 Paragraph 15
<p><b>38 General Interpretation</b></p> <p>In this Act—</p> <p>“1983 Act” (“Deddf 1983”) means the Representation of the People Act 1983 (c. 2);</p> <p>“2001 Regulations” (“Rheoliadau 2001”) means the Representation of the People (England and Wales) Regulations (S.I. 2001/341);</p> <p>“2006 Act” (“Deddf 2006”) means the Government of Wales Act 2006 (c. 32);</p> <p>“2007” Order” (“Gorchymyn 2007”) means the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236);</p> <p>“enactment” (“deddfiad”) means a provision contained in any of the following (whenever enacted or made)—</p> <ul style="list-style-type: none"> <li>(a) an Act of the United Kingdom Parliament,</li> <li>(b) a Measure passed under Part 3 of the 2006 Act,</li> <li>(c) an Act passed under Part 4 of the 2006 Act (including this Act),</li> <li>(d) subordinate legislation made under an Act of Parliament, a Measure under Part 3 of the 2006 Act or an Act under Part 4 of the 2006 Act;</li> </ul> <p><u>“local government election” means an election of councillors for any electoral ward or community ward in Wales or, in the case of a community in Wales in which there are no wards, the community, for which the election of councillors is held under the Local Government Act 1972;”.</u></p> <p>“registration officer” (“swyddog cofrestru”) means a registration officer appointed by a local authority under section 8(2A) of the 1983 Act.</p>	

## Local Government Act 2003

Section	Amended by
<p style="text-align: center;"><b>Part 8 Miscellaneous and General</b></p> <p style="text-align: center;"><b>Chapter 1 Miscellaneous</b></p> <p style="text-align: center;">Charging and trading</p> <p><b>93 Power to charge for discretionary services</b></p> <p>(1) Subject to the following provisions, a relevant authority may charge a person for providing a service to him if—</p> <ul style="list-style-type: none"> <li>(a) the authority is authorised, but not required, by an enactment to provide the service to him, and</li> <li>(b) he has agreed to its provision.</li> </ul> <p>(2) Subsection (1) does not apply if the authority—</p> <ul style="list-style-type: none"> <li>(a) has power apart from this section to charge for the provision of the service, or</li> <li>(b) is expressly prohibited from charging for the provision of the service.</li> </ul> <p>(3) The power under subsection (1) is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.</p> <p>(4) The duty under subsection (3) shall apply separately in relation to each kind of service.</p> <p>(5) Within the framework set by subsections (3) and (4), a relevant authority may set charges as it thinks fit and may, in particular—</p> <ul style="list-style-type: none"> <li>(a) charge only some persons for providing a service;</li> <li>(b) charge different persons different amounts for the provision of a service.</li> </ul> <p>(6) In carrying out functions under this section, a relevant authority shall have regard to such guidance as the appropriate person may issue.</p> <p>(7) The following shall be disregarded for the purposes of subsection (2)(b)—</p> <ul style="list-style-type: none"> <li>(a) section 111(3) of the Local Government Act 1972 (c 70) (subsidiary powers of local authorities not to include power to raise money),</li> <li>(b) section 34(2) of the Greater London Authority Act 1999 (c 29) (corresponding provision for Greater London Authority)</li> <li><del>(c) section 3(2) of the Local Government Act 2000 (c 22) (well-being powers not to include power to raise money),</del></li> <li>(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),</li> </ul>	<p>Schedule 3 Paragraph 12</p>

<p>(e) section 102C(4) of that Act (Integrated Transport Authorities),</p> <p>(f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and</p> <p>(g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities)</p> <p>(8) In subsection (1), “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c(30))).</p> <p>(9) In this section, “relevant authority” means—</p> <p>(a) a best value authority;</p> <p>(aa) a Welsh improvement authority;</p> <p>(ab) the Passenger Transport Executive of an integrated transport area in England;</p> <p>(b) a parish council;</p> <p>(c) a parish meeting of a parish which does not have a separate parish council; or</p> <p>(d) a community council.</p>	
<p><b>95 Power to trade in function-related activities through a company</b></p> <p>(1) The appropriate person may by order—</p> <p>(a) authorise relevant authorities to do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions, and</p> <p>(b) make provision about the persons in relation to whom authority under paragraph (a) is exercisable.</p> <p>(2) No order under this section may authorise a relevant authority—</p> <p>(a) to do in relation to a person anything which it is required to do in relation to him under its ordinary functions, or</p> <p>(b) to do in relation to a person anything which it is authorised, apart from this section, to do in relation to him for a commercial purpose.</p> <p>(3) An order under this section may be made in relation to—</p> <p>(a) all relevant authorities, particular relevant authorities or particular descriptions of relevant authority;</p> <p>(b) all things authorised to be done for the purpose of carrying on a particular function, particular things authorised to be done for that purpose or particular descriptions of thing authorised to be so done.</p> <p>(4) Power conferred by an order under this section <u>made by the Secretary of State</u> shall only be exercisable through a company within the meaning of Part 5 of the Local Government and Housing Act 1989 (c 42) (companies in which local authorities have interests).</p>	<p>Schedule 3 Paragraph 2</p> <p>Schedule 3 Paragraph 12</p>

<p><u>(4A) Power conferred by an order under this section made by the Welsh Ministers is only exercisable through a company within the meaning given in section 34 of the Local Government and Elections (Wales) Act 2020.</u></p> <p>(5) A relevant authority on which power is conferred by an order under this section shall be treated as a local authority for the purposes of Part 5 of the Local Government and Housing Act 1989 if it would not otherwise be such an authority, but only in relation to a body corporate through which it exercises, or proposes to exercise, the power conferred by the order.</p> <p>(6) In its application by virtue of subsection (5), section 70(1) of the Local Government and Housing Act 1989 (c 42) (power to make provision about what a company under the control, or subject to the influence of, a local authority does) shall only apply in relation to the doing for a commercial purpose of the thing to which the order under this section relates.</p> <p>(7) In this section—</p> <p>“ordinary functions”, in relation to a relevant authority, means functions of the authority which are not functions under this section;</p> <p>“relevant authority” means—</p> <p>(a) a best value authority, other than the Common Council of the City of London in its capacity as a police authority and ;</p> <p>(aa) a Welsh improvement authority, <u>other than a county council or county borough council</u>;</p> <p>(ac) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;</p> <p>(b) a parish council;</p> <p>(c) a parish meeting of a parish which does not have a separate parish council; or</p> <p>(d) a community council <u>that is not an eligible community council for the purposes of Part 2 of the Local Government and Elections (Wales) Act 2020.</u></p>	
<p><b>116 Local polls</b></p> <p>(1) A local authority may conduct a poll to ascertain the views of those polled about—</p> <p>(a) any matter relating to—</p> <p>(i) services provided in pursuance of the authority's functions, or</p> <p>(ii) the authority's expenditure on such <u>services</u>.</p> <p><del>(b) any other matter if it is one relating to the authority's power under section 2 of the Local Government Act 2000 (c 22) (authority's power to promote well-being of its area).</del></p> <p>(2) It shall be for the local authority concerned to decide—</p> <p>(a) who is to be polled, and</p> <p>(b) how the poll is to be conducted.</p>	<p>Schedule 3 Paragraph 2</p>

<p>(3) In conducting a poll under this section, a local authority must have regard to any guidance issued by the appropriate person on facilitating participation in a poll under this section by such of those polled as are disabled people.</p> <p>(4) This section is without prejudice to any powers of a local authority exercisable otherwise than by virtue of this section.</p> <p>(5) In this section, “local authority” means—</p> <p>(a) in relation to England—</p> <ul style="list-style-type: none"> <li>(i) a county council;</li> <li>(ii) a district council;</li> <li>(iii) a London borough council;</li> <li>(iv) the Greater London Authority;</li> <li>(v) the Common Council of the City of London in its capacity as a local authority;</li> <li>(vi) the Council of the Isles of Scilly, and</li> </ul> <p>(b) in relation to Wales, a county council or a county borough council.</p>	
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# Local Government (Wales) Measure 2011

Section	Amended by
<p style="text-align: center;"><b>Part 1 Strengthening Local Democracy</b></p> <p style="text-align: center;"><b>Chapter 1 Promoting and Membership of Local Authorities</b></p> <p style="text-align: center;">Supporting Membership</p> <p><b>4 Remote attendance at meetings</b></p> <p>(1) A reference in any enactment to a meeting of a local authority is not limited to a meeting of persons all of whom are present in the same place.</p> <p><u>(1A) The standing orders of a local authority must—</u></p> <p style="padding-left: 40px;"><u>(a) specify the conditions that must be satisfied for a member of the authority who is not present at the place where a meeting of the authority is held to attend the meeting, and</u></p> <p style="padding-left: 40px;"><u>(b) require the person who chairs the meeting to determine whether those conditions are satisfied.</u></p> <p><u>(1B) A local authority must ensure that any facility necessary to satisfy the conditions specified in its standing orders under subsection (1A) is available at the place where the meeting is held.</u></p> <p><del>(2) For the purposes of any such enactment, a member of a local authority who is not present in the place where a meeting of that authority is held (a “member in remote attendance”) attends the meeting at any time if all of the conditions in subsection (3) are satisfied.</del></p> <p><del>(3) Those conditions are that—</del></p> <p style="padding-left: 40px;"><del>(a) the member in remote attendance is able at that time—</del></p> <p style="padding-left: 80px;"><del>(i) to see and hear, and be seen and heard by, the members in actual attendance,</del></p> <p style="padding-left: 80px;"><del>(ii) to see and hear, and be seen and heard by, any members of the public entitled to attend the meeting who are present in that place and who exercise a right to speak at the meeting, and</del></p> <p style="padding-left: 80px;"><del>(iii) to be seen and heard by any other members of the public so entitled who are present in that place;</del></p> <p style="padding-left: 40px;"><del>(b) the member in remote attendance is able at that time to hear, and be heard by, any other member in remote attendance in respect of whom the condition in paragraph (a) is satisfied at that time;</del></p> <p style="padding-left: 40px;"><del>(c) use of facilities enabling the conditions in paragraphs (a) and (b) to be satisfied in respect of the member in remote attendance is not prohibited by the standing orders or any other rules of the authority governing the meeting.</del></p>	<p style="text-align: center;">Part 3 Section 48</p>

<p>(4) The standing orders of a local authority must secure that there is no quorum for a meeting of the local authority at any time when the number of members in actual attendance constitutes less than 30% of the total number of members in attendance at the meeting.</p> <p>(4A) Subsection (4) does not prevent a local authority from making standing orders which require more than 30% of the total number of members in attendance at a meeting to be in actual attendance for the meeting to be quorate.</p> <p>(5) A local authority may make other standing orders about remote attendance at meetings of a local authority.</p> <p>(6) A local authority must have regard to guidance given by the Welsh Ministers in relation to meetings of the authority attended remotely in accordance with this section.</p> <p>(7) This section applies in relation to a meeting of a committee or sub-committee of a local authority as it applies in relation to a meeting of a local authority.</p> <p>(8) [repealed]</p> <p><del>(9) For the purpose of this section—</del></p> <p><del>(a) a reference to a person (A) seeing another person (B) is to be interpreted as a reference to A seeing B when B is speaking at the meeting;</del></p> <p><del>(b) a reference to a person (C) being seen by another person (D) is to be interpreted as a reference to C being seen by D when C is speaking at the meeting.</del></p> <p>(10) In this section—</p> <p>“member in actual attendance” (“aelod sy'n mynychu'r fangre”), in relation to a meeting of a local authority, means a member of the authority who is attending the meeting at the place where the meeting is held.</p>	
<p style="text-align: center;"><b>Chapter 2 Local Authority Democratic Services</b></p> <p><b>8 Head of democratic services</b></p> <p>(1) A local authority must—</p> <p>(a) designate one of its officers to discharge the functions in section 9 (“democratic services functions”);</p> <p>(b) provide that officer with such staff, accommodation and other resources as are, in its opinion, sufficient to allow his or her functions to be discharged.</p> <p>(2) A head of democratic services may arrange for the discharge of democratic services functions by staff provided under this section.</p> <p>(3) An officer designated by a local authority under this section is to be known as the head of democratic services.</p> <p>(4) A local authority may not designate any of the following under this section—</p> <p><u>(a) the authority’s chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020;</u></p>	<p>Schedule 5 Paragraph 13</p> <p>Part 9 Section 159</p>

<p><del>(b) the authority's monitoring officer designated under section 5 of that Act;</del></p> <p>(c) the authority's chief finance officer, within the meaning of <u>section 5 of the Local Government and Housing Act 1989.</u></p>	
<p><b>9 Democratic services functions</b></p> <p>(1) The functions of the head of democratic services are—</p> <ul style="list-style-type: none"> <li>(a) to provide support and advice to the authority in relation to its meetings, subject to subsection (2);</li> <li>(b) to provide support and advice to committees of the authority (other than the committees mentioned in paragraph (e)) and the members of those committees, subject to subsection (2);</li> <li>(c) to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to subsection (2);</li> <li>(d) to promote the role of the authority's overview and scrutiny committee or committees;</li> <li>(e) to provide support and advice to— <ul style="list-style-type: none"> <li>(i) the authority's overview and scrutiny committee or committees and the members of that committee or those committees, and</li> <li>(ii) the authority's democratic services committee and the members of that committee;</li> </ul> </li> <li>(f) to provide support and advice in relation to the functions of the authority's overview and scrutiny committee or committees to each of the following— <ul style="list-style-type: none"> <li>(i) members of the authority;</li> <li>(ii) members of the executive of the authority;</li> <li>(iii) officers of the authority;</li> </ul> </li> <li>(g) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to subsection (3);</li> <li>(h) to make reports and recommendations in respect of any of the following— <ul style="list-style-type: none"> <li>(i) the number and grades of staff required to discharge democratic services functions;</li> <li>(ii) the appointment of staff to discharge democratic services functions;</li> <li>(iii) the organisation and proper management of staff discharging democratic services functions;</li> </ul> </li> <li>(i) such other functions as may be prescribed.</li> </ul> <p>(2) The references to “advice” in paragraphs (a) to (c) do not include advice about whether or how the authority's functions should be, or should have been, exercised.</p> <p>(3) The following kinds of support and advice are not to be considered as support and advice for the purposes of subsection (1)(g)—</p>	<p>Schedule 5 Paragraph 14</p>

<p>(a) support and advice to a member of the authority in discharging that member's functions as part of the executive of the authority (except as provided for under subsection (1)(f));</p> <p>(b) advice about whether or how the authority's functions should be, or should have been, exercised in relation to any matter under consideration, or to be considered, at a meeting of the authority, a committee referred to in subsection (1)(b) or a joint committee which a local authority is responsible for organising.</p> <p>(4) Nothing in subsection (1)(h) affects the duty of the <u>chief executive in section 59(2) of the Local Government and Elections (Wales) Act 2020</u>.</p> <p>(5) In this section, references to a committee (or joint committee) include references to any sub-committee of that committee.</p>	
<p><b>Part 2 Family Absence for Members of Local Authorities</b></p> <p><b>24 Maternity absence</b></p> <p>(1) A member of a local authority is entitled to a period of absence ("maternity absence") if the member satisfies prescribed conditions as to maternity.</p> <p><u>(2) Regulations must include provision for determining—</u></p> <p><u>(a) the extent of a member's entitlement to maternity absence in respect of a child;</u></p> <p><u>(b) when maternity absence may be taken</u></p> <p><del>(3) The regulations must not provide for a period of maternity absence to exceed 26 weeks.</del></p> <p><del>(4) Regulations must include provision for determining when maternity absence may be taken.</del></p> <p>(5) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of maternity absence starts.</p> <p>(6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—</p> <p>(a) bring a period of maternity absence to an end, or</p> <p>(b) cancel a period of maternity absence.</p>	<p>Part 4 Section 60</p>
<p><b>25 Newborn absence</b></p> <p>(1) This section applies to a member of a local authority who satisfies prescribed conditions—</p> <p>(a) as to relationship with a newborn, or expected, child, and</p> <p>(b) as to relationship with the child's mother.</p> <p>(2) The member is entitled to a period of absence ("newborn absence") for the purpose of—</p> <p>(a) caring for the child, or</p> <p>(b) supporting the mother.</p> <p>(3) Regulations must include provision for determining—</p> <p>(a) the extent of a member's entitlement to newborn absence in respect of a child;</p>	<p>Part 4 Section 60</p>

<p>(b) when newborn absence may be taken.</p> <p><del>(4) Regulations must not provide for a period of newborn absence in respect of a child to exceed two weeks.</del></p> <p>(5) Regulations must require newborn absence to be taken before the end of a prescribed period.</p> <p><del>(6) That period must be a period of at least 56 days beginning with the date of the child's birth.</del></p> <p>(7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—</p> <ul style="list-style-type: none"> <li>(a) bring a period of newborn absence to an end, or</li> <li>(b) cancel a period of newborn absence.</li> </ul> <p>(8) Regulations may—</p> <ul style="list-style-type: none"> <li>(a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting the child's mother;</li> <li>(b) allow a member to choose, subject to prescribed restrictions, the date on which a period of newborn absence starts;</li> <li>(c) make provision excluding an entitlement to newborn absence in respect of a child where more than one child is born as a result of the same pregnancy;</li> <li>(d) make provision about how newborn absence may be taken.</li> </ul> <p><del>(9) Where more than one child is born as a result of the same pregnancy, the reference in subsection (6) to the date of the child's birth is to be read as a reference to the date of birth of the first child born as a result of the pregnancy.</del></p> <p>(10) In this section—</p> <p>“newborn child” (“plentyn newydd-anedig”) includes a child stillborn after 24 weeks of pregnancy;</p> <p><del>“week” (“wythnos”) means any period of seven days.</del></p>	
<p><b>26 Adopter's absence</b></p> <p>(1) A member of a local authority is entitled to a period of absence (“adopter's absence”) if the member satisfies prescribed conditions as to adoption of a child.</p> <p>(2) Regulations must include provision for determining—</p> <ul style="list-style-type: none"> <li>(a) the extent of a member's entitlement to adopter's absence in respect of a child;</li> <li>(b) when adopter's absence may be taken.</li> </ul> <p><del>(3) Regulations must not provide for a period of adopter's absence in respect of a child to exceed two weeks.</del></p> <p>(4) Regulations may allow a member to choose, subject to prescribed restrictions, the date on which a period of adopter's absence starts.</p> <p>(5) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—</p>	<p>Part 4 Section 60</p>

<p>(a) bring a period of adopter's absence to an end, or</p> <p>(b) cancel a period of adopter's absence.</p>	
<p><b>27 New adoption absence</b></p> <p>(1) This section applies to a member of a local authority who satisfies prescribed conditions—</p> <p>(a) as to relationship with a child placed, or expected to be placed, for adoption under the law of any part of the United Kingdom, and</p> <p>(b) as to relationship with a person with whom the child is, or is expected to be, so placed for adoption.</p> <p>(2) The member is entitled to a period of absence ("new adoption absence") for the purpose of—</p> <p>(a) caring for the child, or</p> <p>(b) supporting the person by reference to whom the member satisfies the condition under subsection (1)(b).</p> <p>(3) Regulations must include provision for determining—</p> <p>(a) the extent of a member's entitlement to new adoption absence in respect of a child;</p> <p>(b) when new adoption absence may be taken.</p> <p><del>(4) Regulations must not provide for a period of new adoption absence in respect of a child to exceed two weeks.</del></p> <p>(5) Regulations must require new adoption absence to be taken before the end of a prescribed period.</p> <p><del>(6) That period must be a period of at least 56 days beginning with the date of the child's placement for adoption.</del></p> <p>(7) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—</p> <p>(a) bring a period of new adoption absence to an end, or</p> <p>(b) cancel a period of new adoption absence.</p> <p>(8) Regulations may—</p> <p>(a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child or supporting a person with whom a child is placed for adoption;</p> <p>(b) allow a member to choose, subject to prescribed restrictions, the date on which a period of new adoption absence starts;</p> <p>(c) make provision excluding the right to be absent under this section in the case of a member who exercises a right to be absent on adopter's absence;</p> <p>(d) make provision excluding an entitlement to new adoption absence in respect of a child where more than one child is placed for adoption as part of the same arrangement;</p> <p>(e) make provision about how new adoption absence may be taken.</p>	<p>Part 4 Section 60</p>

<p><del>(9) Where more than one child is placed for adoption as part of the same arrangement, the reference in subsection (6) to the date of the child's placement is to be read as a reference to the date of placement of the first child to be placed as part of the arrangement.</del></p> <p><del>(10) In this section, "week" means any period of seven days.</del></p> <p>(11) The Welsh Ministers may by regulations provide for this section to apply in relation to cases which involve adoption, but not the placement of a child for adoption under the law of any part of the United Kingdom.</p>	
<p><b>28 Parental absence</b></p> <p>(1) This section applies to a member of a local authority who satisfies prescribed conditions as to—</p> <ul style="list-style-type: none"> <li>(a) having responsibility for a child, or</li> <li>(b) expecting to have responsibility for a child.</li> </ul> <p>(2) The member is entitled to a period of absence ("parental absence") for the purpose of caring for the child.</p> <p>(3) Regulations must include provision for determining—</p> <ul style="list-style-type: none"> <li>(a) the extent of a member's entitlement to parental absence in respect of a child;</li> <li>(b) when parental absence may be taken.</li> </ul> <p><del>(4) Regulations must not provide for parental absence in respect of a child to exceed a period, or a total period, of three months.</del></p> <p>(5) Provision under subsection (3)(b) may (amongst other things) refer to—</p> <ul style="list-style-type: none"> <li>(a) a child's age, or</li> <li>(b) a prescribed period of time starting from a prescribed event.</li> </ul> <p>(6) Regulations may prescribe circumstances in which a member of a local authority, or the local authority, may—</p> <ul style="list-style-type: none"> <li>(a) bring a period of parental absence to an end, or</li> <li>(b) cancel a period of parental absence.</li> </ul> <p>(7) Regulations may—</p> <ul style="list-style-type: none"> <li>(a) (for the purpose of subsection (2)) prescribe things which are, or are not, to be taken as done for the purpose of caring for a child;</li> <li>(b) require parental absence to be taken as a single period of absence in all cases or in prescribed cases;</li> <li>(c) require parental absence to be taken as a series of periods of absence in all cases or in prescribed cases;</li> <li>(d) require all or prescribed parts of a period of parental absence to be taken at or by prescribed times;</li> <li>(e) allow a member to choose, subject to prescribed restrictions, the date on which a period of parental absence starts;</li> </ul>	<p>Part 4 Section 60</p>

<p>(f) make provision about the postponement by a local authority of a period of parental absence which a member wishes to take;</p> <p>(g) prescribe a minimum or maximum period of absence which may be taken as part of a period of parental absence;</p> <p>(h) prescribe a maximum aggregate of periods of parental absence which may be taken during a prescribed period of time</p>	
<p style="text-align: center;"><b>Part 6 Overview and Scrutiny</b></p> <p style="text-align: center;"><b>Chapter 1 Overview and Scrutiny Committees</b></p> <p style="text-align: center;">Joint overview and scrutiny committees</p> <p><b>58 Joint overview and scrutiny committees</b></p> <p>(1) The Welsh Ministers may <u>or must</u> by regulations make provision under which any two or more local authorities may—</p> <p style="padding-left: 40px;">(a) appoint a joint committee (a “joint overview and scrutiny committee”), and</p> <p style="padding-left: 40px;">(b) arrange for the committee to exercise any functions of making reports or recommendations about any matter which is not an excluded matter to—</p> <p style="padding-left: 80px;">(i) any of the local authorities appointing the committee, and</p> <p style="padding-left: 80px;">(ii) in the case of a local authority operating executive arrangements under Part 2 of the Local Government Act 2000, the local authority's executive.</p> <p>(2) In subsection (1)(b) “excluded matter” means any matter with respect to which a crime and disorder committee could make a report or recommendations—</p> <p style="padding-left: 40px;">(a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or</p> <p style="padding-left: 40px;">(b) by virtue of subsection (3)(a) of that section.</p> <p>(3) The provision that may be made in regulations under this section includes (but is not limited to)—</p> <p style="padding-left: 40px;"><u>(a) provision about the circumstances in which arrangements may be made;</u></p> <p style="padding-left: 40px;"><u>(aa) provision prescribing circumstances in which arrangements must be made;</u></p> <p style="padding-left: 40px;"><u>(ab) provision for arrangements to be made subject to prescribed conditions or limitations;</u></p> <p style="padding-left: 40px;">(b) provision for the appointment of sub-committees of joint overview and scrutiny committees;</p> <p style="padding-left: 40px;">(c) in relation to joint overview and scrutiny committees (or sub-committees of such committees), provision applying, or corresponding to, any provision of—</p> <p style="padding-left: 80px;">(i) subsections (4) to (15A) and (18) of section 21 of the Local Government Act 2000,</p>	<p style="text-align: center;">Part 4 Section 65</p>



<p>(ii) sections 21A, 21B, 21D, 21F and 21G of that Act,</p> <p>(iii) section 186 of, and Schedule 11 to, the National Health Service (Wales) Act 2006.</p> <p>(4) A local authority and a joint overview and scrutiny committee must, <del>in exercising or deciding whether to exercise any function conferred on it by or under this section,</del> have regard to guidance given by the Welsh Ministers <u>in relation to the exercise of any function it has under or by virtue of this section.</u></p> <p>(5) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), in subsection (2A)(e)—</p> <p>(a) after “committee” insert</p> <p>“_</p> <p>(i)”;</p> <p>(b) after “concerned” insert</p> <p>“, or</p> <p>(ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned”.</p>	
<p style="text-align: center;"><b>Chapter 2 <u>Governance and Audit Committees</u></b></p> <p><b>81 Local authorities to appoint <u>governance and audit committees</u></b></p> <p>(1) A local authority must appoint a committee (a “<u>governance and audit committee</u>”) to—</p> <p>(a) review and scrutinise the authority's financial affairs,</p> <p>(b) make reports and recommendations in relation to the authority's financial affairs,</p> <p>(c) review and assess the risk management, internal control, <u>performance assessment</u> and corporate governance arrangements of the authority,</p> <p>(d) make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements,</p> <p><u>(da) review and assess the authority's ability to handle complaints effectively,</u></p> <p><u>(db) make reports and recommendations in relation to the authority's ability to handle complaints effectively,</u></p> <p><u>(e) oversee the authority's internal and external audit arrangements, and</u></p> <p>(f) review the financial statements prepared by the authority.</p> <p><u>(1A) See Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2020 (performance and governance of principal councils) for further functions of governance and audit committees.</u></p> <p>(2) A local authority may confer on its <u>governance and audit committee</u> such other functions as the authority considers suitable to be exercised by such a committee.</p>	<p>Part 6 Section 114</p> <p>Schedule 10 Paragraph 2</p> <p>Schedule 10 Paragraph 3</p>

<p>(3) It is for a <u>a governance and</u> audit committee to determine how to exercise its functions.</p>	
<p><b>82 Membership</b></p> <p>(1) A local authority is to appoint the members of its <u>a governance and</u> audit committee.</p> <p>(2) A local authority must secure that—</p> <p>(a) <del>at least</del> two-thirds of the members of <u>that committee</u> are members of the authority;</p> <p><u>(b) one-third of the members of that committee are lay persons;</u></p> <p>(c) no more than one of the members of <u>that committee</u> is a member of the authority's executive;</p> <p>(d) the senior member of its executive is not a member of <u>that committee</u>.</p> <p>(3) Subsection (2)(c) does not require the membership of a local authority's <u>a governance and</u> audit committee to include a member of the authority's executive.</p> <p>(4) The appointment of a person as a member of <u>a governance and</u> committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).</p> <p>(5) In a case where one or more persons are to become, or to cease to be, members of <u>a governance and</u> audit committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).</p> <p><u>(5A) A governance and audit committee is to appoint—</u></p> <p><u>(a) a member of the committee as its chair ("the committee chair").</u></p> <p><u>and</u></p> <p><u>(b) a member of the committee as the deputy to the committee chair ("the deputy chair").</u></p> <p><u>(5B) The member appointed as the committee chair must be a lay person.</u></p> <p><u>(5C) The member appointed as the deputy chair must not be a member of the local authority's executive or an assistant to its executive.</u></p> <p><del>(6) An act of an audit committee is invalid if the membership of the committee breaches subsection (2).</del></p> <p>(7) <u>A governance and</u> audit committee is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.</p>	<p>Part 6 Section 115</p> <p>Schedule 10 Paragraph 4</p>
<p><b>83 Proceedings etc.</b></p> <p><u>(1) A meeting of a governance and audit committee is to be chaired—</u></p> <p><u>(a) by the committee chair, or</u></p> <p><u>(b) if the committee chair is absent, by the deputy chair.</u></p>	<p>Part 6 Section 117</p> <p>Schedule 10 Paragraph 5</p>

<p>(2) <u>If both the committee chair and the deputy chair are absent the committee may appoint a member of the committee who is not a member of the local authority's executive, or an assistant to its executive, to chair the meeting.</u></p> <p>(3) All members of <u>a governance and</u> audit committee may vote on any question that falls to be decided by the committee.</p> <p>(4) <u>A governance and</u> audit committee of a local authority—</p> <ul style="list-style-type: none"> <li>(a) may require members and officers of the authority to attend before it to answer questions, and</li> <li>(b) may invite other persons to attend meetings of the committee.</li> </ul> <p>(5) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (4)(a).</p> <p>(6) A person is not obliged by subsection (5) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.</p> <p>(7) <u>A governance and</u> audit committee is to be treated as a committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).</p> <p><del>(8) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.</del></p>	
<p><b>84 Frequency of meetings</b></p> <p>(1) <u>A governance and</u> audit committee must meet once in every calendar year.</p> <p>(2) The <u>governance and</u> audit committee of a local authority must also meet if—</p> <ul style="list-style-type: none"> <li>(a) the local authority resolves that the committee should meet, or</li> <li>(b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.</li> </ul> <p>(3) It is the duty of the person who chairs <u>a governance and</u> audit committee to secure that meetings of the committee are held as required by subsections (1) and (2).</p> <p>(4) This section does not prevent <u>a governance and</u> audit committee from meeting otherwise than as required by this section</p>	<p>Schedule 10 Paragraph 6</p>
<p><b>85 Guidance</b></p> <p>(1) The Welsh Ministers may give guidance to local authorities—</p> <ul style="list-style-type: none"> <li>(a) about the functions of <u>governance and</u> audit committees and the exercise of those functions, or</li> <li>(b) about the membership of <u>such</u> committees.</li> </ul> <p>(2) A local authority and its <u>governance and</u> audit committee must have regard to guidance given by the Welsh Ministers under subsection (1).</p>	<p>Schedule 10 Paragraph 7</p>

<p><b>86 Termination of membership on ceasing to be member of authority</b></p> <p>(1) This section applies to a person (P) who is—</p> <p>(a) appointed to be a member of <u>a governance and audit committee</u> of a local authority, and</p> <p>(b) is a member of the authority at the time of that appointment.</p> <p>(2) If P ceases to be a member of the authority, P also ceases to be a member of the <u>governance and audit committee</u>.</p> <p>(3) But subsection (2) does not apply if P—</p> <p>(a) ceases to be a member of the authority by reason of retirement, and</p> <p>(b) is re-elected a member of the authority not later than the day of retirement.</p> <p>(4) Subsection (3) is subject to the standing orders of the authority or the <u>governance and audit committee</u>.</p>	<p>Schedule 10 Paragraph 8</p>
<p><b>87 Interpretation etc.</b></p> <p>(1) Expressions used in this Chapter and in Part 2 of the Local Government Act 2000 (or in an instrument made under that Part of that Act) have the same meanings in this Chapter as in that Part of that Act (or in that instrument).</p> <p>(2) In this Chapter—</p> <p><del>“audit committee” (“pwyllgor archwilio”) has the meaning given in section 81;</del></p> <p><u>“lay person” (“person lleyg”) means a person who—</u></p> <p><u>(a) is not a member or an officer of any local authority,</u></p> <p><u>(b) has not at any time in the period of twelve months ending with the date of that person’s appointment been a member or an officer of any local authority, and</u></p> <p><u>(c) is not the spouse or civil partner of a member or an officer of any local authority;</u></p> <p>“senior member of a local authority” (“aelod hyn awdurdod lleol”) means—</p> <p>(a) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader;</p> <p>(b) in the case of a local authority which operates a mayor and cabinet executive, the mayor.</p> <p>(3) [repealed]</p>	<p>Part 6 Section 116</p> <p>Schedule 10 Paragraph 9</p>
<p><del><b>Part 7 Communities and Community Councils</b></del></p> <p><del><b>Chapter 1 Community Meetings and Community Polls</b></del></p> <p><del><b>93 Demands for community polls</b></del></p> <p><del>For sub-paragraph (4) of paragraph 34 of Schedule 12 to the Local Government Act 1972 substitute the following—</del></p>	<p>Schedule 13 Paragraph 11</p>

~~“(4) A poll may be demanded before the conclusion of a community meeting on any question arising at the meeting; but no poll shall be taken unless—~~

~~(a) the poll is demanded by a majority of the local government electors present at the meeting, and~~

~~(b) the electors demanding a poll constitute not less than—~~

~~(i) 10% of the local government electors for the community, or~~

~~(ii) 150 of the electors (if 10% of the electors exceeds 150 electors).”.~~

**94 Notice to be given by returning officer following taking of a poll consequent on a community meeting**

~~After paragraph 38 of Schedule 12 to the Local Government Act 1972 insert the following—~~

**~~“38A~~**

~~(1) This paragraph applies to a poll (other than a poll to which sub-paragraph (2) below refers) consequent on a community meeting where a majority of those voting were in favour of the question in relation to which the poll was taken.~~

~~(2) This paragraph does not apply to a poll taken on a question of a type specified in regulations made by the Welsh Ministers.~~

~~(3) The returning officer in relation to the poll must give notice in writing to the monitoring officer (within the meaning of section 5 of the Local Government and Housing Act 1989) of the relevant principal council of—~~

~~(a) the question posed by the poll, and~~

~~(b) the fact that that a majority of those voting were in favour of that question.~~

~~(4) In sub-paragraph (3) above, “relevant principal council” means the principal council in whose area lies the community of the community meeting at which the poll was demanded.~~

~~(5) The power of the Welsh Ministers to make regulations under sub-paragraph (2) above is exercisable by statutory instrument.~~

~~(6) A statutory instrument which contains regulations under sub-paragraph (2) above is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”.~~

**95 Determination of monitoring officer as to the council to whose functions a poll relates**

~~(1) After paragraph 38A of Schedule 12 to the Local Government Act 1972 insert the following—~~

**~~“38B~~**

~~(1) Within a period of 14 days beginning with the day on which notice was given under paragraph 38A(3) above, the monitoring officer must determine whether, in the officer's opinion, the question in relation to which the poll was taken corresponds to any of the descriptions in sub-paragraph (2) below.~~

~~(2) Those descriptions are—~~

~~(a) a question which relates only to the functions of the principal council,~~

~~(b) a question which relates only to the functions of a community council for the relevant community,~~

~~(c) a question which relates to the functions of the principal council and the functions of a community council for the relevant community.~~

~~(3) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(a) above, the officer must give notice of that determination to the principal council (see section 33B of this Act for the duties of the council upon being given such notice).~~

~~(4) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(b) above, the officer must give notice of that determination to the community council (see paragraphs 26A and 29A above for the duties arising following the giving of such a notice).~~

~~(5) If the monitoring officer determines that the question in relation to which the poll was taken corresponds to the description in sub-paragraph (2)(c) above, the officer must—~~

~~(a) to the extent that the determination concludes that the question relates to the functions of the principal council, give notice of the determination to the principal council (see section 33B of this Act for the duties of the council upon being given such notice), and~~

~~(b) to the extent that the determination concludes that the question relates to the functions of the community council, give notice of the determination to the community council (see paragraphs 26A and 29A above for the duties arising following the giving of such a notice).~~

~~(6) A notice required to be given by this paragraph must—~~

~~(a) be given in writing,~~

~~(b) be given as soon as is reasonably practicable after the date of determination, and~~

~~(c) include the monitoring officer's reasons for the determination to which the notice relates."~~

~~(2) After subsection (8A) of section 5 of the Local Government and Housing Act 1989 (designation and reports of monitoring officer) insert the following—~~

~~"(8B) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to duties conferred on a monitoring officer by paragraph 38B of Schedule 12 to the Local Government Act 1972 (duties of monitoring officer for principal council in Wales in relation to polls consequent on community meetings)."~~

**96 Consideration of result of community poll by community council**

After paragraph 26 of Schedule 12 to the Local Government Act 1972 insert the following—

**~~“26A~~**

~~(1) This paragraph applies where a community council has been given a notice under sub-paragraph (4) or (5)(b) of paragraph 38B below.~~

~~(2) The community council must ensure that the question of what action (if any) the council should take in response to the community poll, or the part of the community poll, to which the notice relates is included within the business to be transacted at a meeting of the community council held within the relevant period.~~

~~(3) If it is necessary for the chairman of the community council to exercise his power under paragraph 25(1) above to call an extraordinary meeting of a community council in order for the community council to comply with sub-paragraph (2) above, the chairman must so exercise that power.~~

~~(4) In sub-paragraph (2) “relevant period” means the period of six weeks beginning with the day following that on which the notice referred to in sub-paragraph (1) was given.”.~~

**97 Action to be taken following community council's consideration of results of certain community polls**

After paragraph 29 of Schedule 12 to the Local Government Act 1972 insert the following—

**~~“29A~~**

~~(1) This paragraph applies where—~~

~~(a) a meeting of a community council has considered the question of what action (if any) the council is to take in response to a poll consequent on a community meeting,~~

~~(b) that question was included within the business to be transacted at the meeting in order to comply with paragraph 26A(2) above, and~~

~~(c) the poll was taken following a demand being made at a community meeting which was convened under paragraph 30A below.~~

~~(2) The council must take all reasonable steps to give notice to each of the individuals who convened the community meeting referred to in sub-paragraph (1) above of what action (if any) the council intends to take in response to the poll, or that part of the poll which was considered at the meeting.~~

~~(3) Notice under sub-paragraph (2) above must be given—~~

~~(a) subject to sub-paragraph (4) below, in writing by sending it to the address given in respect of an individual in the relevant convening notice, and~~

(b) as soon as is reasonably practicable after the meeting of the community council was held.

(4) Where an individual falling within sub-paragraph (2) above is an anonymous registrant in the register of local government electors, sub-paragraph (3)(a) above does not apply and the notice must instead be given in writing to the principal council within whose area the community in question lies.

(5) The notice under sub-paragraph (4) above must include the entry in respect of the individual which was included in the relevant convening notice.

(6) Where a principal council is given notice under sub-paragraph (4)—

(a) the council must, as soon as reasonably practicable, send the notice to the individual concerned, and

(b) for that purpose and for the purposes of paragraph 30D below, section 9B(8) of the Representation of the People Act 1983 (communications with anonymous registrants) shall have effect as if the council were an officer referred to in that section.

(7) The relevant registration officer must supply the principal council with any information that it is necessary for the council to have in order to comply with the duty under sub-paragraph (6) above.

(8) In this paragraph—

“anonymous registrant in the register of local government electors” means an individual in respect of whom the relevant convening notice included an entry referred to in paragraph 30B(6)(a) below;

“relevant convening notice” means the notice given to the council under paragraph 30B below which preceded the holding of the community meeting at which the poll in question was demanded;

“relevant registration officer” means the registration officer under section 8 of the Representation of the People Act 1983 in relation to the register of electors for the local government area (within the meaning of that Act) in which the community in question lies.”.

## **98 Consideration of result of community poll by principal council**

After section 33A of the Local Government Act 1972 insert the following—

### **“33B Principal council's response to a community poll**

(1) This section applies where a principal council has been given a notice under paragraph 38B(3) or (5)(a) of Schedule 12 to this Act which contains a determination that a question in relation to which a poll consequent on a community meeting was taken relates to the council's functions.

(2) The council must, during the relevant period, perform one of the actions described in subsection (4).



~~(3) If the council chooses to perform more than one action, the council may do so during or after the relevant period.~~

~~(4) The actions referred to in subsection (2) are as follows—~~

~~(a) to exercise the council's functions in accordance with the question in relation to which the poll was taken;~~

~~(b) to include the question of what action (if any) the council should take in response to the community poll within the business to be transacted at a meeting of the principal council held within the relevant period (and for this purpose a meeting of a committee or sub-committee of the council does not count);~~

~~(c) to initiate a consultation exercise which seeks the views of such members of the public as the council considers appropriate about what action (if any) the council should take in response to the community poll;~~

~~(d) to hold a meeting open to members of the public, at such venue as the council considers appropriate, for the purpose of seeking the views of members of the public about what action (if any) the council should take in response to the community poll;~~

~~(e) to initiate research for the purpose of assisting the council to decide what action (if any) it should take in response to the community poll;~~

~~(f) to refer the question of what action (if any) the council should take in response to the community poll to an overview and scrutiny committee with a request that the committee reports its conclusions to the council.~~

~~(5) In this section the "relevant period" means the period of two months beginning on the day following that on which the notice referred to in subsection (1) was given."~~

## **99 Principal council's explanation of its response to a community poll**

~~After section 33B of the Local Government Act 1972 insert the following—~~

### **~~"33C Principal council's explanation of its response to a community poll~~**

~~(1) As soon as is reasonably practicable following the end of the relevant period for the purposes of section 33B of this Act, a principal council must take all reasonable steps to give the chairman of, or person who presided at, the community meeting referred to in subsection (1) of that section a notice in writing which—~~

~~(a) describes what action the council has taken in response to the community poll to which the notice relates, and~~

~~(b) describes what further action (if any) the council intends to take.~~

~~(2) If notice cannot be given to the chairman of, or person who presided at, the community meeting—~~

<p>(a) in the case of a community meeting convened under paragraph 30 of Schedule 12 to this Act, the notice must instead be given to the chairman of the community council for the community;</p> <p>(b) in the case of a community meeting convened under paragraph 30A of Schedule 12 to this Act, the principal council must instead take all reasonable steps to give notice to each of the individuals who convened the community meeting.</p> <p>(3) Subject to subsection (5), notice under subsection (2)(b) is to be given by sending the notice to the address given in respect of an individual in the relevant convening notice.</p> <p>(4) In subsection (3), “relevant convening notice” means the notice given to the council under paragraph 30B of Schedule 12 to this Act which preceded the holding of the community meeting at which the poll in question was demanded.</p> <p>(5) Where an individual is an anonymous registrant in the register of local government electors (within the meaning of paragraph 29A of Schedule 12 to this Act), the duty under subsection (3) does not apply and notice shall instead be given, and related functions performed, in accordance with subparagraphs (4) to (8) of paragraph 29A of Schedule 12 to this Act.</p> <p>(6) The council must publish the notice on its website for a period of at least six months, beginning with the day on which the notice was given.”.</p>	
<p><b>Chapter 6 Community Councils' Powers to Promote Well-being</b></p> <p><b>127 Modifications of enactments preventing or obstructing a community council from exercising their well-being power</b></p> <p>(1) The Welsh Ministers may by order make modifications of any enactment if they consider that the enactment prevents or obstructs community councils from exercising their power under section 2(1) of the Local Government Act 2000 (promotion of well-being).</p> <p>(2) The power under subsection (1) may be exercised in relation to—</p> <ul style="list-style-type: none"> <li>(a) all community councils,</li> <li>(b) particular community councils, or</li> <li>(c) particular descriptions of community council.</li> </ul> <p>(3) The power under subsection (1) includes a power to make modifications of an enactment for a particular period</p>	<p>Schedule 3 Paragraph 13</p>
<p><b>Chapter 9 Schemes for the Accreditation of Quality in Community Government</b></p> <p><b>134 Schemes for the accreditation of quality in community government</b></p>	<p>Schedule 3 Paragraph 13</p>

<p>(1) The Welsh Ministers may by regulations provide for a scheme under which the Welsh Ministers may or, if the regulations so require, must grant accreditation to a community council if—</p> <ul style="list-style-type: none"> <li>(a) the Welsh Ministers are satisfied that the criteria set in the regulations are satisfied in relation to a council (see section 135);</li> <li>(b) the Welsh Ministers are satisfied that a council has made a valid application for accreditation (see section 136); and</li> <li>(c) the required fee (if any) has been paid to the Welsh Ministers (see section 137).</li> </ul> <p>(2) An accreditation under subsection (1) is referred to in this Chapter as an accreditation of quality in community government</p> <p><b>135 Accreditation of quality in community government: criteria</b></p> <p>(1) If the Welsh Ministers make regulations under section 134(1), the regulations must set criteria to be met on an application for accreditation of quality in community government.</p> <p>(2) The criteria that may be set include (but are not limited to) criteria about the following matters—</p> <ul style="list-style-type: none"> <li>(a) the percentage of the members of the council who hold office by virtue of having been elected as described in section 35(1) of the Local Government Act 1972 (election of community councillors);</li> <li>(b) qualifications of and training for officers of the council;</li> <li>(c) training for members of the council and community youth representatives;</li> <li>(d) the frequency with which meetings of the council are held and the publicity given to meetings (both before and after they are held);</li> <li>(e) involving persons in the work of the community council;</li> <li>(f) encouraging persons to improve the well-being of the community or communities for which the council is established;</li> <li>(g) annual reports;</li> <li>(h) accounts.</li> </ul> <p><b>136 Accreditation of quality in community government: applications</b></p> <p>If the Welsh Ministers make regulations under section 134(1), the regulations must set requirements to be met in order for a valid application for accreditation of quality in community government to be made</p> <p><b>137 Accreditation of quality in community government: fees</b></p> <p>If the Welsh Ministers make regulations under section 134(1), the regulations may prescribe a fee that an applicant for accreditation of quality in community government is required to pay.</p> <p><b>138 Accreditation of quality in community government: removal of accreditation</b></p>	
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<p>If the Welsh Ministers make regulations under section 134(1), the regulations must provide for—</p> <ul style="list-style-type: none"> <li>(a) review of accreditations of quality in community government, and</li> <li>(b) the grounds on which an accreditation of quality in community government may be removed and the removal process.</li> </ul> <p><b><del>139 Applications for accreditation of quality in community government: delegation of functions</del></b></p> <p>(1) The Welsh Ministers may make arrangements with any person under which that person is to exercise, in accordance with the terms of the arrangements, the functions of the Welsh Ministers under regulations made under section 134(1).</p> <p>(2) If such arrangements are made, section 134(1)(c) is to have effect so that any required fee is to be paid to the person with whom the arrangements are made.</p> <p><b><del>140 Accreditation of quality in community government: consequences</del></b></p> <p>(1) The Welsh Ministers may by regulations make modifications of any enactment which imposes any obligation upon or in respect of a community council so that, in the case of a council in respect of which an accreditation of quality in community government is in force, the obligation is—</p> <ul style="list-style-type: none"> <li>(a) disapplied, or</li> <li>(b) altered so as to make it easier to comply with.</li> </ul> <p>(2) The Welsh Ministers may by regulations make modifications of any enactment which confers a power upon or in respect of a community council so that, in the case of a council in respect of which an accreditation of quality in community government is not in force, the power—</p> <ul style="list-style-type: none"> <li>(a) may not be exercised, or</li> <li>(b) may only be exercised if prescribed conditions are satisfied.</li> </ul>	
<p style="text-align: center;"><b>Part 8 Payments and Pensions</b></p> <p style="text-align: center;">The Independent Remuneration Panel for Wales</p> <p><b><u>143A Functions relating to remuneration of chief executives</u></b></p> <p>(1) The Panel may make recommendations to a qualifying relevant authority about—</p> <ul style="list-style-type: none"> <li>(a) any policy in the authority's pay policy statement which relates to the <u>remuneration</u> of the authority's <u>chief executive</u>;</li> <li>(b) any proposed change to the <u>remuneration</u> of the authority's <u>chief executive</u>.</li> </ul> <p>(2) A qualifying relevant authority must have regard to any recommendation received from the Panel when performing its functions under section 38 or 39 of the Localism Act 2011 (c 20).</p>	<p>Schedule 5 Paragraph 15</p> <p>Part 4 Section 54</p> <p>Part 4 Section 55</p>

<p>(3) A qualifying relevant authority must, before making a change to the <u>remuneration</u> of its <u>chief executive</u> which is not commensurate with a change to the <u>remuneration</u> of the authority's other staff—</p> <ul style="list-style-type: none"> <li>(a) consult the Panel about the proposed change, and</li> <li>(b) have regard to any recommendation received from the Panel when deciding whether or not to proceed with making the change.</li> </ul> <p>(3A) But a qualifying relevant authority that has consulted the Panel about a proposed reduction in <u>remuneration</u> may make the reduction before receiving a recommendation from the Panel if the contract under which the <u>remuneration</u> is <u>provided</u> does not prevent the authority from changing the <u>remuneration</u> after receiving a recommendation.</p> <p>(3B) A qualifying relevant authority that makes a change to the <u>remuneration</u> of its <u>chief executive</u> in accordance with subsection (3A) and subsequently receives a recommendation from the Panel about the change—</p> <ul style="list-style-type: none"> <li>(a) must reconsider the <u>remuneration</u>, and</li> <li>(b) when doing so, must have regard to the recommendation.</li> </ul> <p>(4) A qualifying relevant authority must provide the Panel with such information as the Panel may reasonably require in connection with the exercise of its functions under this section.</p> <p>(4A) The Panel must notify the Welsh Ministers of every recommendation it makes under this section.</p> <p>(5) The Panel may publish any recommendation it makes under this section.</p> <p>(5A) A qualifying relevant authority—</p> <ul style="list-style-type: none"> <li>(a) must notify the Panel and the Welsh Ministers of its response to a recommendation made by the Panel about a change to the <u>remuneration</u> of its <u>chief executive</u> before the end of the period of 14 days starting with the day on which the authority determines the response, and</li> <li>(b) must not make a change to the <u>remuneration</u> before— <ul style="list-style-type: none"> <li>(i) the end of the period of eight weeks starting with the day on which the authority notifies the Welsh Ministers under paragraph (a), or</li> <li>(ii) if, before the end of that period, the Welsh Ministers notify the authority that they will not be giving the authority a direction under subsection (5B), the day on which that notice is received.</li> </ul> </li> </ul> <p>(5B) If the Welsh Ministers consider that a qualifying relevant authority's response to a recommendation made by the Panel about a change of <u>remuneration</u> means that the authority will <u>provide</u> (or, under subsection (3A), is <u>providing</u>) a <u>remuneration</u> which is inconsistent with the recommendation, the Welsh Ministers—</p> <ul style="list-style-type: none"> <li>(a) may direct the authority to reconsider the <u>remuneration</u>, and</li> </ul>	
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<p>(b) may specify in the direction the time by which the authority must do so.</p> <p><u>(5C) If the Welsh Ministers give a direction under subsection (5B) to a qualifying relevant authority—</u></p> <p><u>(a) the function of reconsidering the remuneration is not to be the responsibility of an executive of the authority under executive arrangements (within the meaning of section 10 of the Local Government Act 2000);</u></p> <p><u>(b) an elected mayor (within the meaning of section 39(1) of that Act) is to be treated as a member of the authority for the purposes of that function, and</u></p> <p><u>(c) section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to that function.”</u></p> <p>(6) The Panel must have regard to any guidance issued by the Welsh Ministers when exercising its functions under this section.</p> <p>(7) In this section—</p> <p><u>“head of paid service” (“pennaeth gwasanaeth cyflogedig”) means a head of paid service designated under section 4(1) of the Local Government and Housing Act 1989;</u></p> <p><u>“chief executive” means a chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020;</u></p> <p><u>“pay policy statement” (“datganiad ar bolisiau tal”) means a pay policy statement produced by a relevant authority (within the meaning of section 43(1) of the Localism Act 2011) under section 38 of that Act;</u></p> <p><u>“qualifying relevant authority” (“awdurdod perthnasol cymwys”) means a relevant authority (within the meaning of this Part) which is required to produce a pay policy statement;</u></p> <p><u>“remuneration” (“cydnabyddiaeth ariannol”) has the meaning given in section 43 of the Localism Act 2011;</u></p> <p><u>“salary” (“cyflog”) includes, in the case of a head of paid service engaged by a qualifying relevant authority under a contract for services, payments by the authority to the head of paid service for those services.</u></p>	
<p style="text-align: center;"><b>Part 9 Collaboration and Amalgamation</b></p> <p style="text-align: center;"><b>Chapter 1 Collaboration</b></p> <p><b><del>161 Guidance about collaboration between Welsh improvement authorities</del></b></p> <p><del>After section 12 of the Local Government (Wales) Measure 2009 insert the following—</del></p> <p><b><del>“12A Guidance about collaboration between Welsh improvement authorities</del></b></p> <p><del>In deciding whether and how to exercise its functions under sections 9(1) and 12, a Welsh improvement authority must have regard to any guidance issued by the Welsh Ministers.”</del></p>	<p style="text-align: center;">Part 9 Section 168</p>
<p style="text-align: center;"><b>Chapter 2 Amalgamation</b></p>	<p style="text-align: center;">Part 7</p>

**162 Power to make amalgamation order**

(1) The Welsh Ministers may, if they are satisfied that it is necessary to achieve effective local government, make an order (“an amalgamation order”) for the constitution of a new local government area by amalgamating two or three local government areas.

(2) Before making an amalgamation order, the Welsh Ministers must be satisfied that effective local government is not likely to be achieved in a local government area to be amalgamated by the order by—

(a) the exercise by any of the local authorities concerned of their powers under section 9 (Powers to collaborate etc) of the Local Government (Wales) Measure 2009, or

(b) the exercise by the Welsh Ministers of their powers under—

(i) section 28 (Welsh Ministers: support for Welsh improvement authorities),

(ii) section 29 (Welsh Ministers: powers of direction etc),

(iii) section 30 (Powers of direction: collaboration arrangements), or

(iv) section 31 (Powers of Welsh Ministers to modify enactments and confer new powers) of that Measure.

(3) An amalgamation order must provide for—

(a) whether the new local government area is to be a county or a county borough,

(b) the English name and Welsh name of the new local government area,

(c) the establishment of a local authority for the new local government area,

(d) whether the new local authority is to be a county council or county borough council,

(e) the English name and Welsh name of the new local authority,

(f) the abolition of the existing local government areas,

(g) the boundary of the new local government area, and

(h) the winding up and dissolution of the local authorities for the existing local government areas.

(4) Where the new local government area is to be a county, the amalgamation order must provide for the new local authority to have the name of the county with the addition—

(a) in the case of their English name, of the words “County Council” or the word “Council” (as in “Pembrokeshire County Council” or “Pembrokeshire Council”); and

(b) in the case of their Welsh name, of the word “Cyngor” (as in “Cyngor Sir Penfro”).

(5) Where the new local government area is to be a county borough, the amalgamation order must provide for the new local

authority to have the name of the county borough with the addition—

(a) in the case of their English name, of the words “County Borough Council” or the word “Council” (as in “Caerphilly County Borough Council” or “Caerphilly Council”); and

(b) in the case of their Welsh name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor” (as in “Cyngor Bwrdeistref Sirol Caerffili” or “Cyngor Caerffili”).

### **163 Electoral matters**

(1) The provision that may be made in an amalgamation order includes (but is not limited to) provision for or in respect of any of the following matters—

(a) the total number of members of any local authority (“councillors”);

(b) the number and boundaries of electoral areas for the purposes of the election of councillors;

(c) the number of councillors to be returned by any electoral area;

(d) the name of any electoral area;

(e) the election of councillors for any electoral areas;

(f) the cancellation of elections of councillors for any electoral area;

(g) the election of community councillors for any community;

(h) the cancellation of community council elections;

(i) the election of a mayor of a local authority;

(j) the appointment by the Welsh Ministers of members of an existing local authority to be members of a shadow authority for a shadow period;

(k) the appointment for a shadow period of an executive of the shadow authority;

(l) the functions of a shadow authority, and the discharge of those functions, during a shadow period.

### **164 Requirement to hold a referendum involving an elected mayor**

(1) Where one or more of the existing local authorities is operating a mayor and cabinet executive, the amalgamation order must require the shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.

(2) Where subsection (1) applies, the provision which may be made in an amalgamation order includes (but is not limited to) provision—

(a) as to the date on which, or the time by which, a referendum must be held;

(b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;



~~(c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;~~

~~(d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the order, to take that action.~~

~~(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure.~~

#### **165 Power to direct a referendum involving an elected mayor**

~~(1) The Welsh Ministers may by regulations make provision for or in connection with enabling them, in such circumstances as may be prescribed in the regulations, to direct a shadow authority to hold a referendum on whether the new local authority should operate a mayor and cabinet executive.~~

~~(2) The provision which may be made by regulations under this section includes (but is not limited to) provision—~~

~~(a) as to the date on which, or the time by which, a referendum must be held;~~

~~(b) as to the action which may, or may not or must be taken by a shadow authority before or in connection with a referendum;~~

~~(c) as to the action which may, or may not or must be taken by a shadow authority after a referendum;~~

~~(d) for or in connection with enabling the Welsh Ministers, in the event of any failure by the shadow authority to take any action permitted or required by virtue of the regulations, to take that action.~~

~~(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 of the Local Government Act 2000 or Part 4 of this Measure~~

#### **166 Supplementary, incidental, consequential, transitional and saving provision**

~~(1) The provision that may be made in an amalgamation order includes (but is not limited to) supplementary, incidental, consequential, transitional and saving provision.~~

~~(2) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional and saving provision—~~

~~(a) for the purposes of or in consequence of amalgamation orders; or~~

~~(b) for giving full effect to amalgamation orders.~~

~~(3) Regulations under subsection (2) have effect subject to any provision included in an amalgamation order.~~

~~(4) In this section, references to supplementary, incidental, consequential, transitional, or saving provision include (but are not limited to) provision—~~

- ~~(a) for the transfer of property, rights or liabilities from an existing local authority to a new local authority;~~
- ~~(b) for legal proceedings commenced by or against an existing local authority to be continued by or against a new local authority;~~
- ~~(c) for the transfer of staff, compensation for loss of office, or with respect to pensions and other staffing matters;~~
- ~~(d) for treating a new local authority for some or all purposes as the same person in law as an existing local authority;~~
- ~~(e) with respect to the management or custody of transferred property (real or personal);~~
- ~~(f) equivalent to any provision that could be contained in an agreement under section 68 of the Local Government Act 1972 (transitional agreements as to property and finance).~~

~~(5) The rights and liabilities which may be transferred in accordance with an order under this section include rights and liabilities in relation to a contract of employment.~~

~~(6) The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to a transfer made in accordance with an order under this section (whether or not the transfer is a relevant transfer for the purposes of those regulations).~~

~~(7) In subsection (1), the reference to supplementary, incidental, consequential, transitional or saving provision also includes (but is not limited to) provision with respect to—~~

- ~~(a) the establishment or membership of public bodies in any area affected by the amalgamation order and the election or appointment of members of such bodies;~~
- ~~(b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by the amalgamation order.~~

~~(8) Supplementary, incidental, consequential, transitional or saving provision in an amalgamation order or in regulations under this section may take the form of provision—~~

- ~~(a) modifying, excluding or applying (with or without modifications) any enactment; or~~
- ~~(b) repealing or revoking any enactment (with or without savings)~~

## **167 [repealed]**

## **168 Amendments to the Local Government Act 1972**

~~(1) The Local Government Act 1972 is amended as follows.~~

~~(2) In section 58 (Commission's reports and their implementation), in subsection (1)(b) after "section 57 above" insert "or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011".~~

~~(3) In section 59 (directions about reviews), in subsection (1) after "57 above" insert "or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011".~~

<p>(4) In section 60 (procedure for reviews), in subsection (1) after “this Act” insert “or in accordance with a direction under section 167 of the Local Government (Wales) Measure 2011”.</p> <p>(5) In section 68 (transitional agreements as to property and finance), in subsection (1) after “this Act” insert “or by an order under section 162 of the Local Government (Wales) Measure 2011”.</p> <p><b>169 Procedure applicable to an amalgamation order</b></p> <p>(1) The Welsh Ministers must comply with this section before making an amalgamation order to give effect to proposals to constitute a new local government area by amalgamating two or three existing local government areas (“the proposals”).</p> <p>(2) The Welsh Ministers must consult—</p> <ul style="list-style-type: none"> <li>(a) the local authorities for the local government areas affected by the proposals,</li> <li>(b) the community councils in the local government areas affected by the proposals, and</li> <li>(c) such other persons (if any) as appear to the Welsh Ministers to be likely to be affected by the proposals.</li> </ul> <p>(3) If, following that consultation, the Welsh Ministers wish to proceed with the proposals, they must lay before the National Assembly for Wales a document which—</p> <ul style="list-style-type: none"> <li>(a) explains the proposals,</li> <li>(b) sets them out in the form of a draft order, and</li> <li>(c) gives details of the consultation under subsection (2).</li> </ul> <p>(4) No draft of an amalgamation order to give effect to the proposals (“the final draft order”) may be laid before the Assembly in accordance with section 172(2)(b) until after the expiry of the period of 60 days beginning with the day on which the document relating to the proposals was laid before the National Assembly for Wales under subsection (3).</p> <p>(5) In calculating the period mentioned in subsection (4) no account shall be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.</p> <p>(6) In preparing the final draft order, the Welsh Ministers must consider any representations made during the period mentioned in subsection (4).</p> <p>(7) If the final draft order is laid before the National Assembly for Wales in accordance with section 172(2)(b), the order must be accompanied by a statement of the Welsh Ministers giving details of—</p> <ul style="list-style-type: none"> <li>(a) any representations considered in accordance with subsection (6), and</li> <li>(b) any changes to the proposals contained in the document laid before the National Assembly for Wales under subsection (3) which are given effect to in the final draft order.</li> </ul>	
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(8) Nothing in this section applies to an order under section 162 which is made only for the purpose of amending an earlier order under that section

### **170 Correction of orders**

(1) Where—

- (a) there is a mistake in an amalgamation order, and
- (b) the mistake cannot be rectified by a subsequent order made under section 162, the Welsh Ministers may, by order, rectify the mistake.

(2) For the purposes of this section, a “mistake” in an order includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by a community council or any other public body.

### **171 Interpretation of this Chapter**

In this Chapter—

“amalgamation order” (“gorchymyn cyfuno”) means an order under section 162;

“electoral area” (“ardal etholiadol”) means any area for which councillors are elected to a local authority;

“existing local authority” (“awdurdod lleol presennol”) means the local authority for an existing local government area;

“existing local government area” (“ardal llywodraeth leol bresennol”) means a local government area abolished by an amalgamation order;

“local government area” (“ardal llywodraeth leol”) means an area for which a local authority is established;

“member of a local authority” (“aelod o awdurdod lleol”) includes an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000) or elected executive member (within the meaning of section 39(4) of that Act) of the authority;

“new local authority” (“awdurdod lleol newydd”) means a local authority established by an amalgamation order;

“new local government area” (“ardal llywodraeth leol newydd”) means a local government area constituted by an amalgamation order;

“public body” (“corff cyhoeddus”) includes—

- (a) a local authority;
- (b) a joint board, or a joint committee, on which a local authority is represented;

“shadow authority” (“awdurdod cysgodol”) means an authority which has been appointed or elected to carry out functions prescribed by an amalgamation order and will become a new local authority at the end of the shadow period;

“shadow period” (“cyfnod cysgodol”) means a period before the coming into office of members of the new local authority;

<p><del>"staff" ("staff") includes officers and employees;</del></p> <p><del>"Welsh Commission" ("Comisiwn Cymru") means the Local Government Boundary Commission for Wales established by section 53 of the Local Government Act 1972;'</del></p>	
<p style="text-align: center;"><b>Part 10 General</b></p> <p><b>172 Orders and regulations</b></p> <p>(1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.</p> <p>(2) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales—</p> <p style="padding-left: 40px;">(a) regulations under section 9(1)(i) <u>or 140 or 165 or 166(2) or Part 2</u>;</p> <p style="padding-left: 40px;">(b) an order under section 127 <u>or 158 or 162 or 170</u>;</p> <p style="padding-left: 40px;"><del>(c) an order amending an order under section 162;</del></p> <p style="padding-left: 40px;">(d) an order under section 177 that contains modifications of an enactment (other than an enactment contained in subordinate legislation).</p> <p><del>(3) For additional requirements in relation to the making by the Welsh Ministers of orders under sections 127 and 162, see sections 173 and 169 respectively.</del></p> <p>(4) Any other statutory instrument containing an order or regulations under this Measure, apart from an instrument containing only an order under section 178 (commencement), is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p> <p>(5) Any power of the Welsh Ministers under this Measure to apply an enactment is a power to apply it with or without modifications.</p> <p>(6) Any power of the Welsh Ministers to make an order or regulations under this Measure includes (but is not limited to) power—</p> <p style="padding-left: 40px;">(a) to make different provision for different cases, different purposes, or different geographical areas;</p> <p style="padding-left: 40px;">(b) to make provision generally or in relation to specific cases;</p> <p style="padding-left: 40px;">(c) to make such supplementary, transitional, transitory, consequential, saving, incidental and other provision as the Welsh Ministers consider necessary or appropriate.</p>	<p>Schedule 3 Paragraph 13</p> <p>Part 7 Section 149</p>
<p><del><b>173 Procedure applicable to certain orders under section 127</b></del></p> <p><del>(1) The Welsh Ministers must comply with this section before making an order under section 127 to give effect to proposals to modify an enactment which they consider prevents or obstructs community councils from exercising their power under section 2(1) of the Local Government Act 2000 ("the proposals").</del></p> <p><del>(2) The Welsh Ministers must consult—</del></p> <p style="padding-left: 40px;"><del>(a) such community councils,</del></p>	<p>Schedule 3 Paragraph 13</p>

<p>(b) such representatives of community councils, and</p> <p>(c) such other persons (if any),</p> <p>as appear to the Welsh Ministers to be likely to be affected by the proposals.</p> <p>(3) If, following that consultation, the Welsh Ministers wish to proceed with the proposals they must lay before the National Assembly for Wales a document which—</p> <p>(a) explains the proposals,</p> <p>(b) sets them out in the form of a draft order, and</p> <p>(c) gives details of the consultation under subsection (2).</p> <p>(4) No draft of an order under section 127 to give effect to the proposals (“the final draft order”) may be laid before the Assembly in accordance with section 172(2)(b) until after the expiry of the period of 60 days beginning with the day on which the document relating to the proposals was laid before the National Assembly for Wales under subsection (3).</p> <p>(5) In calculating the period mentioned in subsection (4) no account shall be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.</p> <p>(6) In preparing the final draft order the Welsh Ministers must consider any representations made during the period mentioned in subsection (4).</p> <p>(7) If the final draft order is laid before the National Assembly for Wales in accordance with section 172(2)(b), the order must be accompanied by a statement of the Welsh Ministers giving details of—</p> <p>(a) any representations considered in accordance with subsection (6), and</p> <p>(b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (3) which are given effect to in the final draft order.</p> <p>(8) Nothing in this section applies to an order under section 127 which is made only for the purpose of amending an earlier order under that section—</p> <p>(a) so as to extend the earlier order, or any provision of the earlier order, to a particular community council or to community councils of a particular description, or</p> <p>(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular community council or to community councils of a particular description.</p>	
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## Local Government Finance Act 1988

Section	Amended by
<p style="text-align: center;"><b>Part 5 Grants</b></p> <p style="text-align: center;"><b>Chapter 3 Revenue Support Grants: Wales</b></p> <p><b>84J Calculation of grant payable to receiving authorities</b>  (1) As soon as is reasonably practicable after a local government finance report for a financial year has been approved by resolution of the Assembly, the Welsh Ministers shall calculate what sum, if any, falls to be paid to each receiving authority by way of revenue support grant for the year in accordance with the basis of distribution specified in the report as so approved.</p> <p>(2) The Welsh Ministers may carry out the subsection (1) calculation again at any time before the end of the financial year immediately following the one to which the report relates.</p> <p>(3) The power under sub-section (2) may only be exercised once and shall not be exercisable after the approval by resolution of the Assembly of any amending report made under section 84L in relation to the local government finance report.</p> <p>(4) As soon as is reasonably practicable after making a calculation under subsection (1) or <u>by virtue of subsection (2)</u>, the Welsh Ministers shall inform each receiving authority to which the report relates of the outcome, so far as relating to it.</p>	<p style="text-align: center;">Part 8 Section 154</p>
<p><b>84K Payment of grant to receiving authorities</b>  (1) The Welsh Ministers shall pay any sum calculated under <u>section 84J(1)</u> as falling to be paid by way of revenue support grant to a receiving authority in instalments of such amounts, and at such times in the financial year for which the grant is payable, as the Welsh Ministers may determine.</p> <p>(2) Where the Welsh Ministers make a calculation <u>by virtue of section 84J(2)</u> that shows an increase in the sum that falls to be paid to a receiving authority, the Welsh Ministers shall pay the authority a sum equal to the difference.</p> <p>(3) Payment under subsection (2) shall be at such time, or in instalments of such amounts and at such times, as the Welsh Ministers may determine, subject to subsection (4).</p> <p>(4) The time for payment under subsection (2) must be after the end of the financial year for which the grant is payable.</p> <p>(5) Where the Welsh Ministers make a calculation <u>by virtue of section 84J(2)</u> that shows a decrease in the sum that falls to be paid to a receiving authority, the authority shall pay to the Welsh Ministers a sum equal to the difference.</p> <p>(6) The time for payment under subsection (5) shall be such day after the end of the financial year for which the grant is payable as the Welsh Ministers may specify.</p>	<p style="text-align: center;">Part 8 Section 154</p>

<p><b>84M Recalculation of grant following amending report</b></p> <p>(1) This section applies where the Assembly, by resolution, approves a report made under section 84L (“the amending report”) relating to a local government finance report (“the original report”).</p> <p>(2) As soon as is reasonably practicable after the Assembly has approved the amending report, the Welsh Ministers shall calculate in relation to each receiving authority to which the original report relates what sum, if any, falls to be paid to the authority by way of revenue support grant for the financial year to which the original report relates.</p> <p>(3) The calculation under subsection (2) shall be in accordance with the amended basis of distribution.</p> <p>(4) The Welsh Ministers may carry out the subsection (2) calculation again at any time before—</p> <p style="padding-left: 40px;">(a) the end of the financial year immediately following the one to which the original report relates, or</p> <p style="padding-left: 40px;">(b) if later, the end of the period of 3 months beginning with the day on which the Assembly approves the amending report.</p> <p>(5) The power under subsection (4) may only be exercised once.</p> <p>(6) As soon as is reasonably practicable after making a calculation under subsection (2) or <u>by virtue of subsection (4)</u>, the Welsh Ministers shall inform each receiving authority to which the original report relates of the outcome, so far as relating to it.</p>	<p>Part 8 Section 154</p>
<p><b>84N Payment of grant following amending report</b></p> <p>(1) Where the Welsh Ministers make a calculation under section 84M(2) or <u>by virtue of section 84M(4)</u> that shows an increase in the sum that falls to be paid to a receiving authority, they shall pay the authority a sum equal to the difference.</p> <p>(2) Payment under subsection (1) shall be at such time, or in instalments of such amounts and at such times, as the Welsh Ministers may determine, subject to subsection (3).</p> <p>(3) The time for payment under subsection (2) must be after the end of the financial year in which the report under section 84L was made.</p> <p>(4) Where the Welsh Ministers make a calculation under section 84M(2) or <u>by virtue of section 84M(4)</u> that shows a decrease in the sum that falls to be paid to a receiving authority, the authority shall pay a sum equal to the difference to the Welsh Ministers.</p> <p>(5) The time for payment under subsection (4) shall be such day after the end of the financial year in which the report under section 84L was made as the Welsh Ministers may specify.</p>	<p>Part 8 Section 154</p>
<p><b>84P Information deadlines</b></p> <p>(1) The Welsh Ministers may set a deadline for the receipt of information to be taken into account by them when making a calculation —</p> <p style="padding-left: 40px;"><u>(a) under section 84J(1) or by virtue of section 84J(2), or</u></p> <p style="padding-left: 40px;"><u>(b) under section 84M(2) or by virtue of section 84M(4)</u></p>	<p>Part 8 Section 154</p>



<p>(2) Different deadlines may be set under subsection (1) in relation to different kinds of information.</p> <p>(3) A deadline under subsection (1) shall have effect only if the Welsh Ministers notify each receiving authority concerned of the deadline and of the information to which it relates.</p> <p>(4) Notification under subsection (3) may be given at any time before the making of the calculation to which the deadline relates, including a time before the making of a determination under section 84F for the year concerned.</p> <p>(5) When making a calculation in relation to which a deadline under subsection (1) has effect, the Welsh Ministers shall leave information to which the deadline applies out of account if it is received after the passing of the deadline.</p>	
<p style="text-align: center;"><b>Part VIII Financial Administration</b></p> <p><b>114 Functions of responsible officer as regards reports</b></p> <p>(1) On and after the commencement day the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the 1972 Act, section 73 of the 1985 Act, section 127 of the 1999 Act, section 4D or 4I of the 2004 Act or Schedule 1, 2 or 4 to the 2011 Act or section 112 above shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.</p> <p>(2) Subject to subsection (2A), the chief finance officer of a relevant authority shall make a report under this section if it appears to him that the authority, a committee of the authority, a person holding any office or employment under the authority, a member of the relevant police force, or a joint committee on which the authority is represented—</p> <p style="padding-left: 40px;">(a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful,</p> <p style="padding-left: 40px;">(b) has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority, or</p> <p style="padding-left: 40px;">(c) is about to enter an item of account the entry of which is unlawful.</p> <p>(2ZA) In the case of a section 4A fire and rescue authority the reference to a person holding any office or employment under the authority includes a member of staff of the relevant police and crime commissioner who is exercising functions of that authority by virtue of an order under section 4A of the 2004 Act.</p> <p>(2A) Where a relevant authority is operating executive arrangements, the chief finance officer of the relevant authority shall not make a report under subsection (2) in respect of any action referred to in paragraph (a), (b) or (c) of that subsection unless it is action taken otherwise than by or on behalf of the relevant authority's executive.</p>	<p>Schedule 5 Paragraph 3</p>

(3) The chief finance officer of a relevant authority shall make a report under this section if it appears to him that the expenditure of the authority incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

(3A) It shall be the duty of the chief finance officer of a relevant authority (except where the relevant authority is a chief officer of police), in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—

(a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989 or, in the case of a Welsh county council or county borough council, the person who is for the time being appointed as the authority's chief executive under section 59 of the Local Government and Elections (Wales) Act 2020; and

(b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of the Local Government and Housing Act 1989.

(3B) [repealed]

(3C) Subsection (3A) above shall have effect in relation to Transport for London with the substitution for paragraphs (a) and (b) of the words “with the person who is for the time being designated for the purpose under subsection (3D) below”.

(3D) Transport for London shall designate a member of Transport for London, or a member of the staff of Transport for London, as the person who is to be consulted under subsection (3A) above.

(4) Where a chief finance officer of a relevant authority has made a report under this section he shall send a copy of it to—

(a) the person who at the time the report is made has the duty to audit the authority's accounts, and

(b) in the case of—

(i) a police and crime commissioner, the commissioner and each member of the police and crime panel for the commissioner's police area;

(ii) the Mayor's Office for Policing and Crime, that Office and each member of the police and crime panel of the London Assembly;

(iii) a chief officer of police in relation to a report about the exercise of policing functions of the chief officer, the chief officer and the elected local policing body;

(iiia) a chief officer of police in relation to a report about the exercise of fire and rescue functions of the chief officer, the chief officer and the relevant section 4A fire and rescue authority;

(iiib) a chief officer of police in relation to a report about the exercise of policing and fire and rescue functions of the chief officer, the chief officer, the elected local policing body and the relevant section 4A fire and rescue authority;

<p>(iiic) a section 4A fire and rescue authority, the relevant police and crime commissioner and each member of the relevant police and crime panel; and</p> <p>(iv) any other relevant authority, each person who is at that time a member of the authority; and</p> <p>(c) in a case where the relevant authority has a mayor and council manager executive, the person who at the time the report is made is the council manager of that authority.</p> <p>(4A) The duty under subsection (4)(b) above—</p> <p>(a) in a case where the relevant authority is the Greater London Authority, is to send a copy of the report to the Mayor of London and to each member of the London Assembly; and</p> <p>(b) in a case where the relevant authority is a functional body, within the meaning of the 1999 Act, includes a duty to send a copy of the report to the Mayor of London and to the Chair of the Assembly, within the meaning of that Act.</p> <p>(5) Subject to subsection (6) below, the duties of a chief finance officer of a relevant authority under subsections (2) and (3) above shall be performed by him personally.</p> <p>(6) If the chief finance officer is unable to act owing to absence or illness his duties under subsections (2) and (3) above shall be performed—</p> <p>(a) by such member of his staff as is a member of one or more of the bodies mentioned in section 113(3) above and is for the time being nominated by the chief finance officer for the purposes of this section, or</p> <p>(b) if no member of his staff is a member of one or more of those bodies, by such member of his staff as is for the time being nominated by the chief finance officer for the purposes of this section.</p> <p>(7) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.</p> <p>(8) In this section—</p> <p>(a) references to a joint committee are to a committee on which two or more relevant authorities are represented, and</p> <p>(b) references to a committee (joint or otherwise) include references to a sub-committee.</p> <p>(8A) In this section “relevant police force”, in relation to the chief finance officer of a relevant authority, means—</p> <p>(a) in the case where the relevant authority is a chief officer of police, the police force of which that person is chief officer;</p> <p>(b) in any other case, the police force maintained by the relevant authority.</p> <p>(9) [repealed]</p>	
<p><b>114A Functions of responsible officer as regards reports— local authorities operating executive arrangements</b></p>	<p>Schedule 5 Paragraph 4</p>

(1) The person having responsibility under section 151 of the 1972 Act for the administration of the financial affairs of a relevant authority which is operating executive arrangements shall have the duties mentioned in this section, without prejudice to any other functions; and in this section he is referred to as the chief finance officer of the authority.

(2) The chief finance officer of an authority that is referred to in subsection (1) shall make a report under this section to the executive of that authority if it appears to him that, in the course of the discharge of functions of the authority, the executive or a person on behalf of the executive—

(a) has made or is about to make a decision which involves or would involve the authority incurring expenditure which is unlawful;

(b) as taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the authority; or

(c) is about to enter an item of account the entry of which is unlawful.

(3) It shall be the duty of the chief finance officer of an authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—

(a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989 or, in the case of a Welsh county council or county borough council, the person who is for the time being appointed as the authority's chief executive under section 59 of the Local Government and Elections (Wales) Act 2020; and

(b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 and 5A of the Local Government and Housing Act 1989

(4) Where a chief finance officer has made a report under this section he shall send a copy of it to—

(a) the person who at the time the report is made has the duty to audit the authority's accounts;

(b) each person who at that time is a member of the authority; and

(c) where the authority has a mayor and council manager executive, the person who at that time is the council manager.

(5) Subsections (5) and (6) of section 114 shall apply in relation to duties under subsections (2) and (3) of this section as they apply in relation to duties under subsections (2) and (3) of that section.

(6) A relevant authority shall provide its chief finance officer with such staff, accommodation and other resources as are in his opinion sufficient to allow his duties under this section to be performed.

<p style="text-align: center;"><b>Part XI Miscellaneous and General</b></p> <p style="text-align: center;">General</p> <p><b>143 Orders and regulations</b></p> <p>(1) The power to make an order or regulations under this Act may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.</p> <p>(2) An order or regulations under this Act may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State the Minister of Agriculture, Fisheries and Food, <u>the Treasury or the Welsh Ministers</u> (as the case may be) to be necessary or expedient.</p> <p>(3) Subject to subsections (3ZA) to (9AA) (9E) below, the power to make an order or regulations under this Act shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament or, in the case of an order or regulations made by the Welsh Ministers, of the National Assembly for Wales.</p> <p>(3ZA) The power to make regulations under section 43(4G), 45(4F) or 54ZA(5) is exercisable by statutory instrument, and a statutory instrument containing any such regulations (whether alone or with other provision) may not be made—</p> <p style="padding-left: 40px;">(a) in the case of regulations relating to England, unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament;</p> <p style="padding-left: 40px;">(b) in the case of regulations relating to Wales, unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.</p> <p>(3A) The power to make an order under section 43(6B)(c)(ii) above shall be exercisable by statutory instrument, and no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.</p> <p>(3B) The power to make an order under section 45(4A) shall be exercisable by statutory instrument, and no such order shall be made—</p> <p style="padding-left: 40px;">(a) in the case of an order relating to England, unless a draft of the order has been laid before and approved by resolution of each House of Parliament;</p> <p style="padding-left: 40px;">(b) in the case of an order relating to Wales, unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales.</p> <p>(3C) The power to make an order under section 54A is exercisable by statutory instrument, and no such order is to be made unless a draft of the order has been laid before and approved by resolution of the National Assembly for Wales.</p> <p>(3D) Any power to make regulations conferred by section 55 (alteration of non-domestic rating lists) is exercisable by statutory instrument.</p> <p>(3E) A statutory instrument which contains (whether alone or with other provision) regulations made by virtue of section 55(4A)(c) or</p>	<p>Part 8 Section 150</p> <p>Part 8 Section 151</p> <p>Part 8 Section 153</p>
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(4B) (alteration of non-domestic rating lists: financial penalties) may not be made unless—

(a) where those regulations relate to a proposal to alter an English list, a draft of the instrument has been laid before and approved by a resolution of each House of Parliament;

(b) where those regulations relate to a proposal to alter a Welsh list, a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

(3F) Any other statutory instrument containing regulations under section 55 is—

(a) in the case of regulations relating to England, subject to annulment in pursuance of a resolution of either House of Parliament;

(b) in the case of regulations relating to Wales, subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(3G) In subsection (3E), “English list” and “Welsh list” have the same meaning as in section 55.

(4) The power to make regulations under section 58 57A above shall be exercisable by statutory instrument, and no such regulations shall be made unless a draft of them has been laid before and approved by resolution of each House of Parliament.

(4ZA) The power to make regulations under section 63A or 66A shall be exercisable by statutory instrument, and no such regulations shall be made unless—

(a) in the case of regulations relating to England, a draft of the regulations has been laid before and approved by resolution of each House of Parliament;

(b) in the case of regulations relating to Wales, a draft of the regulations has been laid before and approved by resolution of the National Assembly for Wales.

(4A) [repealed]

(4B) The power to make regulations under section 74 above, so far as they are made in relation to a combined authority by virtue of subsection (8) of that section, shall be exercisable by statutory instrument, and no such regulations shall be made unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

(5) As regards the power to make regulations under section 75, 91(3C) or 118 above other than regulations relating to an internal drainage board, subsection (3) above shall have effect without the words from “subject” to the end.

(6) As regards the power to make an order under section 150 below, subsection (3) above shall have effect without the words from “subject” to the end.

(7) [repealed]

(8) The power to make an order under paragraph 3 of Schedule 6 below shall be exercisable by statutory instrument, and no such

<p>order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.</p> <p>(9) <u>The powers to make an order or regulations under paragraph 5 of Schedule 7 below shall be exercisable as there mentioned.</u></p> <p>(9A) The power to make an order under paragraph 5 of Schedule 7A below shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.</p> <p><u>(9AZA) The power of the Welsh Ministers to make regulations under paragraph 5(1D)(c) of Schedule 9 shall be exercisable by statutory instrument, and no such regulations shall be made by then unless a draft of the regulations has been laid before and approved by resolution of Senedd Cymru.</u></p> <p>(9AA) The power of the Secretary of State to make an order under paragraph 5G of Schedule 9 shall be exercisable by statutory instrument, and no such order shall be made by him unless a draft of it has been laid before and approved by resolution of each House of Parliament.</p> <p><u>(9AB) The power of the Welsh Ministers to make regulations under paragraph 6AA(1) or (5) of Schedule 9 shall be exercisable by statutory instrument, and no such regulations shall be made by them unless a draft of the regulations has been laid before and approved by resolution of Senedd Cymru.</u></p> <p>(9B) [repealed]</p> <p>(9C) Any power to make regulations conferred by Schedule 7B (local retention of non-domestic rates) is exercisable by statutory instrument.</p> <p>(9D) A statutory instrument containing regulations under any of the following provisions of that Schedule (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before and approved by resolution of each House of Parliament—</p> <ul style="list-style-type: none"> <li>(a) paragraph 9 (regulations about payments by billing authorities to major precepting authorities);</li> <li>(b) paragraph 11 (regulations about payments by billing authorities to major precepting authorities out of deductions from central share payments);</li> <li>(c) paragraph 22 (regulations about calculation of levy payments);</li> <li>(d) paragraph 25 (regulations about calculation of safety net payments);</li> <li>(e) paragraph 30 (regulations about distribution of remaining balance);</li> <li>(f) paragraph 39 or 40 (regulations about designated areas or classes of hereditament), if the regulations contain provision within paragraph 41 (payments to relevant authorities).</li> </ul>	
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<p>(9E) Any other statutory instrument containing regulations under that Schedule is subject to annulment in pursuance of a resolution of either House of Parliament.</p> <p>(10) Before he makes regulations under section 75 or 118 above other than regulations relating to an internal drainage board, the Secretary of State shall, by means of a notice in a newspaper or newspapers, take such steps as he thinks reasonably practicable to bring the contents of the proposed regulations to the notice of persons likely to be affected.</p> <p>(11) An order under paragraph 3 of Schedule 6 below shall, if apart from the provisions of this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.</p>	
<p style="text-align: center;"><b>Schedule 7 Non-Domestic Rating: Multipliers</b></p> <p style="text-align: center;"><b>Part I Non-Domestic Rating Multipliers</b></p> <p><b>3B</b></p> <p>(1) In relation to Wales, the non-domestic rating multiplier for a chargeable financial year shall be calculated in accordance with this paragraph if the year is not one at the beginning of which new lists must be compiled.</p> <p>(2) An amount shall be found in accordance with the formula—</p> $(A \times B) / C$ <p>(3) Subject to sub-paragraph (5) below, that amount may be adjusted by the Welsh Ministers to reflect the extent to which their last estimate of the total mentioned in paragraph 5(6) or (7) below appears to them to differ from the actual total.</p> <p>(4) The amount under sub-paragraph (2) above or, if an adjustment is made under sub-paragraph (3) above, the adjusted amount shall be the non-domestic rating multiplier for the year.</p> <p>(5) No adjustment may be made under sub-paragraph (3) above for a chargeable financial year beginning before 2006.</p> <p><b>4B</b></p> <p>In relation to Wales, the non-domestic rating multiplier for a chargeable financial year shall be calculated in accordance with the following formula if the year is one at the beginning of which new lists must be compiled —</p> $(A \times B \times D) / (C \times E)]$ <p><b>5</b></p> <p>(1) This paragraph applies for the purposes of paragraphs 3 to 4B above.</p> <p>(2) In relation to England, A is the small business non-domestic rating multiplier for the financial year preceding the year concerned (or, if there is no such multiplier for that year, A is the non-domestic rating multiplier for that year).</p>	<p style="text-align: center;">Part 8 Section 153</p>



(2A) In relation to Wales, A is the non-domestic rating multiplier for the financial year preceding the year concerned.

(3) In relation to England B is the retail prices index for September of the financial year preceding the year concerned; but if the Treasury so provide by order in relation to the year concerned, B is a figure which is less than that index and which is specified in (or calculated in a manner specified in) the order.

(4) In relation to England C is the retail prices index for September of the financial year which precedes that preceding the year concerned.

(5) But where the base month for the retail prices index for September of the financial year which precedes that preceding the year concerned (the first year) differs from that for the index for September of the year which precedes the year concerned (the second year), C in relation to England is the figure which the Secretary of State calculates would have been the retail prices index for September of the first year if the base month for that index had been the same as the base month for the index for September of the second year.

(5A) In relation to Wales—

(a) B is the consumer prices index for September of the financial year preceding the year concerned, and

(b) C is the consumer prices index for September of the financial year which precedes that preceding the year concerned.

(5B) But where the base month for the consumer prices index for September of the financial year which precedes that preceding the year concerned (the first year) differs from that for the index for September of the year which precedes the year concerned (the second year), C is the figure which the Welsh Ministers calculate would have been the consumer prices index for September of the first year if the base month for that index had been the same as the base month for the index for September of the second year.

(6) D is the number of whole pounds in the Secretary of State's or, as the case may be, the Welsh Ministers' estimate of the total of the appropriate rateable values of all appropriate hereditaments, where—

(a) appropriate rateable values are those which will be shown in lists for the last day of the financial year preceding the year concerned once all alterations to those lists have been made;

(b) appropriate hereditaments are those which will be shown in lists for that day once all alterations to those lists have been made.

(7) E is the number of whole pounds in the Secretary of State's or, as the case may be, the Welsh Ministers' estimate of the total of the appropriate rateable values of all appropriate hereditaments, where—

(a) appropriate rateable values are those which will be shown in lists for the first day of the financial year concerned once all alterations to those lists have been made;

(b) appropriate hereditaments are those which will be shown in lists for that first day once all alterations to those lists have been made.

(7A) The reference in sub-paragraph (7)(a) above to rateable values which will be shown in lists for the first day of the financial year concerned once all alterations to those lists have been made includes a reference to rateable values which will be shown in lists for a later day as a result of any alterations of the lists because of the inaccuracy of the lists for that first day.

(8) References in sub-paragraphs (3) to (5) above to the retail prices index are references to the general index of retail prices (for all items) published by the Statistics Board; and if that index is not published for a month for which it is relevant for the purposes of any of those sub-paragraphs, the sub-paragraph shall be taken to refer to any substituted index or index figures published by the Board.

(9) For the purposes of sub-paragraph (5) above the base month for the retail prices index for September of a particular year is the month for which the retail prices index is taken to be 100 and by reference to which the index for the September in question is calculated.

(9A) References in sub-paragraphs (5A) and (5B) to the consumer prices index are to the general index of consumer prices (for all items) published by the Statistics Board or, if that index is not published for a relevant month, any substituted index or index figures published by the Board.

(9B) For the purposes of sub-paragraph (5B) the base month for the retail prices index for September of a particular year is the month for which the consumer prices index is taken to be 100 and by reference to which the index for the September in question is calculated.

(10) Estimates under sub-paragraphs (6) and (7) above shall be made on the basis of information available to the Secretary of State on such date as he determines or, as the case may be, to the Welsh Ministers on such date as they determine.

(11) In calculating a multiplier a part of a whole (if any) shall be calculated to three decimal places only—

- (a) adding one thousandth where (apart from this sub-paragraph) there would be more than five ten-thousandths, and
- (b) ignoring the ten-thousandths where (apart from this sub-paragraph) there would be five, or less than five, ten-thousandths.

(12) The power to make an order under sub-paragraph (3) above shall be exercisable by statutory instrument.

(13) An order under sub-paragraph (3) above in its application to a particular financial year (including an order amending or revoking another) shall not be effective unless it is approved by resolution of the House of Commons before the approval by that House of the local government finance report for the year or before 1 March in the preceding financial year (whichever is earlier).

<p><u>(13A) The Welsh Ministers may by regulations amend, repeal or disapply sub-paragraphs (5A), (5B), (9A) and (9B) so as to—</u></p> <p><u>(a) substitute for references to the consumer prices index references to another index, or</u></p> <p><u>(b) provide that—</u></p> <p><u>(i) B is a figure specified or described in (or calculated in a manner specified in) the regulations;</u></p> <p><u>(ii) C is a figure so specified or described (or so calculated).</u></p> <p><u>(13B) The power to make regulations under sub-paragraph (13A) shall be exercisable by statutory instrument.</u></p> <p><u>(13C) Regulations under sub-paragraph (13A), in their application to a particular financial year (including regulations amending or revoking others) shall not be effective unless they are approved by resolution of Senedd Cymru before the approval by Senedd Cymru of the local government finance report for the year, or before 1 March in the preceding financial year (whichever is earlier).</u></p> <p><del>(14) Sub-paragraph (13) above does not apply to orders made by the Welsh Ministers</del></p> <p><del>(15) An order made by the Welsh Ministers under sub-paragraph (3), in its application to a particular financial year (including an order amending or revoking another), shall not be effective unless it is approved by resolution of the Assembly before the approval by the Assembly of the local government finance report for the year, or before 1 March in the preceding financial year (whichever is earlier).</del></p> <p><b>6</b></p> <p>(1) In relation to England, the Secretary of State shall calculate the small business non-domestic rating multiplier and the non-domestic rating multiplier for a chargeable financial year and, as soon as is reasonably practicable after doing so, shall serve on each billing authority a notice stating the multipliers as so calculated.</p> <p>(1A) In relation to Wales, the Welsh Ministers shall calculate the non-domestic rating multiplier for a chargeable financial year and, as soon as is reasonably practicable after doing so, shall serve on each billing authority a notice stating the multiplier as so calculated.</p> <p>(1B) The notice must show how any calculation has been made and contain details of any estimates or adjustments that have been made.</p> <p>(2) Where the financial year is one for which the Secretary of State has calculated a figure for C under paragraph 5(5) above, the notice must contain the figure he has calculated.</p> <p><u>(2A) Where the financial year is one for which the Welsh Ministers have calculated a figure for C under paragraph 5(5B), the notice must contain the figure they have calculated.</u></p> <p>(3) Where the financial year is one at the beginning of which new lists must be compiled, the notice must specify the date determined under paragraph 5(10) above for the purpose of making estimates under paragraph 5(6) and (7) above.</p>	
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<p>(4) A calculation under this paragraph is invalid unless one or both of the following conditions is fulfilled—</p> <p>(a) it is made after the local government finance report for the year has been approved by resolution of the House of Commons;</p> <p>(b) it is made on or after 1 March in the preceding financial year.</p> <p>(4A) Sub-paragraph (4) above does not apply to a calculation made by the Welsh Ministers</p> <p>(4B) A calculation made by the Welsh Ministers under this paragraph is invalid unless one or both of the following conditions is fulfilled—</p> <p>(a) it is made after the Assembly has approved by resolution the local government finance report for the year or, where the Welsh Ministers are making two local government finance reports for the year, it is made after the Assembly has approved by resolution both of those reports;</p> <p>(b) it is made on or after 1 March in the preceding financial year.</p> <p><u>(4C) A calculation made by the Welsh Ministers under this paragraph is also invalid if made at a time when regulations made under paragraph (13AB) which are effective in relation to the year have not come into force.</u></p> <p>(5) A calculation <u>made by the Secretary of State</u> under this paragraph is invalid if made at a time when an order under paragraph 5(3) above which is effective in relation to the year has not come into force.</p>	
<p style="text-align: center;"><b>Schedule 9 Non-Domestic Rating: Administration</b></p> <p><b>Information</b></p> <p><b>5</b></p> <p>(1) A valuation officer may serve a notice on a person who is an owner or occupier of a hereditament requesting him to supply to the officer information—</p> <p>(a) which is specified in the notice, and</p> <p>(b) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part].</p> <p>(1A) A notice under <u>sub-paragraph (1)</u> must state that the officer believes the information requested will assist him in carrying out functions conferred or imposed on him by or under this Part.</p> <p><u>(1B) A billing authority in Wales may serve a notice on a person to whom sub-paragraph (1D) applies, requesting the person to supply to the authority information—</u></p> <p><u>(a) which is specified in the notice,</u></p> <p><u>(b) which relates to a hereditament in the authority's area specified in the notice, and</u></p>	<p>Part 8 Section 150</p> <p>Part 8 Section 151</p> <p>Part 9 Section 152</p>

(c) which the authority reasonably believes will assist it in carrying out functions conferred or imposed on it by or under this Part.

(1C) A notice under sub-paragraph (1B) must state that the billing authority believes the information will assist it in carrying out functions conferred or imposed on it by or under this Part.

(1D) This sub-paragraph applies to—

(a) a person who is an owner of the hereditament specified in the notice under sub-paragraph (1B));

(b) a person who is an occupier of such a hereditament;

(c) a person who, in relation to the hereditament specified in the notice under sub-paragraph (1B)), is carrying on a business of a description specified in regulations made by the Welsh Ministers.

(2) A person on whom a notice is served under sub-paragraph (1) shall supply the information requested in such form and manner as is specified in the notice

(2A) A person on whom a notice is served under sub-paragraph (1A) must supply the information requested in the form and manner specified in the notice.

(3) [repealed]

(4) If a notice has been served on a person under sub-paragraph (1), and in supplying information in purported compliance with sub-paragraph (2) above he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular, he shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale or to both.

(5) If a notice has been served on a person under sub-paragraph (1A), and in supplying information in purported compliance with subparagraph (2A) the person makes a statement knowing it to be false in a material particular or recklessly makes a statement which is false in a material particular, the person is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **5A**

(1) If a person on whom a notice is served under paragraph 5 above fails to comply with paragraph 5(2) or (2A) within the period of 56 days beginning with the day on which the notice is served, he shall be liable to a penalty of £100.

(2) Where a person becomes liable to a penalty under sub-paragraph (1) above, the valuation officer or, as the case may be, billing authority concerned shall serve on him a notice (a “penalty notice”) stating—

(a) that he has failed to comply with paragraph 5(2) or (2A) above within the period mentioned in sub-paragraph (1) above,

(b) that he is liable to a penalty of £100,

(c) the effect of sub-paragraphs (3) and (4) below, and

(d) that he has a right of appeal under paragraph 5C below.

(3) If the person on whom a penalty notice is served fails to comply with paragraph 5(2) or (2A) within the period of 21 days beginning with the day on which the notice is served, he shall be liable—

(a) to a further penalty of £100, and

(b) subject to sub-paragraph (4) below, to a further penalty of £20 for each day in respect of which the failure continues after the end of that period.

(4) The amount to which a person shall be liable under this paragraph in respect of a failure to comply with a notice served under paragraph 5 above shall not exceed the greater of—

(a) the rateable value of the hereditament concerned for the day on which the penalty notice is served, and

(b) £500.

(5) For the purposes of sub-paragraph (4)(a) above—

(a) the hereditament concerned is the hereditament in respect of which the notice under paragraph 5 above was served, and

(b) a list compiled under this Part shall be used to find the rateable value of the hereditament for the day concerned.

#### **5B**

A valuation officer or, as the case may be, billing authority concerned may mitigate or remit any penalty imposed under paragraph 5A above.

#### **5C**

(1) A person may appeal to a valuation tribunal if he is aggrieved by the imposition on him of a penalty under paragraph 5A above.

(2) An appeal under this paragraph must be made before the end of the period of 28 days beginning with the day on which the penalty notice is served.

(3) An appeal under this paragraph shall not prevent liability to any further penalty or penalties arising under paragraph 5A(3) above.

(4) An appeal under this paragraph shall be treated as an appeal against the penalty imposed under paragraph 5A(1) above and any further penalty which may be imposed under paragraph 5A(3) above.

(5) On an appeal under this paragraph the valuation tribunal may mitigate or remit any penalty under paragraph 5A above if it is satisfied on either or both of the grounds specified in sub-paragraph (6) below.

(6) Those grounds are—

(a) that the appellant had a reasonable excuse for not complying with paragraph 5(2) or (2A) above, or

(b) that the information requested is not in the possession or control of the appellant.

(7) In this paragraph “valuation tribunal” means—

(a) in relation to England: the Valuation Tribunal for England;

(b) in relation to Wales: a valuation tribunal established under paragraph 1 of Schedule 11.

#### **5D**

(1) Subject to sub-paragraph (2) below, any penalty imposed under paragraph 5A above may —

(a) in a case which relates to a request for information made by a valuation officer, be recovered by the valuation officer concerned as a civil debt due to him;

(b) in a case which relates to a request for information made by a billing authority in Wales, be recovered by the authority concerned as a civil debt due to the authority.

(2) No claim to recover any such penalty may be made—

(a) before the end of the period mentioned in paragraph 5C(2) above, or

(b) if an appeal is made under paragraph 5C above, before the appeal is finally disposed of.

#### **5E**

(1) Any sums received by a valuation officer by way of penalty under paragraph 5A above must be paid into the Consolidated Fund.

(2) Any sums received by a billing authority in Wales by way of penalty under paragraph 5A above must be paid into the Welsh Consolidated Fund.

#### **5F**

(1) The Secretary of State in relation to England, and the National Assembly of Wales in relation to Wales, may by regulations make provision in relation to notices served under paragraphs 5 and 5A above.

(2) The provision that may be made by regulations under this paragraph includes—

(a) provision enabling a valuation officer to request or obtain information for the purpose of identifying the owner or occupier of a hereditament;

(aa) provision enabling a billing authority in Wales to request or obtain information for the purpose of identifying a person to whom paragraph 5(1D) above applies;

(b) provision enabling a notice to be served on a person either by name or by such description as may be prescribed.

#### **5G**

The Secretary of State in relation to England, and the National Assembly in relation to Wales, may by order amend paragraph 5A above to increase or decrease the amount of any penalty under that paragraph.

#### **5H**

Where a valuation officer requires the name or address of a person on whom a notice under paragraph 5 or 5A above is to be served by the officer, he may serve a notice on a billing authority which he

<p>reasonably believes may have that information requesting the authority to supply him with that information.</p> <p><b>6</b></p> <p>(1) If in the course of the exercise of its functions any information comes to the notice of a billing authority which leads it to suppose that a list requires alteration it shall be the authority's duty to inform the valuation officer who has the duty to maintain the list.</p> <p>(1A) The Secretary of State may make regulations containing provision that, at such times and in such manner as may be prescribed, a billing authority shall supply to the valuation officer for the authority information of such description as may be prescribed.</p> <p>(2) [repealed]</p> <p><b>6A</b></p> <p>(1) Where regulations under this Schedule impose a duty on a billing authority to supply information to any person, they may also require—</p> <ul style="list-style-type: none"> <li>(a) the Secretary of State;</li> <li>(b) any appropriate precepting authority; or</li> <li>(c) any appropriate levying body,</li> </ul> <p>to supply the billing authority with prescribed information if the Secretary of State considers it to be information the billing authority needs in order to fulfil its duty.</p> <p>(2) Where regulations under this Schedule contain provision about the contents or form of a notice to be served by a billing authority, they may also require the Secretary of State or any appropriate precepting authority to supply the billing authority with prescribed information if the Secretary of State considers it to be information the billing authority needs to ensure that the provision is met.</p> <p>(3) Where any person other than the Secretary of State fails to supply information to a billing authority in accordance with regulations made by virtue of sub-paragraph (1) or (2) above, he shall be liable to indemnify the authority against any loss or damage which the authority sustains in consequence of the failure.</p> <p>(4) For the purposes of sub-paragraph (1) or (2) above an authority is an appropriate precepting authority in relation to a billing authority if it has power to issue a precept to the billing authority under Part I of the Local Government Finance Act 1992.</p> <p>(5) For the purposes of sub-paragraph (1) above a body is an appropriate levying body in relation to a billing authority if—</p> <ul style="list-style-type: none"> <li>(a) it has power to issue a levy or special levy to the billing authority; or</li> <li>(b) it has power to issue a levy to a county council which has power to issue a precept to the billing authority under Part I of the Local Government Finance Act 1992.</li> </ul> <p><b>6AA</b></p>	
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<p><u>(1) The Welsh Ministers may by regulations require persons to provide to billing authorities in Wales information relevant to determining—</u></p> <p><u>(a) whether a person is, as regards a hereditament in Wales, subject to a non-domestic rate in respect of a chargeable financial year;</u></p> <p><u>(b) where a person is, as regards a hereditament in Wales, subject to a non-domestic rate, the amount the person is liable to pay.</u></p> <p><u>(2) Regulations under sub-paragraph (1) must specify—</u></p> <p><u>(a) the information to be provided,</u></p> <p><u>(b) the persons who must provide the information,</u></p> <p><u>(c) the circumstances in which the information is to be provided, and</u></p> <p><u>(d) the period within which the information is to be provided.</u></p> <p><u>(3) The regulations may provide that a billing authority may impose a financial penalty on a person who fails to comply with a requirement in the regulations to provide information.</u></p> <p><u>(4) If provision is made under sub-paragraph (3)—</u></p> <p><u>(a) the penalty specified in the regulations must be £500;</u></p> <p><u>(b) the regulations must require any sum received by a billing authority by way of penalty to be paid into the Welsh Consolidated Fund;</u></p> <p><u>(c) the regulations may include provision for any penalty to be recovered by the billing authority concerned as a civil debt due to the authority;</u></p> <p><u>(d) the regulations must include provision enabling a person on whom a financial penalty is imposed to require a review of the imposition of the penalty or its amount by the billing authority that imposed the penalty;</u></p> <p><u>(e) the regulations must include provision enabling a person on whom a financial penalty is imposed to appeal against the imposition of the penalty or its amount to a valuation tribunal established under paragraph 1 of Schedule 11.</u></p> <p><u>(5) The regulations may provide that a person who knowingly or recklessly provides information required under the regulations which is false in a material particular is liable on summary conviction to a fine not exceeding level 3 on the standard scale.</u></p> <p><u>(6) The Welsh Ministers may by regulations substitute a different amount for the amount for the time being specified in sub-paragraph (4)(a).</u></p> <p><b><u>Powers of entry</u></b></p> <p><b>6B</b></p> <p>(1) If a valuation officer needs to value a hereditament in England for the purpose of carrying out functions conferred or imposed on the officer by or under this Part, the officer and any person authorised by the officer in writing may enter on, survey and value</p>	
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<p>the hereditament if sub-paragraphs (2) and (4) are fulfilled and (where it applies) sub-paragraph (5) is fulfilled.</p> <p>(2) The valuation officer must obtain the approval of the tribunal before the officer or a person authorised by the officer exercises the power under sub-paragraph (1).</p> <p>(3) The tribunal must not give its approval unless it is satisfied that the valuation officer needs to value the hereditament.</p> <p>(4) After the tribunal has given its approval, at least 3 days' notice in writing must be given of the proposed exercise of the power.</p> <p>(5) In a case where a person authorised by the valuation officer proposes to exercise the power, the person must if required produce the authorisation.</p> <p>(6) A person who wilfully delays or obstructs a person in the exercise of a power under this paragraph is liable on summary conviction to a fine not exceeding level 1 on the standard scale.</p> <p>(7) For the purpose of the requirement under sub-paragraph (4), the following days are to be disregarded—</p> <p>(a) a Saturday, a Sunday, Christmas Day or Good Friday;</p> <p>(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.</p> <p>(8) The tribunal may—</p> <p>(a) determine any application brought under this paragraph and any question arising from that application;</p> <p>(b) specify the arrangements by which any entry approved by it must be conducted, including whether the entry may occur on more than one day.</p> <p>(9) In this paragraph “the tribunal” means the First-tier Tribunal.</p> <p><b>7</b></p> <p>(1) If a valuation officer needs to value a hereditament in Wales for the purpose of carrying out functions conferred or imposed on him by or under this Part, he and any person authorised by him in writing may enter on, survey and value the hereditament if sub-paragraph (2) below is fulfilled and (where it applies) sub-paragraph (3) below is fulfilled.</p> <p>(2) At least 24 hours' notice in writing of the proposed exercise of the power must be given.</p> <p>(3) In a case where a person authorised by the valuation officer proposes to exercise the power, the person must if required produce his authority.</p> <p>(4) If a person wilfully delays or obstructs a person in the exercise of a power under this paragraph, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.</p> <p><b><u>7A</u></b></p> <p><u>(1) A billing authority in Wales may enter and survey a hereditament in its area if the authority has grounds for believing</u></p>	
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that the inspection is required for the purpose of carrying out functions conferred or imposed upon it by or under this Part.

(2) But the billing authority must obtain the approval of a valuation tribunal established under paragraph 1 of Schedule 11 before it exercises the power under sub-paragraph (1) above.

(3) After the tribunal has given its approval, the billing authority must give at least 24 hours' notice in writing of the proposed exercise of the power.

(4) A person who proposes to exercise the power under sub-paragraph (1) above must if required produce written evidence of authority to carry out the inspection.

(5) A person who wilfully delays or obstructs a person in the exercise of a power under this paragraph is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### **Access to information**

#### **8**

(1) A person may require a valuation officer to give him access to such information as will enable him to establish what is the state of a list, or has been its state at any time since it came into force, if—

- (a) the officer is maintaining the list, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(2) A person may require a billing authority to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

- (a) the authority has deposited the copy under section 41(6B) or 41A(10) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(3) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

- (a) the Secretary of State has deposited the copy under section 52(6B) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(4) A person may require a billing authority to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

- (a) the authority has deposited the copy under section 41(6) above, and
- (b) the list itself is not yet in force.

(5) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

(b) the Secretary of State has deposited the copy under section 52(6) above, and

(b) the list itself is not yet in force.

(6) A requirement under any of the preceding provisions of this paragraph must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or other form, as the person or authority of whom the requirement is made thinks fit.

(7) Where access is given under this paragraph to information in documentary form the person to whom access is given may—

(a) make copies of (or of extracts from) the document;

(b) require a person having custody of the document to supply to him a photographic copy of (or of extracts from) the document.

(8) Where access is given under this paragraph to information in a form which is not documentary the person to whom access is given may—

(a) make transcripts of (or of extracts from) the information;

(b) require a person having control of access to the information to supply to him a copy in documentary form of (or of extracts from) the information.

(9) If a reasonable charge is required for a facility under sub-paragraph (7) or (8) above, the sub-paragraph concerned shall not apply unless the person seeking to avail himself of the facility pays the charge.

(10) If without reasonable excuse a person having custody of a document containing, or having control of access to, information access to which is sought under this paragraph—

(a) intentionally obstructs a person in exercising a right under sub-paragraph (1), (2), (3), (4), (5), (7)(a) or (8)(a) above, or

(b) refuses to comply with a requirement under sub-paragraph (7)(b) or (8)(b) above,

he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

## 9

(1) A person may, at a reasonable time and without making payment, inspect any proposal made or notice of appeal given under regulations made under section 55 above, if made or given as regards a list which is in force when inspection is sought or has been in force at any time in the preceding 5 years.

(2) A person may—

(a) make copies of (or of extracts from) a document mentioned in sub-paragraph (1) above, or

<p>(b) require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document.</p> <p>(3) If a reasonable charge is required for a facility under sub-paragraph (2) above, the sub-paragraph shall not apply unless the person seeking to avail himself of the facility pays the charge.</p> <p>(4) If without reasonable excuse a person having custody of a document mentioned in sub-paragraph (1) above—</p> <p>(a) intentionally obstructs a person in exercising a right under sub-paragraph (1) or (2)(a) above, or</p> <p>(b) refuses to supply a copy to a person entitled to it under sub-paragraph (2)(b) above,</p> <p>he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.</p>	
<p><b>Schedule 11 – Part 2 Valuation Tribunals: Wales</b></p> <p><b>2</b></p> <p>The tribunals shall exercise the jurisdiction conferred on them by—</p> <p>(a) section 23 above;</p> <p>(b) regulations under section 55 above.</p> <p>(c) paragraph 4 of Schedule 4A above.</p> <p>(ca) paragraph 5C of Schedule 9 above;</p> <p><u>(cb) regulations under paragraph 6AA of Schedule 9 above;</u></p> <p><u>(cc) paragraph 7A of Schedule 9 above;</u></p> <p>(d) section 16 of the 1992 Act;</p> <p>(e) regulations under section 24 of that Act;</p> <p>(f) paragraph 3 of Schedule 3 to that Act.</p>	<p>Part 8 Section 151</p> <p>Part 8 Section 152</p>

## Local Government and Finance Act 1992

Section	Amended by
<p><b>Schedule 1 Persons Disregarded for Purposes of Discount (Sections 11(5), 79(5))</b></p> <p><b>Persons in detention</b></p> <p><b>1</b></p> <p>(1) A person shall be disregarded for the purposes of discount on a particular day if on the day—</p> <p>(a) he is detained in a prison, a hospital or any other place by virtue of an order or award to which sub-paragraph (2) below applies;</p> <p>(b) he is detained under paragraph 2 of Schedule 3 to the Immigration Act 1971 (deportation);</p> <p>(c) he is detained under Part II or section 46, 47, 48 or 136 of the Mental Health Act 1983; or</p> <p>(d) he is detained under Parts 5, 6 and 7 or sections 136 or 297 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or sections 52D or 52M or the Criminal Procedure (Scotland) Act 1995;.</p> <p>(2) This sub-paragraph applies to—</p> <p>(a) an order of a court in the United Kingdom;</p> <p>(b) an order or award (whether or not of a court) made (anywhere) in proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006.</p> <p>(3) If a person—</p> <p>(a) is temporarily discharged under section 28 of the Prison Act 1952, or temporarily released under rules under section 47(5) of that Act;</p> <p>(aa) is temporarily released under rules under section 300 of the Armed Forces Act 2006; or</p> <p>(b) is temporarily discharged under section 27 of the Prisons (Scotland) Act 1989, or temporarily released under rules under section 39(6) of that Act,</p> <p>for the purposes of sub-paragraph (1) above he shall be treated as detained.</p> <p>(4) Sub-paragraph (1) above does not apply where the person—</p> <p>(a) is detained under regulations made under paragraph 8 of Schedule 4 to this Act;</p> <p>(b) is detained under section 76 of the Magistrates' Courts Act 1980, or section 108 of the Powers of Criminal Courts (Sentencing) Act 2000, for default in payment of a fine; or</p> <p>(c) is detained only under section 407 of the Criminal Procedure (Scotland) Act 1975.</p>	<p>Part 8 Section 155</p>

(5) In sub-paragraph (1) above "order" includes a sentence, direction, warrant or other means of giving effect to the decision of the court concerned.

(6) The Secretary of State may by order provide that a person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day he is in service custody; and
- (b) such conditions as may be prescribed by the order are fulfilled.

### **The severely mentally impaired**

#### **2**

(1) A person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day he is severely mentally impaired;
- (b) as regards any period which includes the day he is stated in a certificate of a registered medical practitioner to have been or to be likely to be severely mentally impaired; and
- (c) as regards the day he fulfils such conditions as may be prescribed by order made by the Secretary of State.

(2) For the purposes of this paragraph a person is severely mentally impaired if he has a severe impairment of intelligence and social functioning (however caused) which appears to be permanent.

(3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

### **Persons in respect of whom child benefit is payable**

#### **3**

(1) A person shall be disregarded for the purposes of discount on a particular day if on the day he—

- (a) has attained the age of 18 years; but
- (b) is a person in respect of whom another person is entitled to child benefit, or would be so entitled but for paragraph 1(c) of Schedule 9 to the Social Security Contributions and Benefits Act 1992.

(2) The Secretary of State may by order substitute another provision for sub-paragraph (1)(b) above as for the time being effective for the purposes of this paragraph.

### **Students etc**

#### **4**

(1) A person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day he is a student, student nurse, apprentice or youth training trainee; and

(b) such conditions as may be prescribed by order made by the Secretary of State are fulfilled.

(2) In this paragraph “apprentice”, “student”, “student nurse” and “youth training trainee” have the meanings for the time being assigned to them by order made by the Secretary of State.

## **5**

(1) An institution shall, on request, supply a certificate under this paragraph to any person who is following or, subject to sub-paragraph (3) below, has followed a course of education at that institution as a student or student nurse.

(2) A certificate under this paragraph shall contain such information about the person to whom it refers as may be prescribed by order made by the Secretary of State.

(3) An institution may refuse to comply with a request made more than one year after the person making it has ceased to follow a course of education at that institution.

(4) In this paragraph—

“institution” means any such educational establishment or other body as may be prescribed by order made by the Secretary of State; and

“student” and “student nurse” have the same meanings as in paragraph 4 above.

## **Hospital patients**

## **6**

(1) A person shall be disregarded for the purposes of discount on a particular day if on the day he is a patient who has his sole or main residence in a hospital.

(2) In this paragraph “hospital” means—

(a) a health service hospital within the meaning of the National Health Service Act 2006, the National Health Service (Wales) Act 2006] or section 108(1) (interpretation) of the National Health Service (Scotland) Act 1978; and

(b) a military, air-force or naval unit or establishment at or in which medical or surgical treatment is provided for persons subject to service law within the meaning of the Armed Forces Act 2006.

(3) The Secretary of State may by order substitute another definition for the definition in sub-paragraph (2) above as for the time being effective for the purposes of this paragraph.

## **Patients in homes in England and Wales**

## **7**

(1) A person shall be disregarded for the purposes of discount on a particular day if on the day—



- (a) he has his sole or main residence in a care home, independent hospital or hostel in England and Wales; and
- (b) he is receiving care or treatment (or both) in the home, hospital or hostel.

(2) In this paragraph—

“care home” means—

- (a) a care home in England within the meaning of the Care Standards Act 2000; or
- (aa) a place in Wales at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care Act (Wales) 2016 (anaw 2), is provided wholly or mainly to adults; or
- (b) a building or part of a building in which accommodation is provided for an adult under Part 4 of the Social Services and Well-being (Wales) Act 2014; or
- (c) a building or part of a building in which accommodation is provided under Part 1 of the Care Act 2014;

and in paragraphs (aa) and (b) “adult” means a person aged 18 or over;

“hostel” means anything which falls within any definition of hostel for the time being prescribed by order made by the Secretary of State under this sub-paragraph;

“independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.

(3) The Secretary of State may by order substitute another definition for any definition of “care home” or “independent hospital” for the time being effective for the purposes of this paragraph.

### **Patients in homes in Scotland**

#### **8**

(1) A person shall be disregarded for the purposes of discount on a particular day if on the day—

(a) either—

- (i) he has as his sole or main residence a private hospital in Scotland; or
- (ii) a care home service provides, in Scotland, accommodation which is his sole or main residence; and
- (b) he is receiving care or treatment (or both) in the hospital or in the accommodation so provided.

(2) In this paragraph—

“care home service” has the same meaning as in the Regulation of Care (Scotland) Act 2001 (asp 8); and

“private hospital” means an independent health care service as defined in section 329(1) of the Mental Health (Care and treatment) (Scotland) Act 2003;

(3) . . .

(4) The Secretary of State may by order substitute another definition for any definition of . . ., “private hospital” or “care home service” for the time being effective for the purposes of this paragraph.

### **Care workers**

#### **9**

(1) A person shall be disregarded for the purposes of discount on a particular day if—

(a) on the day he is engaged in providing care or support (or both) to another person or other persons; and

(b) such conditions as may be prescribed are fulfilled.

(2) Without prejudice to the generality of sub-paragraph (1)(b) above the conditions may—

(a) require the care or support (or both) to be provided on behalf of a charity or a person fulfilling some other description;

(b) relate to the period for which the person is engaged in providing care or support (or both);

(c) require his income for a prescribed period (which contains the day concerned) not to exceed a prescribed amount;

(d) require his capital not to exceed a prescribed amount;

(e) require him to be resident in prescribed premises;

(f) require him not to exceed a prescribed age;

(g) require the other person or persons to fulfil a prescribed description (whether relating to age, disablement or otherwise).

### **Residents of certain dwellings**

#### **10**

(1) A person shall be disregarded for the purposes of discount on a particular day if on the day he has his sole or main residence in a dwelling to which sub-paragraph (2) below applies.

(2) This sub-paragraph applies to any dwelling if—

(a) it is for the time being providing residential accommodation, whether as a hostel or night shelter or otherwise; and

(b) the accommodation is predominantly provided—

(i) otherwise than in separate and self-contained sets of premises;

(ii) for persons of no fixed abode and no settled way of life; and

(iii) under licences to occupy which do not constitute tenancies.

## **Persons of other descriptions**

### **11**

A person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day he falls within such description as may be prescribed; and
- (b) such conditions as may be prescribed are fulfilled.

### **12**

(1) Regulations under paragraph 11 made by the Welsh Ministers may amend Chapter 1 of Part 1 (but not this Schedule) for the purpose of providing that a person who, under the regulations, is to be disregarded for the purposes of discount on a particular day is also not to be jointly or severally liable to pay council tax in respect of any chargeable dwelling and that day.

(2) Regulations which make provision as described in sub-paragraph (1) may also make provision about how liability to pay the council tax in respect of a dwelling is to be determined.

# Local Government and Housing Act 1989

Section	Amended by
<p>Part I Local Authority Members, Officers, Staff and Committees etc.</p> <p>Political restriction of officers and staff</p> <p><b>1 Disqualification and political restriction of certain officers and staff</b></p> <p>(1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.</p> <p><u>(1A) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of any local authority in Wales if that person holds the post of chief executive of a local authority which is the council of a county or county borough in Wales.</u></p> <p>(2)–(4) [repealed]</p> <p>(5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.</p> <p>(6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.</p> <p>(7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.</p> <p>(8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.</p> <p>(9) In this section a reference to a person holding a politically restricted post under a local authority includes a reference to every member of the staff of an elected local policing body, and every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.</p>	<p>Schedule 5 Paragraph 6</p>

<p>(10) The reference in subsection (9) to every member of the staff of an elected local policing body does not include a deputy police and crime commissioner.</p> <p>(11) For the purposes of subsection (1) only, the reference in subsection (9) to every member of the staff of an elected local policing body does not include the Deputy Mayor for Policing and Crime appointed under section 19(1)(a) of the Police Reform and Social Responsibility Act 2011.</p>	
<p><b>2 Politically restricted posts</b></p> <p>(1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—</p> <ul style="list-style-type: none"> <li>(a) the person designated under section 4 below as the head of the authority's paid service;</li> <li>(b) the statutory chief officers;</li> <li>(c) a non-statutory chief officer;</li> <li>(d) a deputy chief officer;</li> <li>(e) the monitoring officer designated under section 5 below;</li> <li>(f) any person holding a post to which he was appointed in pursuance of section 9 below;</li> <li>(g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 or 3A below or with section 100G(2) of the Local Government Act 1972 or section 50G(2) of the Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated); and</li> <li>(h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011.</li> </ul> <p><u>(1A) For the purposes of this Part other than section 1(1), a person appointed as the chief executive of a local authority which is the council of a county or county borough in Wales is to be regarded as holding a politically restricted post under that authority.</u></p> <p>(2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—</p> <ul style="list-style-type: none"> <li>(a), (b) [repealed]</li> <li>(c) posts the duties of which appear to the authority to fall within subsection (3) below,</li> </ul> <p>as are not posts for the time being exempted under section 3 or 3A below, posts for the time being listed under section 100G(2) of the Local Government Act 1972 or section 50G(2) of the Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.</p> <p>(3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—</p>	<p>Schedule 5 Paragraph 7</p>

(a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority;

(b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.

(4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with the proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.

(5) It shall be the duty of every local authority in Scotland and Wales in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.

(5A) It shall be the duty of every local authority in England in performing their duties under this section to have regard to such general advice as may be given by virtue of section 3B below by the Secretary of State.

(6) In this section “the statutory chief officers” means—

(za) the director of children's services appointed under section 18 of the Children Act 2004 and the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970 (in the case of a local authority in England);

(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;

(a) the chief education officer appointed under section 532 of the Education Act 1996 (in the case of a local authority in Wales);

(b) [repealed]

(c) the director of social services (in the case of a local authority in Wales) or chief social work officer appointed under section 144 of the Social Services and Well-being (Wales) Act 2014 or section 3 of the Social Work (Scotland) Act 1968; and

(d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 of the Local Government Finance Act 1988, section 127(2) of the Greater London Authority Act 1999 or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs.

(7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—

<p>(a) a person for whom the head of the authority's paid service <u>or (in the case of a council for a county or county borough in Wales) the authority's chief executive</u> is directly responsible;</p> <p>(b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service <u>or (in the case of a council for a county or county borough in Wales) the authority's chief executive</u>; and</p> <p>(c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.</p> <p>(8) In this section "deputy chief officer" means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.</p> <p>(9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.</p> <p>(10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—</p> <p>(a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a local authority or, in Scotland, is under the management of or is assisted by an education authority; or</p> <p>(b) any other post as a teacher or lecturer in any such school, college, institution or establishment,</p> <p>or of requiring any such post to be included in any list prepared and maintained under this section.</p> <p>(11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.</p>	
<p style="text-align: center;">Duties of particular officers</p> <p><b>4 Designation and reports of head of paid service</b></p> <p>(1) It shall be the duty of every relevant authority—</p> <p>(a) to designate one of their officers as the head of their paid service; and</p> <p>(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.</p> <p>(1A) In the case of an elected local policing body, the body's chief executive is to be taken to have been designated as the head of the body's paid service (and, accordingly, subsection (1)(a) does</p>	<p>Schedule 5 Paragraph 8</p>



not apply; but references to persons designated under this section include references to the body's chief executive).

(2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.

(3) Those matters are—

- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
- (b) the number and grades of staff required by the authority for the discharge of their functions;
- (c) the organisation of the authority's staff; and
- (d) the appointment and proper management of the authority's staff.

(4) It shall be the duty of the head of a relevant authority's paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be sent—

- (a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area; and
- (aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
  - (i) which corresponds to the authority's area, or
  - (ii) within which the area of the authority falls;
- (ab) in the case of the London Fire Commissioner, to the Commissioner;
- (b) in any other case, to each member of the authority.

(5) It shall be the duty of a relevant authority (other than an elected local policing body) to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the Local Government Act 1972 or in section 56 of the Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.

(5A) It shall be the duty of an elected local policing body to consider any report under this section by the head of the body's paid service, and to do so no later than three months after the body is sent a copy of the report.

(5B) It shall be the duty of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 to consider any report under this section by the head of the authority's paid service and to do so no later than three months after the authority is sent a copy of the report.

(5C) It shall be the duty of the London Fire Commissioner to consider any report under this section by the head of the



<p>Commissioner's paid service and to do so no later than three months after the Commissioner is sent a copy of the report.</p> <p>(6) In this section “relevant authority”—</p> <p>(a) in relation to England <del>and Wales</del>, means a local authority of any of the descriptions specified in paragraphs (a) to (e) and (ja) to (jc) of section 21(1) below, an elected local policing body, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner; <del>and</del></p> <p><u>(aa) in relation to Wales, means an elected local policing body; and</u></p> <p>(b) in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994.</p> <p>(7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.</p>	
<p><b>5 Designation and reports of monitoring officer</b></p> <p>(1) It shall be the duty of every relevant authority—</p> <p>(a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section and, where relevant, section 5A below; and</p> <p>(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties and, where relevant, the duties under section 5A below to be performed;</p> <p>and subject to subsection (1A) below the officer so designated may be the head of the authority’s paid service but shall not be their chief finance officer.</p> <p>(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority’s paid service.</p> <p>(1B) Subsection (1A) above applies to the following relevant authorities in England <del>and Wales</del>—</p> <p>(a) a county council,</p> <p>(b) <del>a county borough council,</del></p> <p>(c) a district council,</p> <p>(d) a London borough council,</p> <p>(e) the Greater London Authority, and</p> <p>(f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.</p> <p><u>(1BA) The officer designated under subsection (1)(a) above by a relevant authority which is the council of a county or county borough in Wales may not be the authority’s chief executive.</u></p> <p>(1C) In the case of an elected local policing body, the body’s chief executive is to be taken to have been designated as the monitoring officer (and, accordingly, subsection (1)(a) does not apply; but</p>	<p>Schedule 5 Paragraph 9</p>

references to persons designated under this section include references to the body's chief executive).

(2) Subject to subsection (2B), it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, or sub-committee of the authority, by any person holding any office or employment under the authority or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

(a) a contravention by the authority, by any committee, or sub-committee of the authority, by any person holding any office or employment under the authority or by any such joint committee of any enactment or rule of law; or

(aa) any such maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners), or

(b) any such maladministration or injustice as is mentioned in Part II of the Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland); or

(c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005,

to prepare a report to the authority with respect to that proposal, decision or omission.

(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.

(2AA) No duty shall arise by virtue of subsection (2)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 in relation to the proposal, decision or omission concerned.

(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.

(3) It shall be the duty of a relevant authority's monitoring officer—

(a) in preparing a report under this section to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer or, in the case of a council of a county or county borough in Wales, with the person who is for the time being the authority's chief executive and with their chief finance officer; and

(b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent—

(a) in the case of an elected local policing body, to the body and to the police and crime panel for the body's police area;

(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—

(i) which corresponds to the authority's area, or

(ii) within which the area of the authority falls;

(ab) in the case of the London Fire Commissioner, to the Commissioner; and

(b) in any other case, to each member of the authority.

(3A) The references in subsection (2) above, in relation to a relevant authority in England, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to—

(a) any inshore fisheries and conservation authority ("IFC authority") the members of which include persons who are members of the relevant authority, and

(b) any sub-committee appointed by such an authority;

but in relation to any such IFC authority or sub-committee the reference in subsection (3)(b) above to each member of the authority shall have effect as a reference to each member of the IFC authority or, as the case may be, of the IFC authority which appointed the sub-committee.

(4) [repealed]

(5) It shall be the duty of a relevant authority and of any IFC authority falling within paragraph (a) of subsection (3A) above —

(a) to consider any report under this section by a monitoring officer or his deputy—

(i) in the case of an elected local policing body, no later than three months after the body is sent a copy of the report; and

(ia) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, no later than three months after the authority is sent a copy of the report;

(ib) in the case of the London Fire Commissioner, no later than three months after the Commissioner is sent a copy of the report;

(ii) in any other case, at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority ; and

(b) without prejudice to any duty imposed by virtue of section 115 of the Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for

giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;

and nothing in section 101 of the Local Government Act 1972 or in section 56 of the Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.

(6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.

(7) The duties of a relevant authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.

(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).

(8) In this section and in section 5A—

“business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;

“chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the Local Government Act 1985, section 112 of the Local Government Finance Act 1988, section 127(2) of the Greater London Authority Act 1999, Schedule 1 to the Police Reform and Social Responsibility Act 2011, section 4D(4) of the Fire and Rescue Services Act 2004 or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs;

“inshore fisheries and conservation authority” means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;

“relevant authority”—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (k) of section 21(1) below, an elected local policing body, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner; and

(b) in relation to Scotland, means a local authority.

(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions

<p>which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.</p> <p><del>(8B) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to duties conferred on a monitoring officer by paragraph 38B of Schedule 12 to the Local Government Act 1972 (duties of monitoring officer for principal council in Wales in relation to polls consequent on community meetings).</del></p> <p>(9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.</p>	
<p><b>5A Reports of monitoring officer—local authorities operating executive arrangements</b></p> <p>(1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.</p> <p>(2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.</p> <p>(3) The events referred to for the purposes of subsection (2) are—</p> <ul style="list-style-type: none"> <li>(a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or</li> <li>(b) any such maladministration or failure as is mentioned in part III of the Local Government Act 1974 (Local Commissioners); or</li> <li>(c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005 or the Public Services Ombudsman (Wales) Act 2019.</li> </ul> <p>(4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.</p> <p>(4A) No duty shall arise by virtue of subsection (3)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 or the Public Services Ombudsman (Wales) Act 2019 in relation to the proposal, decision or omission concerned.</p> <p>(5) It shall be the duty of an authority's monitoring officer—</p> <ul style="list-style-type: none"> <li>(a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer <u>or, in the case of a council of a county or county borough in Wales, with</u></li> </ul>	<p>Schedule 5 Paragraph 10</p>

<p><u>the person who is for the time being the authority's chief executive and with their chief finance officer;</u> and</p> <p>(b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority.</p> <p>(6) It shall be the duty of the authority's executive—</p> <p>(a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and</p> <p>(b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.</p> <p>(7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.</p> <p>(8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—</p> <p>(a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;</p> <p>(b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and</p> <p>(c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.</p> <p>(9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.</p> <p>(10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.</p>	
<p>Appointment and management etc. of staff</p> <p><b>12 Conflict of interest in staff negotiations</b></p> <p>(1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never</p>	<p>Schedule 2 Paragraph 5</p>



<p>represented, whether directly or indirectly by, or by persons who include—</p> <p>(a) a person who is both a member of the authority and in such employment; or</p> <p>(b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.</p> <p>(2) In this section—</p> <p>“member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions; and</p> <p>“official” and “trade union” have the same meanings as in the Trade Union and Labour Relations (Consolidation) Act 1992;</p> <p>and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) <u>or section 80C(1)</u> of the Local Government Act 1972 or section 31(1)(a) of the Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.</p> <p>(3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.</p>	
<p style="text-align: center;"><b>Interpretation of Part I</b></p> <p><b>21 Interpretation of Part I</b></p> <p>(1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—</p> <p>(a) a county council;</p> <p>(aa) a county borough council;</p> <p>(b) a district council;</p> <p>(c) a London borough council;</p> <p>(d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;</p> <p>(e) the Council of the Isles of Scilly;</p> <p>(f) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;</p> <p>(g), (ga) [repealed]</p> <p>(h) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);</p> <p>(i) a joint authority established by Part IV of that Act ( fire and rescue services and transport) ;</p> <p>(j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);</p>	<p>Schedule 5 Paragraph 11</p>

- (ja) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- (jb) a combined authority established under section 103 of that Act
- (jc) a sub-national transport body established under section 102E of the Local Transport Act 2008;
- (k) the Broads Authority;
- (l) any joint board the constituent members of which consist of any of the bodies specified above;
- (m) [repealed]; and
- (n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990.

(1A) In section 7 references to a local authority include a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.

(1B) In the application of section 1(1) to a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 by virtue of subsection (1A) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining such an authority.

(1C) In the following provisions of this Part references to a local authority include the London Fire Commissioner—

- (a) section 7 (all staff to be appointed on merit), and
- (b) section 10 (limit on paid leave for local authority duties).

(1D) In the application of section 1(1) to the London Fire Commissioner by virtue of subsection (1C) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining the London Fire Commissioner.

(2) Any reference in this Part to a local authority is, in relation to Scotland, a reference to a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 or a joint board within the meaning of section 235(1) of the Local Government (Scotland) Act 1973.

(3) In this Part—

“chief executive” means the person appointed under section 59 of the Local Government and Elections (Wales) Act 2020 as the chief executive of a council of a county or county borough in Wales;

“contravention” includes a failure to comply;

“executive”, “executive arrangements” have the same meaning as in Part II of the Local Government Act 2000;

“modifications” includes additions, alterations and omissions;

“proper officer”—

- (a) in relation to a local authority in England and Wales, has the same meaning as in the Local Government Act 1972; and



<p>(b) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and</p> <p>“subordinate legislation” has the same meaning as in the Interpretation Act 1978.</p> <p>(4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise) or a member of any executive of the authority (other than a council manager).</p>	
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# Localism Act 2011

Section	Amended by
<p align="center"><b>Part 1 Local Government</b></p> <p align="center"><b>Chapter 8 Pay Accountability</b></p> <p><b>43 Interpretation</b></p> <p>(1) In this Chapter “relevant authority” means—</p> <ul style="list-style-type: none"> <li>(a) a county council,</li> <li>(b) a county borough council,</li> <li>(c) a district council,</li> <li>(d) a London borough council,</li> <li>(e) the Common Council of the City of London in its capacity as a local authority,</li> <li>(f) the Council of the Isles of Scilly,</li> <li>(g) in relation only to sections 38, 40 and 41 and this section, the London Fire Commissioner,</li> <li>(h) a metropolitan county fire and rescue authority,</li> <li>(i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, or</li> <li>(j) in relation only to sections 38, 40 and 41 and this section, a fire and rescue authority created by an order under section 4A of that Act.</li> </ul> <p>(2) In this Chapter “chief officer”, in relation to a relevant authority, means each of the following—</p> <ul style="list-style-type: none"> <li>(a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;</li> <li><u>(aa) its chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020 (chief executive of council in Wales);</u></li> <li>(b) its monitoring officer designated under section 5(1) of <u>the Local Government and Housing Act 1989</u>;</li> <li>(c) a statutory chief officer mentioned in section 2(6) of that Act;</li> <li>(d) a non-statutory chief officer mentioned in section 2(7) of that Act;</li> <li>(e) a deputy chief officer mentioned in section 2(8) of that Act;</li> <li><u>(f) its head of democratic services designated under section 8(1) of the Local Government (Wales) Measure 2011 (designation by council of a county or county borough in Wales).</u></li> </ul> <p>(3) In this Chapter “remuneration”, in relation to a chief officer and a relevant authority, means—</p> <ul style="list-style-type: none"> <li>(a) the chief officer's salary or, in the case of a chief officer engaged by the authority under a contract for services,</li> </ul>	<p>Schedule 5 Paragraph 17</p> <p>Part 9 Section 159</p>

<p>payments made by the authority to the chief officer for those services,</p> <p>(b) any bonuses payable by the authority to the chief officer,</p> <p>(c) any charges, fees or allowances payable by the authority to the chief officer,</p> <p>(d) any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment,</p> <p>(e) any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and</p> <p>(f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.</p> <p>(4) In this Chapter “terms and conditions”, in relation to a chief officer and a relevant authority, means the terms and conditions on which the chief officer holds office under or is employed by the authority.</p> <p>(5) References in this Chapter to the remuneration of, or the other terms and conditions applying to, a chief officer include—</p> <p>(a) the remuneration that may be provided to, or the terms and conditions that may apply to, that chief officer in the future, and</p> <p>(b) the remuneration that is to be provided to, or the terms and conditions that are to apply to, chief officers of that kind that the authority may appoint in the future.</p> <p>(6) In this Chapter “remuneration”, in relation to a relevant authority and an employee of its who is not a chief officer, means—</p> <p>(a) the employee's salary,</p> <p>(b) any bonuses payable by the authority to the employee,</p> <p>(c) any allowances payable by the authority to the employee,</p> <p>(d) any benefits in kind to which the employee is entitled as a result of the employee's employment,</p> <p>(e) any increase in or enhancement of the employee's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and</p> <p>(f) any amounts payable by the authority to the employee on the employee ceasing to be employed by the authority, other than any amounts that may be payable by virtue of any enactment.</p> <p>(7) References in this Chapter to the remuneration of an employee who is not a chief officer include—</p> <p>(a) the remuneration that may be provided to that employee in the future, and</p> <p>(b) the remuneration that is to be provided to employees of the same kind that the authority may employ in the future.</p> <p>(8) In this Chapter—</p>	
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<p>“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);</p> <p>“financial year” means the period of 12 months ending with 31 March in any year.</p>	
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# Planning and Compulsory Purchase Act 2004

Section	Amended by
<p style="text-align: center;"><b>Part 3 Development</b></p> <p style="text-align: center;"><i>Development plan</i></p> <p><b>38 Development Plan</b></p> <p>(1) A reference to the development plan in any enactment mentioned in subsection (7) must be construed in accordance with subsections (2) to (5).</p> <p>(2) For the purposes of any area in Greater London the development plan is—</p> <ul style="list-style-type: none"> <li>(a) the spatial development strategy,</li> <li>(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area, and</li> <li>(c) the neighbourhood development plans which have been made in relation to that area.</li> </ul> <p>(3) For the purposes of any other area in England the development plan is—</p> <ul style="list-style-type: none"> <li>(a) the regional strategy for the region in which the area is situated (if there is a regional strategy for that region), and</li> <li>(b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area, and</li> <li>(c) the neighbourhood development plans which have been made in relation to that area.</li> </ul> <p>(3A) For the purposes of any area in England (but subject to subsection (3B)) a neighbourhood development plan which relates to that area also forms part of the development plan for that area if—</p> <ul style="list-style-type: none"> <li>(a) section 38A(4)(a) (approval by referendum) applies in relation to the neighbourhood development plan, but</li> <li>(b) the local planning authority to whom the proposal for the making of the plan has been made have not made the plan.</li> </ul> <p>(3B) The neighbourhood development plan ceases to form part of the development plan if the local planning authority decide under section 38A(6) not to make the plan.</p> <p>(4) For the purposes of any area in Wales the development plan is the local development plan adopted or approved in relation to that area —</p> <ul style="list-style-type: none"> <li>(a) the National Development Framework for Wales,</li> <li><del>(b) the strategic development plan for any strategic planning area that includes all or part of that area, and</del></li> <li><u>(b) any strategic development plan for an area that includes all or part of that area, and</u></li> <li>(c) the local development plan for that area].</li> </ul>	<p>Schedule 9 Paragraph 2</p>

<p>(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.</p> <p>(6) If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.</p> <p>(7) The enactments are—</p> <ul style="list-style-type: none"> <li>(a) this Act;</li> <li>(b) the planning Acts;</li> <li>(c) any other enactment relating to town and country planning;</li> <li>(d) the Land Compensation Act 1961 (c 33);</li> <li>(e) the Highways Act 1980 (c 66).</li> </ul> <p>(8) In subsection (5) references to a development plan include a development plan for the purposes of paragraph 1 of Schedule 8.</p> <p>(9) Development plan document must be construed in accordance with section 37(3).</p> <p>(10) Neighbourhood development plan must be construed in accordance with section 38A.</p>	
<p style="text-align: center;"><i>Strategic planning</i></p> <p><b><del>60D Power to designate strategic planning area and establish strategic planning panel</del></b></p> <p><del>(1) The Welsh Ministers may by regulations—</del></p> <ul style="list-style-type: none"> <li><del>(a) designate an area in Wales as a strategic planning area for the purposes of this Part, and</del></li> <li><del>(b) establish a strategic planning panel for that area.</del></li> </ul> <p><del>(2) A strategic planning area must comprise—</del></p> <ul style="list-style-type: none"> <li><del>(a) all of the area of one local planning authority, and</del></li> <li><del>(b) all or part of the area of at least one other local planning authority.</del></li> </ul> <p><del>(3) The Welsh Ministers must not make regulations under this section unless—</del></p> <ul style="list-style-type: none"> <li><del>(a) they have given a direction under section 60E(1) to a local planning authority all or part of whose area is included in the strategic planning area to be designated by the regulations,</del></li> <li><del>(b) either—</del> <ul style="list-style-type: none"> <li><del>(i) a proposal for an area to be designated has been submitted in accordance with section 60E(6), or</del></li> <li><del>(ii) the period for complying with section 60E(6) has ended without a proposal being submitted, and</del></li> </ul> </li> <li><del>(c) they have carried out any consultation required by section 60F(1).</del></li> </ul>	<p>Schedule 9 Paragraph 3</p>

(4) Paragraphs (a) and (b) of subsection (3) do not apply in relation to regulations that revoke or amend previous regulations under this section.

(5) Schedule 2A contains provisions about strategic planning panels.

**60E Preparation and submission of proposal for strategic planning area**

(1) The Welsh Ministers may direct one or more local planning authorities to submit a proposal for an area to be designated as a strategic planning area under section 60D.

(2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.

(3) In this section, the “responsible authority” means—

(a) where a direction under subsection (1) is given to a single local planning authority, that authority;

(b) where a direction under subsection (1) is given to two or more local planning authorities, those authorities acting jointly.

(4) The responsible authority must prepare a proposal for an area to be designated as a strategic planning area.

(5) Before submitting the proposal to the Welsh Ministers, the responsible authority must consult—

(a) each local planning authority, other than one to which the direction under subsection (1) was given, for an area all or part of which is included in the proposed strategic planning area, and

(b) any other persons specified in, or of a description specified in, the direction.

(6) The responsible authority must submit to the Welsh Ministers—

(a) the proposal, and

(b) a report about the consultation carried out under subsection (5).

(7) A proposal submitted under subsection (6)(a) must include—

(a) a map showing the boundaries of the area which the responsible authority propose should be designated as a strategic planning area;

(b) a statement of the reasons for proposing that area, and

(c) any other information specified by the Welsh Ministers in the direction given under subsection (1).

(8) The responsible authority must comply with subsection (6)—

(a) before the end of any period specified in the direction;

(b) if no period is specified in the direction, before the end of six months beginning with the day on which the direction is given.

(9) The Welsh Ministers may agree to extend the period for complying with subsection (6) in a particular case.

<p>(10) The responsible authority must comply with any requirements set out in the direction as to—</p> <ul style="list-style-type: none"> <li>(a) how the consultation required by subsection (5) must be carried out;</li> <li>(b) the form and content of the report about the consultation;</li> <li>(c) how the proposal and the report must be submitted under subsection (6).</li> </ul> <p>(11) Subsection (12) applies if the Welsh Ministers, having given a direction under subsection (1), decide not to designate a strategic planning area.</p> <p>(12) The Welsh Ministers must give notice of their decision and the reasons for it—</p> <ul style="list-style-type: none"> <li>(a) to the responsible authority, and</li> <li>(b) if a proposal has been submitted under subsection (6), to each authority within subsection (5)(a).</li> </ul> <p><b>60F Consultation by Welsh Ministers before making certain regulations under section 60D</b></p> <p>(1) If the Welsh Ministers propose to make regulations under section 60D to which this section applies, they must consult—</p> <ul style="list-style-type: none"> <li>(a) each relevant local planning authority, and</li> <li>(b) any other persons they consider appropriate.</li> </ul> <p>(2) This section applies to regulations under section 60D if the Welsh Ministers have given a direction under section 60E(1) and—</p> <ul style="list-style-type: none"> <li>(a) the boundaries of the strategic planning area that would be designated by the regulations are different from the boundaries of the area proposed under section 60E(6) pursuant to the direction, or</li> <li>(b) the period for complying with section 60E(6) has ended without a proposal being submitted.</li> </ul> <p>(3) This section also applies to regulations under section 60D revoking or amending previous regulations under that section.</p> <p>(4) A local planning authority is a relevant local planning authority in relation to regulations to which this section applies if all or part of the authority's area is included in—</p> <ul style="list-style-type: none"> <li>(a) the strategic planning area that would be designated by the regulations, or</li> <li>(b) a strategic planning area designated by previous regulations under section 60D that would be revoked or amended by the regulations</li> </ul> <p><b>60G Provision of information to Welsh Ministers</b></p> <p>A local planning authority must provide the Welsh Ministers with any information that the Welsh Ministers request for the purpose of exercising their functions under sections 60D to 60F.</p>	
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**60H Strategic planning area: survey**

- (1) A strategic planning panel must keep under review the matters which may be expected to affect the development of its strategic planning area or the planning of the development of that area.
- (2) Subsections (2) to (5) of section 61 apply in relation to a strategic planning panel as they apply in relation to a local planning authority.
- (3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—
- (a) references to a local planning authority are to be construed as references to a strategic planning panel;
- (b) references to a neighbouring area are to be construed as references to a neighbouring strategic planning area.]

**60I Strategic development plan**

- (1) A strategic planning panel must prepare a plan for its strategic planning area, to be known as a strategic development plan.
- (2) The plan must set out—
- (a) the panel's objectives in relation to the development and use of land in its area;
- (b) the panel's policies for the implementation of those objectives.
- (3) A strategic development plan must be in general conformity with the National Development Framework for Wales.
- (4) The plan must specify the period for which it is to have effect.
- (5) The Welsh Ministers may by regulations make provision about—
- (a) the period that may be specified under subsection (4);
- (b) the form and content of the plan.
- (6) In preparing a strategic development plan, the strategic planning panel must have regard to—
- (a) current national policies;
- (b) the National Development Framework for Wales;
- (c) the strategic development plan for any strategic planning area that adjoins the panel's area;
- (d) the local development plan for each area all or part of which is included in the panel's area;
- (e) the resources likely to be available for implementing the strategic development plan;
- (f) any other matters prescribed by the Welsh Ministers in regulations.
- (7) The panel must also—
- (a) carry out an appraisal of the sustainability of the plan;
- (b) prepare a report of the findings of the appraisal.

<p><del>(8) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the strategic planning area.</del></p> <p><del>(9) A plan is a strategic development plan only in so far as it is—</del></p> <p style="padding-left: 40px;"><del>(a) adopted by resolution of the strategic planning panel as a strategic development plan, or</del></p> <p style="padding-left: 40px;"><del>(b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60J).</del></p> <p><del>(10) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).</del></p> <p><b><del>60J Strategic development plan: application of provisions of this Part</del></b></p> <p><del>(1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.</del></p> <p><del>(2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan.</del></p> <p><del>(3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.</del></p> <p><del>(4) In those provisions as they apply by virtue of subsection (1)—</del></p> <p style="padding-left: 40px;"><del>(a) references to a local planning authority are to be construed as references to a strategic planning panel;</del></p> <p style="padding-left: 40px;"><del>(b) references to a local development plan are to be construed as references to a strategic development plan.</del></p> <p><del>(5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60I.</del></p> <p><del>(6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60I(7).</del></p>	
<p style="text-align: center;"><u><i>Strategic planning by corporate joint committees</i></u></p> <p><b><u>60K Corporate joint committees to which this Part applies</u></b></p> <p><u>In this Part, references to a corporate joint committee are to a corporate joint committee to which this Part applies by virtue of regulations under Part 5 of the Local Government and Elections (Wales) Act 2021.</u></p> <p><b><u>60L Corporate joint committees: area survey</u></b></p> <p><u>(1) A corporate joint committee must keep under review the matters which may be expected to affect the development, or the planning of the development, of its area.</u></p>	<p>Schedule 9 Paragraph 4</p>

(2) Subsections (2) to (5) of section 61 apply in relation to a corporate joint committee as they apply in relation to a local planning authority.

(3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—

(a) references to a local planning authority are to be construed as references to a corporate joint committee;

(b) references to a neighbouring area are to be construed as references to a neighbouring area which is the area of another corporate joint committee.

**60M Corporate joint committee areas: strategic development plans**

(1) A corporate joint committee must prepare a plan for its area to be known as a strategic development plan.

(2) The plan must set out—

(a) the committee's objectives in relation to the development and use of land in its area;

(b) the committee's policies for the implementation of those objectives.

(3) The plan must be in general conformity with the National Development Framework for Wales.

(4) The plan must specify the period for which it is to have effect.

(5) The Welsh Ministers may by regulations make provision about—

(a) the period that may be specified under subsection (4);

(b) the form and content of the plan.

(6) In preparing its plan the committee must have regard to—

(a) current national policies;

(b) the National Development Framework for Wales;

(c) any strategic development plan for an area that adjoins the committee's area;

(d) the local development plan for each area all or part of which is included in the committee's area;

(e) the resources likely to be available for implementing the plan;

(f) any other matters prescribed by the Welsh Ministers in regulations.

(7) The committee must also—

(a) carry out an appraisal of the sustainability of the plan;

(b) prepare a report of the findings of the appraisal.

(8) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the area.

(9) A plan is a strategic development plan only in so far as it is—

<p><u>(a) adopted by resolution of the corporate joint committee as its strategic development plan, or</u></p> <p><u>(b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60N).</u></p> <p><u>(10) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).</u></p> <p><b><u>60N Strategic development plans: application of provisions of this Part</u></b></p> <p><u>(1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.</u></p> <p><u>(2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan prepared by a corporate joint committee.</u></p> <p><u>(3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.</u></p> <p><u>(4) In those provisions as they apply by virtue of subsection (1)—</u></p> <p><u>(a) references to a local planning authority are to be construed as references to a corporate joint committee;</u></p> <p><u>(b) references to a local development plan are to be construed as references to a strategic development plan.</u></p> <p><u>(5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60M.</u></p> <p><u>(6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60M(7)."</u></p>	
<p style="text-align: center;"><i>Plans</i></p> <p><b>62 Local development plan</b></p> <p>(1) The local planning authority must prepare a plan for their area to be known as a local development plan.</p> <p>(2) The plan must set out—</p> <p style="padding-left: 20px;">(a) the authority's objectives in relation to the development and use of land in their area;</p> <p style="padding-left: 20px;">(b) their general policies for the implementation of those objectives.</p> <p>(3) The plan may also set out specific policies in relation to any part of the area of the authority.</p> <p>(3A) The plan must be in general conformity with—</p> <p style="padding-left: 20px;">(a) the National Development Framework for Wales, and</p> <p style="padding-left: 20px;">(b) the strategic development plan for any <del>strategic planning</del> area that includes all or part of the area of the authority.</p> <p>(3B) The plan must specify the period for which it is to have effect.</p>	<p>Schedule 9 Paragraph 5</p>

<p>(4) Regulations under this section may—</p> <ul style="list-style-type: none"> <li>(a) make provision about the period that may be specified under subsection (3B);</li> <li>(b) prescribe the form and content of the plan.</li> </ul> <p>(5) In preparing a local development plan the authority must have regard to—</p> <ul style="list-style-type: none"> <li>(a) current national policies;</li> <li>(b) the National Development Framework for Wales;</li> <li>(ba) the strategic development plan for any <del>strategic planning</del> area that— <ul style="list-style-type: none"> <li>(i) includes all or part of the area of the authority, or</li> <li>(ii) adjoins that area;</li> </ul> </li> <li>(bb) any area statement published under section 11 of the Environment (Wales) Act 2016 for an area that includes all or part of the area of the authority;</li> <li>(c) the RSS for any region which adjoins the area of the authority;</li> <li>(d) any relevant local well-being plan;</li> <li>(e) [repealed]</li> <li>(f) the resources likely to be available for implementing the plan;</li> <li>(g) such other matters as the Assembly prescribes.</li> </ul> <p>(6) The authority must also—</p> <ul style="list-style-type: none"> <li>(a) carry out an appraisal of the sustainability of the plan;</li> <li>(b) prepare a report of the findings of the appraisal.</li> </ul> <p>(6A) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the area of the authority.</p> <p>(7) A local well-being plan is relevant if it has been published under section 39 or 44(5) of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) by—</p> <ul style="list-style-type: none"> <li>(a) in the case of an authority which is a county council or county borough council, the public services board of which that authority is a member;</li> <li>(b) in the case of an authority which is a National Park Authority, the public services board for an area that includes any part of that authority's area;</li> <li>(c) in the case of an authority which is a joint planning board, the public services board for an area that includes any part of that authority's united district.</li> </ul> <p>(8) A plan is a local development plan only in so far as it—</p> <ul style="list-style-type: none"> <li>(a) is adopted by resolution of the local planning authority as a local development plan;</li> <li>(b) is approved by the Assembly under section 65 or 71.</li> </ul>	
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(9) A plan ceases to be a local development plan on the expiry of the period specified under subsection (3B).	
<p><b>68A Duty to consider whether to review local development plan</b></p> <p>(1) Following the publication of the National Development Framework for Wales or a revised Framework, a local planning authority must consider whether to carry out a review of their local development plan.</p> <p>(2) Following the adoption or approval of a strategic development plan or revised strategic development plan for <del>a strategic planning area</del>, a local planning authority <del>for an area all or part of which is included in the strategic planning area</del> <u>all or part of their area</u>, a local planning authority must consider whether to carry out a review of their local development plan</p>	Schedule 9 Paragraph 6

# Planning (Wales) Act 2015

Section	Amended by
<p style="text-align: center;"><i>Strategic Planning</i></p> <p><del>4 Designating strategic planning areas and establishing strategic planning panels</del></p> <p><del>(1) In PCPA 2004, after section 60C (as inserted by section 3) insert—</del></p> <p><del>“Strategic planning</del></p> <p><del><b>60D Power to designate strategic planning area and establish strategic planning panel</b></del></p> <p><del>(1) The Welsh Ministers may by regulations—</del></p> <p style="padding-left: 40px;"><del>(a) designate an area in Wales as a strategic planning area for the purposes of this Part, and</del></p> <p style="padding-left: 40px;"><del>(b) establish a strategic planning panel for that area.</del></p> <p><del>(2) A strategic planning area must comprise—</del></p> <p style="padding-left: 40px;"><del>(a) all of the area of one local planning authority, and</del></p> <p style="padding-left: 40px;"><del>(b) all or part of the area of at least one other local planning authority.</del></p> <p><del>(3) The Welsh Ministers must not make regulations under this section unless—</del></p> <p style="padding-left: 40px;"><del>(a) they have given a direction under section 60E(1) to a local planning authority all or part of whose area is included in the strategic planning area to be designated by the regulations,</del></p> <p style="padding-left: 40px;"><del>(b) either—</del></p> <p style="padding-left: 80px;"><del>(i) a proposal for an area to be designated has been submitted in accordance with section 60E(6), or</del></p> <p style="padding-left: 80px;"><del>(ii) the period for complying with section 60E(6) has ended without a proposal being submitted, and</del></p> <p style="padding-left: 40px;"><del>(c) they have carried out any consultation required by section 60F(1).</del></p> <p><del>(4) Paragraphs (a) and (b) of subsection (3) do not apply in relation to regulations that revoke or amend previous regulations under this section.</del></p> <p><del>(5) Schedule 2A contains provisions about strategic planning panels.</del></p> <p><del><b>60E Preparation and submission of proposal for strategic planning area</b></del></p> <p><del>(1) The Welsh Ministers may direct one or more local planning authorities to submit a proposal for an area to be designated as a strategic planning area under section 60D.</del></p> <p><del>(2) If the Welsh Ministers give a direction under subsection (1), they must state their reasons for doing so.</del></p> <p><del>(3) In this section, the “responsible authority” means—</del></p>	<p>Schedule 9 Paragraph 10</p>

~~(a) where a direction under subsection (1) is given to a single local planning authority, that authority;~~

~~(b) where a direction under subsection (1) is given to two or more local planning authorities, those authorities acting jointly.~~

~~(4) The responsible authority must prepare a proposal for an area to be designated as a strategic planning area.~~

~~(5) Before submitting the proposal to the Welsh Ministers, the responsible authority must consult—~~

~~(a) each local planning authority, other than one to which the direction under subsection (1) was given, for an area all or part of which is included in the proposed strategic planning area, and~~

~~(b) any other persons specified in, or of a description specified in, the direction.~~

~~(6) The responsible authority must submit to the Welsh Ministers—~~

~~(a) the proposal, and~~

~~(b) a report about the consultation carried out under subsection (5).~~

~~(7) A proposal submitted under subsection (6)(a) must include—~~

~~(a) a map showing the boundaries of the area which the responsible authority propose should be designated as a strategic planning area,~~

~~(b) a statement of the reasons for proposing that area, and~~

~~(c) any other information specified by the Welsh Ministers in the direction given under subsection (1).~~

~~(8) The responsible authority must comply with subsection (6)—~~

~~(a) before the end of any period specified in the direction;~~

~~(b) if no period is specified in the direction, before the end of six months beginning with the day on which the direction is given.~~

~~(9) The Welsh Ministers may agree to extend the period for complying with subsection (6) in a particular case.~~

~~(10) The responsible authority must comply with any requirements set out in the direction as to—~~

~~(a) how the consultation required by subsection (5) must be carried out;~~

~~(b) the form and content of the report about the consultation;~~

~~(c) how the proposal and the report must be submitted under subsection (6).~~

~~(11) Subsection (12) applies if the Welsh Ministers, having given a direction under subsection (1), decide not to designate a strategic planning area.~~

~~(12) The Welsh Ministers must give notice of their decision and the reasons for it—~~



- (a) to the responsible authority, and
- (b) if a proposal has been submitted under subsection (6), to each authority within subsection (5)(a).

**~~60F Consultation by Welsh Ministers before making certain regulations under section 60D~~**

~~(1) If the Welsh Ministers propose to make regulations under section 60D to which this section applies, they must consult—~~

- ~~(a) each relevant local planning authority, and~~
- ~~(b) any other persons they consider appropriate.~~

~~(2) This section applies to regulations under section 60D if the Welsh Ministers have given a direction under section 60E(1) and—~~

- ~~(a) the boundaries of the strategic planning area that would be designated by the regulations are different from the boundaries of the area proposed under section 60E(6) pursuant to the direction, or~~
- ~~(b) the period for complying with section 60E(6) has ended without a proposal being submitted.~~

~~(3) This section also applies to regulations under section 60D revoking or amending previous regulations under that section.~~

~~(4) A local planning authority is a relevant local planning authority in relation to regulations to which this section applies if all or part of the authority's area is included in—~~

- ~~(a) the strategic planning area that would be designated by the regulations, or~~
- ~~(b) a strategic planning area designated by previous regulations under section 60D that would be revoked or amended by the regulations.~~

**~~60G Provision of information to Welsh Ministers~~**

~~A local planning authority must provide the Welsh Ministers with any information that the Welsh Ministers request for the purpose of exercising their functions under sections 60D to 60F."~~

~~(2) For further provisions about strategic planning panels, see Schedule 1~~

**~~5 Strategic planning areas: survey~~**

~~In PCPA 2004, after section 60G (as inserted by section 4) insert—~~

**~~"60H Strategic planning area: survey~~**

~~(1) A strategic planning panel must keep under review the matters which may be expected to affect the development of its strategic planning area or the planning of the development of that area.~~

~~(2) Subsections (2) to (5) of section 61 apply in relation to a strategic planning panel as they apply in relation to a local planning authority.~~

~~(3) In subsections (2) to (5) of section 61 as they apply by virtue of subsection (2)—~~

- (a) references to a local planning authority are to be construed as references to a strategic planning panel;
- (b) references to a neighbouring area are to be construed as references to a neighbouring strategic planning area."

## **~~6 Preparing and revising strategic development plans~~**

In PCPA 2004, after section 60H (as inserted by section 5) insert—

### **~~"60I Strategic development plan~~**

~~(1) A strategic planning panel must prepare a plan for its strategic planning area, to be known as a strategic development plan.~~

~~(2) The plan must set out—~~

~~(a) the panel's objectives in relation to the development and use of land in its area;~~

~~(b) the panel's policies for the implementation of those objectives.~~

~~(3) A strategic development plan must be in general conformity with the National Development Framework for Wales.~~

~~(4) The plan must specify the period for which it is to have effect.~~

~~(5) The Welsh Ministers may by regulations make provision about—~~

~~(a) the period that may be specified under subsection (4);~~

~~(b) the form and content of the plan.~~

~~(6) In preparing a strategic development plan, the strategic planning panel must have regard to—~~

~~(a) current national policies;~~

~~(b) the National Development Framework for Wales;~~

~~(c) the strategic development plan for any strategic planning area that adjoins the panel's area;~~

~~(d) the local development plan for each area all or part of which is included in the panel's area;~~

~~(e) the resources likely to be available for implementing the strategic development plan;~~

~~(f) any other matters prescribed by the Welsh Ministers in regulations.~~

~~(7) The panel must also—~~

~~(a) carry out an appraisal of the sustainability of the plan;~~

~~(b) prepare a report of the findings of the appraisal.~~

~~(8) The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh language in the strategic planning area.~~

~~(9) A plan is a strategic development plan only in so far as it is—~~

- ~~(a) adopted by resolution of the strategic planning panel as a strategic development plan, or~~
- ~~(b) approved by the Welsh Ministers under section 65 or 71 (as they apply by virtue of section 60J).~~

~~(10) The plan ceases to be a strategic development plan on the expiry of the period specified under subsection (4).~~

**60J Strategic development plan: application of provisions of this Part**

~~(1) The provisions specified in subsection (3) apply in relation to a strategic development plan as they apply in relation to a local development plan.~~

~~(2) Accordingly, where a provision specified in subsection (3) confers power for the Welsh Ministers to make provision by regulations in respect of a local development plan, that power is also exercisable so as to make provision in respect of a strategic development plan.~~

~~(3) The provisions are sections 63 to 68, 68A(1), 69 to 71, 73 and 75 to 77.~~

~~(4) In those provisions as they apply by virtue of subsection (1)—~~

~~(a) references to a local planning authority are to be construed as references to a strategic planning panel;~~

~~(b) references to a local development plan are to be construed as references to a strategic development plan.~~

~~(5) In section 64(5)(a) as it applies by virtue of this section, the reference to section 62 is to be construed as a reference to section 60I.~~

~~(6) In section 77(2)(a) as it applies by virtue of this section, the reference to section 62(6) is to be construed as a reference to section 60I(7)."~~

## Transport (Wales) Act 2006

Section	Amended by
<p><b>5 Joint transport authorities</b></p> <p>(1) The Assembly may by order establish a body (to be known as a joint transport authority) to discharge specified transport functions for an area made up of all or any part or parts of the areas of two or more specified local authorities in Wales.</p> <p>(2) Before making an order under subsection (1) the Assembly must consult the local authorities concerned and any other persons it considers appropriate.</p> <p>(3) A joint transport authority must be established as a body corporate.</p> <p>(4) An order under subsection (1) may include provision—</p> <ul style="list-style-type: none"> <li>(a) about the composition of the joint transport authority (including the appointment of members of the authority by the local authorities concerned and by the Assembly);</li> <li>(b) about the proceedings of the authority (including different provision in respect of the voting rights of different categories of member);</li> <li>(c) about the financing of the authority;</li> <li>(d) about the discharge of the functions of the authority (including provision for the discharge of functions by committees);</li> <li>(e) about officers of the authority;</li> <li>(f) about the acquisition, appropriation and disposal of land by the authority (including provision for the acquisition of land by agreement or compulsorily);</li> <li>(g) for the transfer of staff, property, rights and liabilities to the authority;</li> <li>(h) for the payment of compensation in respect of loss suffered by any person in consequence of the constitution of the authority;</li> <li>(i) for specified enactments relating to local authorities in Wales and transport functions to have effect, in relation to the authority and its functions, with any specified modifications.</li> </ul> <p>(5) If an order under subsection (1) includes provision for the appointment of members of the authority by persons other than the local authorities concerned, the order must not provide for the total number of members so appointed to be equal to, or exceed, half the total number of members capable of being appointed.</p> <p>(6) The Assembly may vary or revoke an order under subsection (1) only if it is satisfied that, on variation or revocation, satisfactory arrangements will be in place for the discharge of the functions of the joint transport authority.</p> <p>(7) An order varying or revoking an order under subsection (1) may include provision for the transfer of staff, property, rights and</p>	<p>Schedule 9 Paragraph 50</p>

<p>liabilities from the joint transport authority to one or more other joint transport authorities or local authorities in Wales.</p> <p>(8) Before varying or revoking an order under subsection (1) the Assembly must consult—</p> <p>(a) any joint transport authorities and local authorities in Wales which appear to it likely to be affected;</p> <p>(b) any other persons it considers appropriate.</p> <p>(9) [repealed]</p> <p>(10) For the purposes of section 74 of the Local Government Finance Act 1988 (c. 41) (levies)—</p> <p>(a) a joint transport authority is to be treated as a levying body with respect to which regulations may be made under subsection (2) of that section, and</p> <p>(b) the reference in that subsection to the council concerned is to be treated as a reference to the local authorities specified in the order under subsection (1) establishing the joint transport authority.</p> <p>(11) In this section—</p> <p>“specified”, in relation to an order under subsection (1), means specified in the order;</p> <p>“transport function” means a function of a local authority in Wales relating to transport.</p>	
<p><b>6 Financial assistance: local transport functions</b></p> <p>(1) The Assembly may give financial assistance to—</p> <p>(a) joint transport authorities, and</p> <p>(b) local authorities in Wales,</p> <p>for the purpose of enabling or facilitating them to discharge their functions relating to transport.</p> <p>(2) The Assembly may attach conditions to financial assistance under this section.</p>	<p>Schedule 9 Paragraph 50</p>

# Well-being of Future Generations (Wales) Act 2015

Section	Amended by
<p style="text-align: center;"><b>Part 1 Introduction</b></p> <p><b>1 Overview</b></p> <p>(1) This section is an overview of the main provisions of the Act.</p> <p>(2) Part 2 of this Act—</p> <ul style="list-style-type: none"> <li>(a) explains what is meant by “sustainable development” and requires public bodies to carry out sustainable development (sections 2 and 3);</li> <li>(b) requires the bodies to set well-being objectives that are to contribute to the achievement of well-being goals and to take steps to meet those objectives (section 3)</li> <li>(c) requires the bodies to do those things in accordance with the sustainable development principle (section 3);</li> <li>(d) explains what the well-being goals are and what it means to do things in accordance with the sustainable development principle (sections 4 and 5);</li> <li>(e) requires indicators that measure progress towards achieving the well-being goals (section 10), and reports on future trends in the well-being of Wales (section 11), to be published by the Welsh Ministers;</li> <li>(f) requires the bodies to report annually on their progress towards meeting their well-being objectives (sections 12 and 13 and Schedule 1);</li> <li>(g) requires the Auditor General for Wales to carry out examinations into the extent to which public bodies set objectives and take steps to meet them in accordance with the sustainable development principle (section 15).</li> </ul> <p>(3) Part 3 of this Act—</p> <ul style="list-style-type: none"> <li>(a) establishes the office of Future Generations Commissioner for Wales (section 17 and Schedule 2);</li> <li>(b) provides for the Commissioner to promote the needs of future generations by monitoring and reporting on the extent to which the public bodies are setting and seeking to meet their well-being objectives in accordance with the sustainable development principle (section 18);</li> <li>(c) provides for the Commissioner to carry out reviews of public bodies (section 20);</li> <li>(d) establishes a panel of advisers to the Commissioner (sections 26 to 28).</li> </ul> <p>(4) Part 4 of this Act—</p> <ul style="list-style-type: none"> <li>(a) establishes a public services board for each local authority area in Wales and sets out who else a board may work with (Chapter 1);</li> <li>(b) requires boards to improve the well-being of their area by contributing to the well-being goals, which they are to do by</li> </ul>	<p>Schedule 14 Paragraph 1</p>

<p>assessing well-being in their area, setting local objectives designed to maximise the board's contribution (within its area) to the achievement of the well-being goals and taking steps to meet those objectives (Chapter 2, section 36);</p> <p>(c) requires boards to do those things in accordance with the sustainable development principle (Chapter 2, section 36);</p> <p>(d) requires boards to publish local well-being plans setting out their local objectives and how they propose to take steps to meet them (Chapter 2, section 39);</p> <p>(e) makes specific provision about how local well-being plans apply to community councils and how, in that way, a community council may contribute to the activity of the public services board in its area (Chapter 2, section 40);</p> <p>(f) provides for boards to merge or otherwise collaborate <u>and to demerge</u> (Chapter 3).</p>	
<p style="text-align: center;"><b>Part 4 Public Services Boards</b></p> <p style="text-align: center;"><b>Chapter 2 Improving Local Well-being</b></p> <p style="text-align: center;">Local well-being assessments</p> <p><b>37 Assessments of local well-being</b></p> <p>(1) A public services board must prepare and publish an assessment of the state of economic, social, environmental and cultural well-being in its area.</p> <p>(2) Each board must publish the assessment no later than one year before the date on which a local well-being plan is to be published under subsection <del>(6) or</del> (7) of section 39.</p> <p>(3) An assessment must—</p> <ul style="list-style-type: none"> <li>(a) set out which community areas comprise the area of the board;</li> <li>(b) include an analysis of the state of well-being in each community area and in the area as a whole;</li> <li>(c) include an analysis of the state of well-being of the people in the area;</li> <li>(d) include any further analysis that the board carries out by reference to criteria set and applied by it for the purpose of assessing economic, social, environmental and cultural well-being in the area or in any community situated in the area;</li> <li>(e) include predictions of likely future trends in the economic, social, environmental and cultural well-being of the area;</li> <li>(f) include any other related analytical data and information that the board considers appropriate.</li> </ul> <p>(4) An analysis referred to in subsection (3)—</p> <ul style="list-style-type: none"> <li>(a) must refer to any national indicators published under section 10;</li> </ul>	<p>Schedule 14 Paragraph 1</p>

<p>(b) must refer to a future trends reports under section 11 to the extent that it is relevant to the assessment of well-being in the area.</p> <p>(5) The community areas that comprise the area of a board are to be determined—</p> <p>(a) in accordance with regulations made by the Welsh Ministers, or</p> <p>(b) if no such regulations have been made, by the board.</p> <p>(6) The analysis referred to in subsection (3)(c) may include analyses of particular categories of persons determined by the board by reference to—</p> <p>(a) the fact that persons are vulnerable or otherwise disadvantaged for the same or similar reasons;</p> <p>(b) the persons possessing a common protected characteristic within the meaning of Chapter 1 of Part 2 of the Equality Act 2010 (c.15);</p> <p>(c) the persons being children (persons under the age of 18);</p> <p>(d) the persons being young people entitled to support under sections 105 to 115 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) as described in section 104 of that Act;</p> <p>(e) whether the persons—</p> <p>(i) may have need for care and support (as described in Part 3 of the Social Services and Well-being (Wales) Act 2014) (anaw 4)); or</p> <p>(ii) provide or intend to provide care and support for persons who may need it;</p> <p>(f) any other common factor the Board considers appropriate in describing a category of persons.</p> <p>(7) Each board must send a copy of its assessment to—</p> <p>(a) the Welsh Ministers;</p> <p>(b) the Commissioner;</p> <p>(c) the Auditor General for Wales;</p> <p>(d) the local authority's overview and scrutiny committee.</p>	
<p style="text-align: center;">Local well-being plans</p> <p><b>39 Local well-being plans</b></p> <p>(1) A public services board must prepare and publish a plan (a “local well-being plan”) setting out its local objectives and the steps it proposes to take to meet them.</p> <p>(2) The plan may include objectives—</p> <p>(a) that are also well-being objectives published under Part 2 by a member of the board;</p> <p>(b) that are to be met by the taking of steps—</p> <p>(i) by one or more members of the board, invited participants or other partners acting individually, or</p>	<p>Schedule 14 Paragraph 1</p>



<p>(ii) any combination of members, invited participants or other partners acting jointly.</p> <p>(3) But a plan may include an objective which is to be met by steps which are to be taken by an invited participant or other partner (whether individually or jointly in any combination of members, invited participants or other partners) only if the board has obtained the agreement of that invited participant or other partner, as the case may be.</p> <p>(4) In setting its well-being objectives a board must take into account the Commissioner's report under section 23.</p> <p>(5) A local well-being plan must include a statement—</p> <ul style="list-style-type: none"> <li>(a) explaining why the board considers that meeting the local objectives will contribute within the area to achieving the well-being goals;</li> <li>(b) explaining how the objectives and any proposed steps have been set with regard to any matters mentioned in the most recent assessment of well-being published under section 37;</li> <li>(c) specifying the periods of time within which the board expects to meet the objectives;</li> <li>(d) explaining how any proposed steps are to be taken in accordance with the sustainable development principle;</li> <li>(e) if the plan includes objectives referred to in subsection (2)(b), specifying the proposed steps to be taken to meet those objectives and, in the case of steps to be taken by a combination of members of the board, invited participants or other partners, the persons making up the combination;</li> <li>(f) if the plan is not the first plan published by the board, specifying the steps taken to meet the objectives set out in the board's previous plan and specifying the extent to which those objectives have been met;</li> <li>(g) providing such other information as the board considers appropriate.</li> </ul> <p><del>(6) Each board must publish its first local well-being plan no later than one year after the date on which the next ordinary election under section 26 of the Local Government Act 1972 (c. 70) following the commencement of this section is held.</del></p> <p>(7) <u>Each</u> board must publish a local well-being plan no later than one year after the date on which each <u>ordinary election under section 26 of the Local Government Act 1972 (c.70)</u> is held.</p> <p>(8) Each board must send a copy of its plan to—</p> <ul style="list-style-type: none"> <li>(a) the Welsh Ministers;</li> <li>(b) the Commissioner;</li> <li>(c) the Auditor General for Wales;</li> <li>(d) the local authority's overview and scrutiny committee.</li> </ul>	
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<p style="text-align: center;"><b>Chapter 3 Miscellaneous</b></p> <p><b>47 Merger and demerger of public services boards</b></p> <p>(1) Two or more public services boards may agree to merge if they consider it would assist them in contributing to the achievement of the well-being goals.</p> <p>(2) The Welsh Ministers may direct two or more public services boards to merge if the Welsh Ministers consider it would assist the boards in contributing to the achievement of the well-being goals.</p> <p><del>(3) But boards may merge only if—</del></p> <p style="padding-left: 40px;"><del>(a) the same Local Health Board is a member of each board seeking or being directed to merge, and</del></p> <p style="padding-left: 40px;"><del>(b) no other Local Health Board is a member of any of those boards.</del></p> <p>(4) If two or more boards merge—</p> <p style="padding-left: 40px;">(a) references in this Part (other than in this section) to a public services board must be construed as references to the merged board, and</p> <p style="padding-left: 40px;">(b) references in this Part to a local authority area must be construed as references to the combined areas of the local authorities that are members of the merged board.</p> <p><u>(5) A merged board must, as soon as reasonably practicable after it is established, review -</u></p> <p style="padding-left: 40px;"><u>(a) the local well-being plans in effect for its area immediately before it was established, and</u></p> <p style="padding-left: 40px;"><u>(b) the local objectives set out in those plans.</u></p> <p><u>(6) As soon as reasonably practicable after a review under subsection (5), the board must prepare and publish a local well-being plan for its area which may adopt the plans and objectives mentioned in subsection (5)(a) and (b) -</u></p> <p style="padding-left: 40px;"><u>(a) to the extent the board considers appropriate, and</u></p> <p style="padding-left: 40px;"><u>(b) subject to such amendments and revisions as the board considers appropriate.</u></p> <p><u>(7) A merged board may, if it considers that it would assist in contributing to the achievement of the well-being goals -</u></p> <p style="padding-left: 40px;"><u>(a) demerge, or</u></p> <p style="padding-left: 40px;"><u>(b) partially demerge (if three or more separate boards merged in the creation of the merged board).</u></p> <p><u>(8) The Welsh Ministers may, if they consider that it would assist in contributing to the achievement of the well-being goals, direct a merged board to -</u></p> <p style="padding-left: 40px;"><u>(a) demerge, or</u></p> <p style="padding-left: 40px;"><u>(b) partially demerge (if three or more separate boards merged in the creation of the merged board).</u></p> <p><u>(9) For the purposes of subsections (7) and (8), a merged board -</u></p>	<p style="text-align: center;">Part 9 Section 163</p> <p style="text-align: center;">Schedule 14 Paragraph 1</p>
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<p><u>(a) demerges if it ceases to exist and a separate public services board is established for the area of each local authority that was a member of the merged board;</u></p> <p><u>(b) partially demerges if -</u></p> <p><u>(i) it continues to exist as the public services board for the areas of two or more local authorities, and</u></p> <p><u>(ii) a separate public services board is established for the area of each local authority that has ceased to be a member of the merged board.</u></p> <p><u>(10) A public services board established after a demerger or partial demerger must, as soon as reasonably practicable after it is established, review -</u></p> <p><u>(a) the local well-being plan in effect for its area immediately before it was established, and</u></p> <p><u>(b) the local objectives set out in that plan.</u></p> <p><u>(11) As soon as reasonably practicable after a review under subsection (10), the board must prepare and publish a local well-being plan for its area which may adopt the plan and objectives mentioned in subsection (10)(a) and (b)—</u></p> <p><u>(a) to the extent the board considers appropriate, and</u></p> <p><u>(b) subject to such amendments and revisions as the board considers appropriate.</u></p> <p><u>(12) Before publishing a plan under subsection (6) or (11), a board must consult—</u></p> <p><u>(a) the Commissioner;</u></p> <p><u>(b) the Welsh Ministers;</u></p> <p><u>(c) such other persons as the board considers appropriate.</u></p> <p><u>(13) A board must send a copy of a local well-being plan published under subsection (6) or (11) to the persons mentioned in section 44(6).</u></p>	
<p><b>49 Directions to merge, demerge or collaborate</b></p> <p>(1) Before giving a direction under section 47(2) or (8) or section 48(2) the Welsh Ministers must consult each member of the public services <u>board or boards</u> they intend to direct.</p> <p>(2) When giving such a direction the Welsh Ministers must publish a statement containing their reasons for giving it.</p> <p><u>(3) The Welsh Ministers may vary or revoke such a direction.</u></p>	<p>Schedule 14 Paragraph 1</p>
<p style="text-align: center;"><b>Part 5 Final Provisions</b></p> <p><b>55 Interpretation</b></p> <p>(1) In this Act—</p> <p>“the advisory panel” (“y panel cynghori”) means the panel of advisers established under section 26;</p> <p>“the Commissioner” (“y Comisiynydd”) means the Future Generations Commissioner for Wales;</p>	<p>Schedule 14 Paragraph 1</p>

<p>“financial year” (“blwyddyn ariannol”) means the period of 12 months ending with 31 March;</p> <p>“future trends report” (“adroddiad tueddiadau tebygol y dyfodol”) has the meaning given by section 11;</p> <p>“invited participant” (“cyfranogwr gwadd”) has the meaning given by section 30(5);</p> <p>“local authority” (“awdurdod lleol”) means a county council or county borough council in Wales;</p> <p>“Local Health Board” (“Bwrdd Iechyd Lleol”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c.42);</p> <p>“local objectives” (“amcanion lleol”) means objectives set by a public services board in accordance with section 36(2)(b);</p> <p>“local well-being plan” (“cynllun llesiant lleol”) means a plan published under section 39, <u>44(5)</u> or <u>47(6)</u> or (11);</p> <p>“National Assembly” (“Cynulliad Cenedlaethol”) means the National Assembly for Wales;</p> <p>“national indicators” (“dangosyddion cenedlaethol”) has the meaning given by section 10(1)(a);</p> <p>“other partners” (“partneriaid eraill”), in relation to a public services board, means the bodies mentioned in section 32(1);</p> <p>“overview and scrutiny committee” (“pwyllgor trosolwg a chraffu”) is to be construed in accordance with section 35(4);</p> <p>“police area” (“ardal heddlu”) means an area listed under the heading “Wales” in Schedule 1 to the Police Act 1996 (c.16) (police areas outside London);</p> <p>“Public Accounts Committee of the National Assembly” (“Pwyllgor Cyfrifon Cyhoeddus y Cynulliad Cenedlaethol”) means the committee referred to as the “Audit Committee” in section 30 of the Government of Wales Act 2006 (c.32);</p> <p>“public body” (“corff cyhoeddus”) has the meaning given by sections 6 and 52;</p> <p>“public services board” (“bwrdd gwasanaethau cyhoeddus”) has the meaning given by sections 29 and 47(4)(a);</p> <p>“sustainable development” (“datblygu cynaliadwy”) has the meaning given by section 2;</p> <p>“sustainable development principle” (“egwyddor datblygu cynaliadwy”) has the meaning given by section 5;</p> <p>“trade union” (“undeb llafur”) has the meaning given by section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52);</p> <p>“well-being goals” (“nodau llesiant”) means the goals specified in section 4;</p> <p>“well-being objectives” (“amcanion llesiant”) means objectives published under section 7 or revised and published as revised under section 8 or 9;</p>	
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<p>“Welsh fire and rescue authority” (“awdurdod tân ac achub”) means the authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies.</p> <p>(2) In Part 4 of this Act a “relevant voluntary organisation” means a body (other than a body that exercises functions of a public nature) whose activities—</p> <ul style="list-style-type: none"> <li>(a) are carried on otherwise than for profit, and</li> <li>(b) directly or indirectly benefit the whole or any part of a public services board's area.</li> </ul> <p>(3) A registered social landlord (within the meaning of Part 1 of the Housing Act 1996) that provides housing in the local authority area is a relevant voluntary organisation for the purposes of Part 4 of this Act.</p>	
<p style="text-align: center;"><b>Schedule 1 Annual Reports by other Public Bodies</b> (as introduced by section 13(1))</p> <p>Public bodies: general</p> <p>1 (1) A public body (other than the Welsh Ministers or one mentioned in sub-paragraph (3)) must publish, in respect of each financial year, a report of the progress it has made in meeting its well-being objectives.</p> <p>(2) A report under this paragraph must be published as soon as reasonably practicable following the end of the financial year to which the report relates.</p> <p><u>(2A) In respect of any financial year, a local authority may publish its report under this paragraph and its report under section 90(1) of the Local Government and Elections (Wales) Act 2020 (self-assessment of performance) in the same document.</u></p> <p>(3) This paragraph does not apply to—</p> <ul style="list-style-type: none"> <li>(a) a Local Health Board or NHS trust (as to which, see paragraph 2);</li> <li>(b) the Natural Resources Body for Wales (as to which, see paragraph 3).</li> </ul>	<p style="text-align: center;">Part 6 Section 113</p>
<p style="text-align: center;"><b>Schedule 3 Public Services Boards: Further Provision</b> (as introduced by section 34)</p> <p>Sub-groups and delegation</p> <p>6 (1) A sub-group of a public services board—</p> <ul style="list-style-type: none"> <li>(a) must include at least one member of the board, and</li> <li>(b) may include any invited participant or other partner.</li> </ul> <p>(2) A sub-group may exercise such of a board's functions as the board authorises in its terms of reference.</p> <p>(3) But those terms of reference may not authorise a sub-group—</p> <ul style="list-style-type: none"> <li>(a) to invite persons to participate under section 30;</li> <li>(b) to set, review or revise the board's local objectives;</li> </ul>	<p style="text-align: center;">Schedule 14 Paragraph 1</p>

<p>(c) to prepare or publish an assessment of well-being under section 37;</p> <p>(d) to consult under section 38 or to prepare a draft of an assessment under section 37 for the purposes of consulting;</p> <p>(e) to prepare or publish a local well-being plan;</p> <p>(f) to consult under section 43 or to prepare a draft of a local well-being plan for the purposes of consulting;</p> <p>(g) to review or amend a local well-being plan or to publish an amended local well-being plan;</p> <p>(h) to consult under section 44, <u>or 47</u>;</p> <p>(i) to agree that the board—</p> <p style="padding-left: 40px;">(i) merges with another public services board under section 47(1),</p> <p style="padding-left: 40px;"><u>(ia) if the board is a merged board under section 47, demerges or partially demerges under section 47(7), or</u></p> <p style="padding-left: 40px;">(ii) collaborates with another board under section 48(1).</p>											
<p>Representation at meetings</p> <p>7 (1) Each member of a public services board must be represented at a meeting by—</p> <p style="padding-left: 40px;">(a) the individual specified in relation to that member in the following Table, or</p> <p style="padding-left: 40px;">(b) such other individual as the individual referred to in paragraph (a) designates (but an elected mayor or executive leader of a local authority may only designate another member of the authority's executive).</p> <p><b>TABLE 2</b></p> <table border="1" data-bbox="240 1272 1118 2051"> <thead> <tr> <th data-bbox="240 1272 571 1312">Member</th><th data-bbox="571 1272 1118 1312">Representative</th></tr> </thead> <tbody> <tr> <td data-bbox="240 1312 571 1563">Local authority</td><td data-bbox="571 1312 1118 1563">The elected mayor of the authority or the councillor elected as executive leader of the authority, and the <u>authority's chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020.</u></td></tr> <tr> <td data-bbox="240 1563 571 1749">Local Health Board</td><td data-bbox="571 1563 1118 1749">Whichever of the following the board designates— (a) the chairman; (b) the chief officer; (c) both.</td></tr> <tr> <td data-bbox="240 1749 571 1935">Welsh fire and rescue authority</td><td data-bbox="571 1749 1118 1935">Whichever of the following the authority designates— (a) the chairman; (b) the chief officer; (c) both.</td></tr> <tr> <td data-bbox="240 1935 571 2051">The Natural Resources Body for Wales</td><td data-bbox="571 1935 1118 2051">The chief executive</td></tr> </tbody> </table>	Member	Representative	Local authority	The elected mayor of the authority or the councillor elected as executive leader of the authority, and the <u>authority's chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020.</u>	Local Health Board	Whichever of the following the board designates— (a) the chairman; (b) the chief officer; (c) both.	Welsh fire and rescue authority	Whichever of the following the authority designates— (a) the chairman; (b) the chief officer; (c) both.	The Natural Resources Body for Wales	The chief executive	<p>Schedule 5 Paragraph 19</p>
Member	Representative										
Local authority	The elected mayor of the authority or the councillor elected as executive leader of the authority, and the <u>authority's chief executive appointed under section 59 of the Local Government and Elections (Wales) Act 2020.</u>										
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Welsh fire and rescue authority	Whichever of the following the authority designates— (a) the chairman; (b) the chief officer; (c) both.										
The Natural Resources Body for Wales	The chief executive										

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| <p>(2) “Elected mayor” and “executive leader” each have the same meaning as in Part 2 of the Local Government Act 2000 (c 22).</p> <p>(3) An invited participant is to be represented at a meeting of a public services board by the individual designated by the participant.</p> <p>(4) A public services board may invite any of its other partners to attend a meeting of the board (or any part of such meeting).</p> <p>(5) Such other partner is to be represented at the meeting by the individual specified by the public services board in the invitation to the meeting.</p> |  |
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# Local Government (Democracy) (Wales) Act 2013

Section	Amended by
<p align="center"><b>Part 2 Local Democracy and Boundary Commission for Wales</b></p> <p align="center">Members</p> <p><b>4 Membership</b></p> <p>(1) The Commission consists of—</p> <ul style="list-style-type: none"> <li>(a) a member to chair the Commission (the “chairing member”),</li> <li>(b) a member to act as deputy to the chairing member, and</li> <li>(c) not more than 3 other members.</li> </ul> <p>(2) Members are to be appointed by the Welsh Ministers on such terms and conditions as the Welsh Ministers may determine (including conditions as to remuneration, allowances and expenses).</p> <p>(3) The Welsh Ministers may not appoint a person who is—</p> <ul style="list-style-type: none"> <li>(a) a member of Parliament;</li> <li>(b) a member of the National Assembly for Wales;</li> <li>(c) a member of a local authority in Wales;</li> <li>(d) an officer of a local authority in Wales;</li> <li>(e) a member of a National Park authority for a National Park in Wales;</li> <li>(f) a police and crime commissioner for a police area in Wales;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>(g) a member of the Commission's staff.</li> </ul>	<p align="center">Part 9 Section 161</p>
<p align="center">Staff, experts and assistant commissioners</p> <p><b>8 Chief executive</b></p> <p>(1) The Commission must employ a chief executive.</p> <p>(2) The chief executive is to be appointed by the <u>Commission</u> on such terms and conditions as <u>it</u> may determine (including conditions as to remuneration, pension, allowances and expenses).</p> <p><u>(2A) But if the office of chief executive has been vacant for more than six months, the Welsh Ministers may appoint a chief executive on such terms and conditions as they may determine (including conditions as to remuneration, pension, allowances and expenses).</u></p> <p>(3) Before appointing a chief executive <u>under subsection (2A)</u> the Welsh Ministers must consult the Commission.</p> <p><u>(4) The chief executive may not be—</u></p> <ul style="list-style-type: none"> <li><u>(a) a member of Parliament;</u></li> <li><u>(b) a Member of the Senedd;</u></li> </ul>	<p align="center">Part 9 Section 161</p>



<p><u>(c) a member of a local authority;</u></p> <p><u>(d) an officer of a local authority;</u></p> <p><u>(e) a member of a National Park authority for a National Park in Wales;</u></p> <p><u>(f) a police and crime commissioner for a police area in Wales.</u></p> <p><u>(5) The Commission must, in exercising its functions under this section, have regard to any guidance issued by the Welsh Ministers.</u></p>	
<p><b>11 Assistant commissioners</b></p> <p>(1) The Commission may appoint a person (an “assistant commissioner”) to whom, for the purposes of section 13, it may delegate functions.</p> <p>(2) But the Commission may not appoint a person who is—</p> <p>(a) a member of Parliament;</p> <p>(b) a member of the National Assembly for Wales;</p> <p>(c) a member of a local authority <del>in Wales</del>;</p> <p>(d) an officer of a local authority <del>in Wales</del>;</p> <p>(e) a member of a National Park authority for a National Park in Wales;</p> <p>(f) a police and crime commissioner for a police area in Wales;</p> <p>or</p> <p>(g) a member of the Commission's staff.</p> <p>(3) Before appointing an assistant commissioner the Commission must consult the Welsh Ministers.</p> <p>(4) The Commission may pay an assistant commissioner such remuneration, allowances or expenses as it may determine.</p> <p>(5) The Commission must consult the Welsh Ministers before determining the remuneration or allowances payable to an assistant commissioner.</p>	<p>Part 9 Section 161</p>
<p><b>Part 3 Arrangements For Local Government</b></p> <p><b>Chapter 2 Area Reviews</b></p> <p>Principal Areas</p> <p><b>23 Review of principal area boundaries</b></p> <p>(1) The Commission may, of its own initiative or at the request of a local authority, conduct a review of one or more principal areas.</p> <p>(2) But the Commission must not conduct a review under subsection (1) at the request of a local authority if it considers that doing so would impede the proper exercise of its functions.</p> <p>(3) The changes that the Commission may recommend in relation to a review under this section are—</p> <p>(a) such principal area boundary changes as it considers appropriate, and</p>	<p>Part 7 Section 149</p>

<p>(b) in consequence of any principal area boundary changes such community boundary changes, preserved county changes, community council changes or electoral arrangements changes as it considers appropriate.</p> <p>(4) For the purposes of this Part—</p> <p>(a) a reference to a “community boundary change” is a reference to—</p> <ul style="list-style-type: none"> <li>(i) altering the boundary of a community;</li> <li>(ii) abolishing a community;</li> <li>(iii) constituting a new community;</li> </ul> <p>(b) a reference to “community council change” is a reference to—</p> <ul style="list-style-type: none"> <li>(i) constituting a council for a community or a common council for a group of communities;</li> <li>(ii) dissolving a community council (separate or common);</li> <li>(iii) separating a community from a group of communities having a common community council;</li> <li>(iv) adding a community to a group of communities having a common community council;</li> </ul> <p>(c) a reference to an “electoral arrangements change” is a reference to a change to the electoral arrangements for any local government area;</p> <p>(d) a reference to a “preserved county change” is a reference to a change to the area of a preserved county;</p> <p>(e) a reference to a “principal area boundary change” is a reference to—</p> <ul style="list-style-type: none"> <li>(i) altering the boundary of a principal area;</li> <li><del>(ii) abolishing a principal area;</del></li> <li><del>(iii) constituting a new principal area.</del></li> </ul>	
<p style="text-align: center;"><b>Chapter 4 Procedure for Local Government Reviews</b></p> <p style="text-align: center;">Procedure for reviews</p> <p><b>34 Pre-review procedure: mandatory consultees</b></p> <p>(1) Before conducting a review under this Part, the Commission or, as the case may be, a principal council must take such steps as it considers appropriate to—</p> <ul style="list-style-type: none"> <li>(a) bring the review to the attention of the mandatory consultees and any other person it considers likely to be interested in the review, and</li> <li>(b) make the mandatory consultees and such other interested person aware of any directions given by the Welsh Ministers which are relevant to the review.</li> </ul> <p>(2) In relation to a review to be conducted under section 29, before conducting the review, the Commission must also consult the mandatory consultees on its intended procedure and methodology for the review and, in particular, on how it proposes to determine</p>	<p style="text-align: center;">Part 9 Section 164</p>

<p>the appropriate number of members for any principal council in the principal area or areas under review.</p> <p>(3) For the purposes of this Part, the “mandatory consultees” are—</p> <ul style="list-style-type: none"> <li>(a) any local authority affected by the review,</li> <li>(b) except in relation to a review under section 28 (reviews of seaward boundaries), the police and crime commissioner for any police area which may be affected by the review,</li> <li><u>(ba) any fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21), or a scheme to which section 4 of that Act applies) for an area in Wales which may be affected by the review,</u></li> <li>(c) except where the review is (or is to be) conducted by it, the Commission,</li> <li>(d) any organisation representing the staff employed by local authorities which has asked to be consulted, and</li> <li>(e) such other persons as may be specified by order made by the Welsh Ministers.</li> </ul> <p>(4) Subsection (1) does not apply to a review conducted by the Commission in the circumstances described in section 26(2)(b)(ii) or (iii).</p>	
<p style="text-align: center;"><b>Chapter 5 Implementation following Review</b></p> <p style="text-align: center;">Agreements between public bodies to deal with change</p> <p><b>44 Transitional agreements as to property and finance</b></p> <p>(1) Any public body affected by the alteration, abolition or constitution of an area or electoral ward by an order under section 37, 38, 39 or 43 <del>or by an order under section 162 of the 2014 Measure (power to make amalgamation order)</del> may enter into an agreement with another affected public body about—</p> <ul style="list-style-type: none"> <li>(a) any property, income, rights or liabilities affected by the change;</li> <li>(b) any financial relationships between the parties to the agreement;</li> <li>(c) any expenses of the parties arising in consequence of the change.</li> </ul> <p>(2) An agreement under this section may provide—</p> <ul style="list-style-type: none"> <li>(a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;</li> <li>(b) for the making of payments in respect of any property, rights or liabilities transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person;</li> <li>(c) for the making of any such payment by way of a capital sum or terminable annuity.</li> </ul>	<p style="text-align: center;">Part 7 Section 149</p>

<p>(3) Where the parties cannot reach agreement on any matter, the matter is to be referred to the arbitration of a single arbitrator agreed on by the parties or, failing such agreement, appointed by the Welsh Ministers.</p> <p>(4) The arbitrator's award may provide for any matter for which an agreement under this section may provide.</p> <p>(5) Any sum which requires to be paid by a public body may be paid—</p> <ul style="list-style-type: none"> <li>(a) out of the fund or rate from which the general expenses of the public body are paid, or</li> <li>(b) out of such other fund or rate as the public body may determine.</li> </ul> <p>(6) In this section, “public body” has the same meaning as it has in section 40(6).</p>	
<p style="text-align: center;"><b>Chapter 7 Miscellaneous Provision</b></p> <p><b>48 Directions and guidance relating to reviews under Part 3 of that Act</b></p> <p>(1) The Welsh Ministers may give the Commission directions relating to the exercise of its functions under this Part.</p> <p>(2) In particular, the Welsh Ministers may direct the Commission—</p> <ul style="list-style-type: none"> <li>(a) to conduct a review under this Part <u>(regardless of whether in the circumstances the Commission would have the power, or would be subject to a duty, to conduct the review),</u></li> <li><u>(aa) where the Commission has made recommendations or proposals to the Welsh Ministers, to conduct a further review under this Part,</u></li> <li><u>(ab) to stop conducting a review under this Part,</u></li> <li>(b) not to conduct a review under <u>this Part</u> during a period specified in the direction,</li> <li><del>(c) to conduct a review under section 29 for a new local government area (within the meaning of section 171 of the 2011 Measure) as if it were a local government area,</del></li> <li>(d) to conduct the reviews required under section 29(1) in a different order from that proposed by the Commission in any current programme for electoral arrangements reviews prepared in accordance that section,</li> <li>(e) to have regard to such particular matters as may be specified in the direction when conducting a review.</li> </ul> <p>(3) Subsection (1) does not limit the general power of direction under section 14.</p> <p>(4) The Welsh Ministers may give a principal council directions relating to the exercise of its functions under this Part.</p> <p>(5) In particular, the Welsh Ministers may direct a principal council <del>to</del>—</p> <ul style="list-style-type: none"> <li>(a) <u>to</u> conduct a review under section 25 or 31,</li> <li><u>(aa) to stop conducting a review under section 25 or 31,</u></li> </ul>	<p>Part 7 Section 149</p> <p>Part 9 Section 162</p>

<p><u>(ab) not to conduct a review under section 25 or 31 during a period specified in the direction.</u></p> <p>(b) <u>to</u> have regard to such particular matters as may be specified in the direction when conducting a review.</p> <p>(6) A principal council must comply with a direction given by the Welsh Ministers under subsection (4).</p> <p>(7) Directions under this section may relate to a particular review, a type of review or to all reviews.</p> <p>(8) But before making a direction under this section relating to the review of a principal area or its electoral arrangements (or reviews of principal areas or their electoral arrangements generally), the Welsh Ministers must consult the Commission and any association appearing to them to be representative of local authorities.</p> <p>(9) In exercising any function under this Part, the Commission or a principal council must have regard to any guidance issued by the Welsh Ministers.</p>	
<p style="text-align: center;"><b>Part 6 Miscellaneous and General Provision</b></p> <p><b>71 Orders and regulations</b></p> <p>(1) Any power of the Welsh Ministers to make an order or regulations under this Act (other than an order under section 47) is exercisable by statutory instrument and includes power to—</p> <p style="padding-left: 40px;">(a) make incidental, consequential, supplemental, transitional, transitory or savings provision as the Welsh Ministers consider necessary or expedient for the purposes of, or in connection with, this Act,</p> <p style="padding-left: 40px;">(b) modify any enactment (including this Act), and</p> <p style="padding-left: 40px;">(c) make different provision for different purposes and areas.</p> <p>(2) A statutory instrument which contains—</p> <p style="padding-left: 40px;">(a) an order under section 34(3)(e) or 70(1),</p> <p style="padding-left: 40px;">(b) an order under section 37(1) which includes provision altering the area of a principal council or a preserved county <del>or which abolishes a principal area</del>, or</p> <p style="padding-left: 40px;">(c) regulations under section 41(1),</p> <p>is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p> <p>(3) Despite subsection (2), any statutory instrument containing an order or regulations made under this Act which includes provision adding to, replacing or omitting any part of the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales is not to be made until a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.</p> <p>(4) This section does not apply to an order made under section 45 or 75.</p>	<p style="text-align: center;">Part 7 Section 149</p>

# Local Government (Wales) Act 2015

Section	Amended by
<p style="text-align: center;">Introductory</p> <p><b>1 Overview</b></p> <p><del>(1) This Act makes provision for, and in connection with, the merger of 2 or more existing principal areas into a single new principal area, with a new principal local authority; and more specifically—</del></p> <p><del>(a) sections 3 to 10 make provision enabling the Welsh Ministers to make regulations merging existing principal areas into a new principal area, with a new principal local authority, in response to an application made by the existing principal local authorities;</del></p> <p><del>(b) sections 11 to 15 make provision for transition committees to be established by principal local authorities for existing principal areas which are proposed to be merged into a new principal area (whether by regulations or by a Bill introduced in the National Assembly for Wales by the Welsh Ministers);</del></p> <p><del>(c) sections 16 to 24 make provision for electoral arrangements and related matters in relation to new principal areas;</del></p> <p><del>(d) sections 25 to 28 make provision for and in connection with the remuneration of members of principal local authorities for new principal areas and their senior officials;</del></p> <p><del>(e) sections 29 to 36 make provision enabling the Welsh Ministers to impose restraints on transactions by, and other activities of, principal local authorities for principal areas which are proposed to be merged into a new principal area;</del></p> <p><del>(f) sections 37 and 38 provide for the imposition of requirements on these principal local authorities to provide information.</del></p> <p>(2) This Act also makes other amendments to local government law; and more specifically—</p> <p><del>(a) section 39 makes provision for controls on the salaries of heads of paid service of principal local authorities to apply to other chief officers for a temporary period;</del></p> <p><del>(b) section 40 makes changes to the duty of certain local authorities to have regard to recommendations of the Independent Remuneration Panel for Wales;</del></p> <p><del>(c) section 41 makes provision about the membership of the Independent Remuneration Panel for Wales;</del></p> <p><del>(d) section 42 amends the provisions relating to surveys of councillors and unsuccessful candidates for election as councillors;</del></p> <p><del>(e) section 43 provides for the saving of electoral proposals submitted to the Welsh Ministers before the commencement of Part 3 of the Local Government (Democracy) (Wales) Act 2013 came into force.</del></p> <p><b>2 Main definitions</b></p> <p><del>(1) The following definitions have effect for the purposes of this Act.</del></p>	<p>Part 7 Section 149</p>

<p>(2) “Merger regulations” means regulations under section 6.</p> <p>(3) “Merging authority” means—</p> <p>(a) a principal local authority for a principal area which is to be merged into a new principal area by virtue of merger regulations, or</p> <p>(b) (except where the context otherwise provides) a principal local authority for a principal area which is to be merged into a new principal area by virtue of provisions of a Bill introduced in the National Assembly for Wales by the Welsh Ministers or an Act of the National Assembly for Wales.</p> <p>(4) “Principal area” means a county or county borough in Wales.</p> <p>(5) “Principal local authority” means the local authority for a principal area.</p> <p>(6) “Proposed principal area” means an area specified as a new principal area—</p> <p>(a) in an application under section 3(1) or in merger regulations, or</p> <p>(b) in proposals published by the Welsh Ministers (whether or not in a draft Bill), in a Bill introduced in the National Assembly for Wales by the Welsh Ministers or in an Act of the National Assembly for Wales.</p> <p>(7) “Shadow authority” means—</p> <p>(a) an authority which has been established as a shadow authority in accordance with provision included in merger regulations under section 7, or</p> <p>(b) an authority which has been elected as a shadow authority for a new principal area specified in an Act of the National Assembly for Wales in accordance with provision made by the Act.</p> <p>(8) “Transfer date” means—</p> <p>(a) in relation to a case in which the areas of principal local authorities are (or are to be) merged into a new principal area by virtue of merger regulations, 1 April 2018;</p> <p>(b) in relation to a case in which the areas of principal local authorities are (or are to be) merged into a new principal area by virtue of an Act of the National Assembly for Wales, 1 April 2020.</p> <p>(9) “Transition committee” means a transition committee established in accordance with regulations under section 11.</p> <p style="text-align: center;">Voluntary Mergers of Local Authorities</p> <p><b>3 Proposals for merger</b></p> <p>(1) Any 2 or more principal local authorities may, no later than 30 November 2015 or such later date as the Welsh Ministers may by regulations specify, jointly make to the Welsh Ministers an application proposing the merger of their principal areas into a new principal area.</p>	
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~~(2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of making an application under subsection (1).~~

~~(3) The function of making an application under subsection (1) by a principal local authority is not to be the responsibility of an executive of the principal local authority under executive arrangements (within the meaning of Part 2 of the Local Government Act 2000).~~

~~(4) References in this Act to making of an application under subsection (1) include making, before the coming into force of this section, an application to the Welsh Ministers jointly by 2 or more principal local authorities proposing the merger of their principal areas into a new principal area.~~

#### **~~4 Consultation before making merger application~~**

~~(1) Before an application is made by principal local authorities under section 3(1) the principal local authorities must consult—~~

~~(a) members of the public in any principal area likely to be affected by the proposal for merger (an “affected area”);~~

~~(b) the principal local authorities for affected areas and councils for communities in any affected area;~~

~~(c) the National Park authority for any area falling wholly or partly within any affected area;~~

~~(d) the chief officer of police and the police and crime commissioner for any police area falling wholly or partly within any affected area;~~

~~(e) the fire and rescue authority for any area falling wholly or partly within any affected area;~~

~~(f) the local health board for any area falling wholly or partly within any affected area;~~

~~(g) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992) by one or more of the principal local authorities; and~~

~~(h) any other persons which the principal local authorities consider appropriate.~~

~~(2) Subsection (1) must be satisfied in relation to an application made before the coming into force of this section (as well as to one made afterwards); and any consultation undertaken before the coming into force of this section may satisfy the requirements of that subsection.~~

#### **~~5 Guidance about merger applications~~**

~~(1) The Welsh Ministers may issue guidance—~~

~~(a) as to the objectives which a proposal contained in an application under section 3(1) should be intended to achieve;~~

~~(b) about matters that should be taken into account in formulating the proposal contained in an application under section 3(1);~~



~~(c) about how the consultation required by section 4(1) is to be conducted, and~~

~~(d) otherwise in relation to the making of applications under section 3(1).~~

~~(2) Principal local authorities must have regard to any guidance issued under subsection (1).~~

~~(3) The requirement in subsection (2) may be complied with by having regard to any guidance in relation to any of the matters referred to in subsection (1) which was issued by the Welsh Ministers before the coming into force of this section.~~

## **6 Power to make merger regulations**

~~(1) Where an application is made to the Welsh Ministers under section 3(1), the Welsh Ministers may, if they consider it appropriate to do so, make regulations for the constitution of a new principal area by merging, to create a new principal area, the principal areas of the principal local authorities by which the application was made.~~

~~(2) Merger regulations must provide for—~~

~~(a) the establishment of the new principal area and the abolition of the existing principal areas,~~

~~(b) the boundary of the new principal area,~~

~~(c) the English language name and Welsh language name of the new principal area,~~

~~(d) whether the new principal area is to be a county or a county borough,~~

~~(e) the establishment, as a county council or a county borough council, of a local authority for the new principal area,~~

~~(f) the English language name and Welsh language name of the new principal local authority,~~

~~(g) the transfer of functions of the merging authorities to the new principal local authority, and~~

~~(h) the winding up and dissolution of the merging authorities.~~

~~(3) Where the new principal area is to be a county, the merger regulations must provide for the new principal local authority to have the name of the county with the addition—~~

~~(a) in the case of the English language name, of the words “County Council” or the word “Council”, and~~

~~(b) in the case of the Welsh language name, of the words “Cyngor Sir” or the word “Cyngor”.~~

~~(4) Where the new principal area is to be a county borough, the merger regulations must provide for the new principal local authority to have the name of the county borough with the addition—~~

~~(a) in the case of the English language name, of the words “County Borough Council” or the word “Council”, and~~

(b) in the case of the Welsh language name, of the words “Cyngor Bwrdeistref Sirol” or the word “Cyngor”.

## **7 Shadow authorities**

~~(1) Merger regulations must—~~

~~(a) make provision for there to be established from a specified date a shadow authority consisting of all the members of the merging authorities;~~

~~(b) make provision for the appointment of a shadow executive by the shadow authority;~~

~~(c) specify the composition of the shadow executive;~~

~~(d) make provision specifying the functions of the shadow authority and the shadow executive, and about the exercise of those functions, during the shadow period;~~

~~(e) make provision about the funding of the shadow authority, and~~

~~(f) make provision for the shadow authority and the shadow executive to become the principal local authority for the new principal area, and the executive for that principal local authority, for the pre-election period.~~

~~(2) In subsection (1) “shadow period” means the period—~~

~~(a) beginning with the date on which the shadow authority or shadow executive is first authorised or required to exercise any functions in accordance with the merger regulations; and~~

~~(b) ending immediately before the transfer date.~~

~~(3) In subsection (1) “pre-election period” means the period—~~

~~(a) beginning with the transfer date; and~~

~~(b) ending immediately before the fourth day after the holding of the first ordinary election of councillors to the new principal local authority.~~

~~(4) The Welsh Ministers may issue guidance in relation to the exercise of functions by shadow authorities and shadow executives established or appointed pursuant to merger regulations; and shadow authorities and shadow executives must have regard to guidance issued under this subsection in the exercise of their functions.~~

## **8 Elections and councillors**

~~Merger regulations may include provision—~~

~~(a) cancelling an ordinary election of councillors to the merging authorities and extending the existing terms of office of councillors;~~

~~(b) disapplying for a specified period provisions requiring the filling of casual vacancies in the office of councillor for any of the merging authorities;~~

~~(c) setting the date of the first ordinary election of councillors to the principal local authority for the new principal area and the terms of office of councillors returned at that election;~~

(d) postponing an ordinary election of councillors to community councils in the new principal area and the extension of the existing terms of office of councillors.

### **9 Mayor and cabinet executive model authorities**

(1) If one or more of the merging authorities is operating, or has made proposals to operate, a mayor and cabinet executive, the merger regulations may include provision requiring the shadow authority to hold a referendum on whether the new principal local authority should operate a mayor and cabinet executive (within the meaning of Part 2 of the Local Government Act 2000).

(2) Merger regulations may include provision preventing a merging authority drawing up and approving proposals to operate such a mayor and cabinet executive.

### **10 Other consequential etc. provision**

(1) Merger regulations may include any supplementary, incidental, consequential, transitional or saving provision which the Welsh Ministers consider appropriate.

(2) The Welsh Ministers may by regulations of general application make supplementary, incidental, consequential, transitional or saving provision—

(a) for the purposes of or in consequence of merger regulations, or

(b) for giving full effect to merger regulations.

(3) Regulations under subsection (2) have effect subject to any provision included in merger regulations.

(4) In this section references to supplementary, incidental, consequential, transitional or saving provision include provision—

(a) for the transfer of functions and property, rights or liabilities (including criminal liabilities) from a merging authority to a new principal local authority;

(b) for civil or criminal proceedings commenced by or against a merging authority to be continued by or against a new principal local authority;

(c) for the transfer of staff, compensation for loss of office, or with respect to pensions and other staffing matters;

(d) for treating a new principal local authority for some or all purposes as the same person in law as a merging authority;

(e) with respect to the management or custody of property (real or personal) transferred to a new principal local authority;

(f) about the holding of a referendum required by virtue of section 9;

(g) with respect to charter trustees;

(h) in relation to preserved counties (within the meaning given by section 270(1) of the Local Government Act 1972).

(5) The rights and liabilities which may be transferred in accordance with merger regulations or regulations under

subsection (2) include rights and liabilities in relation to a contract of employment.

(6) The provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), apart from regulations 4(6) and 10, apply to a transfer made in accordance with merger regulations or regulations under subsection (2) (whether or not the transfer is a relevant transfer for the purposes of those Regulations).

(7) In this section references to supplementary, incidental, consequential, transitional or saving provision also include provision with respect to—

(a) the establishment or membership of public bodies in any area affected by merger regulations and the election or appointment of members of the public bodies, or

(b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by merger regulations.

(8) Supplementary, incidental, consequential, transitional or saving provision in merger regulations or regulations under subsection (2) may take the form of provision—

(a) modifying, excluding or applying (with or without modifications) any enactment, or

(b) repealing or revoking any enactment (with or without savings).

(9) “Enactment” in subsection (8) includes any charter, whenever granted.

(10) The Welsh Ministers are not required to cause an inquiry to be held under subsection (6) of section 4 of the Fire and Rescue Services Act 2004 (combined authorities) in respect of an order under subsection (4) of that section made in consequence of merger regulations or regulations under subsection (2).

(11) The Welsh Ministers—

(a) may by regulations vary merger regulations (or regulations under this paragraph), and

(b) may by regulations vary or revoke regulations under subsection (2) (or this paragraph).

#### Transition Committees

#### **11 Transition committees**

The Welsh Ministers must by regulations require merging authorities whose principal areas are to be merged into a new principal area to establish a transition committee.

#### **12 Composition of transition committees**

(1) A transition committee is to consist of an equal number of members, not being less than 5, of each of the merging authorities.

~~(2) The members of a merging authority who are to be members of the transition committee must be appointed by the merging authority.~~

~~(3) The number of members to be appointed by each of the merging authorities is the number agreed by the merging authorities or, in default of agreement, determined by the Welsh Ministers.~~

~~(4) One of the members appointed by a merging authority must be its executive leader.~~

~~(5) If the executive member of a merging authority with responsibility for finance is not also the executive leader of the merging authority, that executive member must also be appointed as a member.~~

~~(6) A transition committee may co-opt additional persons to serve as members of the committee but they may not vote.~~

~~(7) A transition committee is to be treated for the purposes of paragraph 1 of Schedule 1 to the Local Government and Housing Act 1989 (political balance on local authority committees) as a committee to which paragraph 2 of that Schedule applies.~~

### **13 Functions of transition committees**

~~(1) A transition committee must provide to the merging authorities by which it is established, and to the shadow authority for the new principal area, advice and recommendations for—~~

~~(a) facilitating the economic, effective and efficient transfer of functions, staff and property rights and liabilities from the merging authorities to the new principal local authority,~~

~~(b) ensuring that the new principal local authority and its staff are in a position to perform the new principal local authority's functions effectively as from the time when it assumes them, and~~

~~(c) any other purposes that the Welsh Ministers may specify by directions.~~

~~(2) The Welsh Ministers may give a direction requiring—~~

~~(a) a particular transition committee,~~

~~(b) every transition committee of a description specified in the direction, or~~

~~(c) every transition committee,~~

~~to exercise its functions in accordance with the direction.~~

~~(3) A direction under this section may at any time be varied or revoked by a subsequent direction.~~

~~(4) A transition committee must comply with a direction given to it under this section.~~

~~(5) The Welsh Ministers may issue guidance as to the exercise of the functions of transition committees and a transition committee must have regard to any guidance issued under this subsection.~~

~~(6) Neither an audit committee nor an overview and scrutiny committee of a merging authority may exercise any of its functions~~

in relation to anything done by a transition committee; and for this purpose—

“audit committee” (“pwyllgor archwilio”) has the meaning given by section 81 of the Local Government (Wales) Measure 2011;

“overview and scrutiny committee” (“pwyllgor trosolwg a chraffu”) has the meaning given by section 21(1) of the Local Government Act 2000.

#### **14 Sub-committees of transition committees**

(1) A transition committee may establish one or more sub-committees.

(2) The membership of a sub-committee of a transition committee is to be determined by the transition committee.

(3) If a transition committee appoints as a member of a sub-committee a person who is not a member of one of the merging authorities, that person may not vote.

(4) The function of a sub-committee of a transition committee is to advise the transition committee on matters referred to the sub-committee by the transition committee.

#### **15 Provision of funding, facilities and information to transition committees**

(1) The merging authorities must meet the costs of the transition committee.

(2) The transition committee's costs must be met by the merging authorities in the proportions which they agree or, in default of agreement, which are determined by the Welsh Ministers.

(3) The merging authorities must provide to the transition committee the facilities and resources (including staff) and information reasonably requested by the transition committee (or any sub-committee of the transition committee) in order to enable it to exercise its functions.

#### **16 Directions to conduct initial review**

(1) The Welsh Ministers may by direction require the Local Democracy and Boundary Commission for Wales (“the Commission”) to conduct an initial review of a proposed principal area.

(2) In this Act “initial review”, in relation to a proposed principal area, means a review which is conducted for the purpose of recommending electoral arrangements for the proposed principal area but which may also include any relevant consequential changes that the Commission may consider appropriate.

(3) In this Act “relevant consequential changes”, in relation to electoral arrangements recommended for a proposed principal area, means changes in—

- (a) the boundaries of communities in the proposed principal area;

~~(b) the constitution of councils for communities, or common councils for groups of communities, in the proposed principal area, or~~

~~(c) electoral arrangements for communities in the proposed principal area.~~

~~(4) In this Act “electoral arrangements”, in relation to a principal area or a community, means—~~

~~(a) the number of members of the council for the principal area or community,~~

~~(b) its division into electoral wards in the case of the principal area, and (if appropriate) into community wards in the case of a community, for the election of members,~~

~~(c) the number, type and boundaries of the electoral wards, and any community wards, into which the principal area or any community in the principal area is to be divided for the purpose of the election of members,~~

~~(d) the number of members to be elected for any electoral ward or community ward, and~~

~~(e) the name of any electoral ward or community ward.~~

~~(5) In subsection (4)(c) the reference to the type of an electoral ward or community ward is to whether the electoral ward or community ward is a single member ward or a multiple member ward; and for this purpose—~~

~~“multiple member ward” (“ward amlaelod”) means a ward in respect of which a specified number (greater than one) of members are to be elected for the ward;~~

~~“single member ward” (“ward un aelod”) means a ward in respect of which only one member is to be elected.~~

### **17 Directions and guidance to Commission**

~~(1) A direction under section 16 requiring the Commission to conduct an initial review of a proposed principal area must specify the date by which the Commission must submit to the Welsh Ministers under subsection (4)(a) of section 21 its report prepared under that section.~~

~~(2) A direction under section 16 may require the Commission to have regard to particular matters specified in the direction when conducting the initial review required by the direction.~~

~~(3) The Welsh Ministers may give general directions about the carrying out of initial reviews, including—~~

~~(a) provision as to the order in which different initial reviews required by directions under section 16 are to be carried out, and~~

~~(b) provision specifying matters to which the Commission is to have regard in carrying out initial reviews.~~

~~(4) Before giving a direction under subsection (3) the Welsh Ministers must consult the Commission and any association appearing to them to be representative of local authorities.~~

<p>(5) A direction under section 16 or this section may at any time be varied or revoked by a subsequent direction.</p> <p>(6) A direction under section 16 in relation to a proposed principal area may (in particular) be given after the publication of the Commission's recommendation on an initial review conducted in relation to the proposed principal area pursuant to a previous direction under that section.</p> <p>(7) The Commission must comply with a direction given to it under section 16 or this section.</p> <p>(8) The Welsh Ministers may issue guidance about the conduct of initial reviews by the Commission and in conducting an initial review the Commission must have regard to any guidance issued under this subsection.</p> <p><b>18 Conduct of initial review</b></p> <p>(1) In conducting an initial review the Commission must seek to ensure effective and convenient local government.</p> <p>(2) Directions given and guidance issued under section 17 may specify what constitutes effective and convenient local government for the purposes of subsection (1).</p> <p>(3) The Commission, in considering the electoral arrangements for a proposed principal area on an initial review, must—</p> <ul style="list-style-type: none"> <li>(a) seek to ensure that the ratio of local government electors to the number of members of the principal local authority to be elected is, as nearly as may be, the same in every electoral ward of the proposed principal area, and</li> <li>(b) have regard to— <ul style="list-style-type: none"> <li>(i) the desirability of setting boundaries for electoral wards which are and will remain easily identifiable, and</li> <li>(ii) the desirability of not breaking local ties when setting boundaries for electoral wards.</li> </ul> </li> </ul> <p>(4) For the purposes of subsection (3)(a) account is to be taken of—</p> <ul style="list-style-type: none"> <li>(a) any discrepancy between the number of local government electors and the number of persons who are eligible to be local government electors (as indicated by relevant official statistics), and</li> <li>(b) any change in the number or distribution of local government electors in the proposed principal area which is likely to take place in the period of five years immediately after recommendations are made.</li> </ul> <p>(5) In considering on an initial review whether, as part of any relevant consequential changes, a community should be divided into community wards in consequence of the electoral arrangements being recommended for the proposed principal area, regard is to be had to—</p> <ul style="list-style-type: none"> <li>(a) whether the number or distribution of the local government electors in the community makes a single election of community councillors impractical or inconvenient, and</li> </ul>	
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<p>(b) whether it is desirable that any area of the community should be separately represented on the community council.</p> <p>(6) Where it is decided on an initial review that, as part of any relevant consequential changes, a community should be divided into community wards, in considering the size and boundaries of the wards and in setting the number of community councillors to be elected for each ward, regard is to be had to—</p> <p>(a) any change in the number or distribution of local government electors in the community which is likely to take place within the period of five years immediately after any recommendation is made,</p> <p>(b) the desirability of setting boundaries which are and will remain easily identifiable, and</p> <p>(c) any local ties which will be broken by the setting of any particular boundaries.</p> <p>(7) Where it is decided on an initial review, as part of any relevant consequential changes, that a community should not be divided into community wards, in setting the number of councillors to be elected for each community, regard is to be had to—</p> <p>(a) the number and distribution of local government electors in the community, and</p> <p>(b) any change in the number or distribution of local government electors in the community which is likely to take place within the period of five years immediately after the number of community councillors is set.</p> <p>(8) For the purposes of subsections (5) to (7) account is to be taken of any discrepancy between the number of local government electors and number of persons who are eligible to be local government electors (as indicated by relevant official statistics).</p> <p>(9) In this section—</p> <p>“relevant official statistics” (“ystadegau swyddogol perthnasol”) means the official statistics within the meaning of section 6 of the Statistics and Registration Service Act 2007 which the Commission considers appropriate;</p> <p>“local government elector” (“etholwr llywodraeth leol”) means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts.</p> <p><b>19 Pre-review procedure</b></p> <p>(1) Before conducting an initial review of a proposed principal area, the Commission must take the steps which it considers appropriate—</p> <p>(a) to bring the review to the attention of the mandatory consultees and any other persons it considers likely to be interested in the review, and</p> <p>(b) to make the mandatory consultees and other interested persons aware of the direction to conduct the review and any</p>	
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other directions given by the Welsh Ministers which are relevant to the review.

(2) Before conducting an initial review, the Commission must also consult the mandatory consultees on its intended procedure and methodology for the initial review and, in particular, on how it proposes to determine the appropriate number of members of the principal local authority for the proposed principal area.

(3) In this Act “the mandatory consultees” means—

(a) the principal local authorities whose principal areas are to be merged into the proposed principal area and the councils for any existing community or existing communities in the proposed principal area, and

(b) any other persons specified by the Welsh Ministers in the direction to conduct the review.

## **20 Consultation and investigation**

(1) In conducting an initial review, the Commission must conduct the investigations considered appropriate by the Commission.

(2) After carrying out the investigations under subsection (1), the Commission must prepare a report containing—

(a) the proposals which it considers appropriate for the electoral arrangements for the proposed principal area and any proposals which it may consider appropriate for relevant consequential changes, and

(b) details of the review it conducted.

(3) The Commission must—

(a) publish the report on a website,

(b) secure that the report is available for inspection (without charge) at the offices of the principal local authorities whose principal areas are to be merged into the proposed principal area for the duration of the period for representations,

(c) send copies of the report to the Welsh Ministers and the mandatory consultees,

(d) inform any persons considered appropriate by the Commission how to obtain a copy of the report, and

(e) invite representations and notify the Welsh Ministers, the mandatory consultees and any persons considered appropriate by the Commission of the period for representations.

(4) For the purposes of subsection (3) “the period for representations” is a period of not less than 6, nor more than 12, weeks (as determined by the Commission) beginning no earlier than one week after notice of the period is given.

## **21 Reporting on initial review**

(1) The Commission must, after the period for representations under section 20(3) has ended, consider its proposals having regard to any representations received by it during the period.

(2) The Commission must then prepare a further report.

<p>(3) The report must contain—</p> <ul style="list-style-type: none"> <li>(a) the recommendations which the Commission considers appropriate for the electoral arrangements for the proposed principal area and any recommendations which the Commission may consider appropriate for relevant consequential changes,</li> <li>(b) details of the review conducted and the consultation carried out in respect of the proposals, and</li> <li>(c) details of any changes to the proposals made in light of the representations received and an explanation of why those changes have been made.</li> </ul> <p>(4) The Commission must—</p> <ul style="list-style-type: none"> <li>(a) submit the report and its recommendations to the Welsh Ministers,</li> <li>(b) publish the report on a website and secure that it is available for inspection (without charge) at the offices of the principal local authorities whose principal areas are to be merged into the proposed principal area for a period of at least 6 weeks beginning with the date of publication,</li> <li>(c) send a copy of the report to the mandatory consultees and Ordnance Survey, and</li> <li>(d) inform any other person who submitted evidence or made representations in relation to the report published under section 20 how to obtain a copy of the report.</li> </ul> <p>(5) Section 29(8) of the Local Government (Democracy) (Wales) Act 2013 (no recommendations to be made or published in 9 months before ordinary election) does not apply in the case of recommendations under this section.</p> <p><b>22 Implementation by Welsh Ministers</b></p> <p>(1) The Welsh Ministers may, after receiving a report containing recommendations from the Commission in relation to an initial review, by regulations implement any recommendation contained in the report, with or without modification.</p> <p>(2) But the Welsh Ministers may only implement a recommendation with modification if they have considered the matters described in section 18 and are satisfied that it is appropriate to make the modification.</p> <p>(3) No regulations may be made under subsection (1) until the end of the period of 6 weeks beginning with the date on which the report under section 21 is published by the Commission.</p> <p>(4) The Commission must provide the Welsh Ministers with any further information in relation to its recommendations which the Welsh Ministers may reasonably require.</p> <p>(5) The Welsh Ministers may by regulations vary or revoke regulations under subsection (1) (or this subsection).</p> <p><b>23 Electoral regulations if no recommendations made</b></p> <p>(1) If the Commission has not submitted to the Welsh Ministers a report containing recommendations from the Commission in</p>	
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<p>relation to an initial review relating to a proposed principal area by the date specified in the direction requiring it to be conducted, the Welsh Ministers may make regulations under subsection (2).</p> <p>(2) The Welsh Ministers may by regulations make the provision they consider appropriate for the electoral arrangements for the proposed principal area and any provision they consider appropriate for relevant consequential changes.</p> <p>(3) The Commission must provide the Welsh Ministers with any information relating to any matters which have come to its attention in consequence of—</p> <ul style="list-style-type: none"> <li>(a) any consultation under section 19,</li> <li>(b) any investigation under section 20,</li> <li>(c) the preparation of a report under section 20 or 21, or</li> <li>(d) anything else done in the conduct of the initial review,</li> </ul> <p>as the Welsh Ministers may reasonably require.</p> <p>(4) If the Welsh Ministers make regulations under subsection (2) in relation to a proposed principal area, the Commission must conduct its first review of the principal area under section 29 of the Local Government (Democracy) (Wales) Act 2013 as soon as possible after the day of the first ordinary election of councillors to the principal local authority for the principal area and, in any event, before the day of the next one.</p> <p>(5) The Welsh Ministers may by regulations vary or revoke regulations under subsection (2) (or this subsection).</p> <p><b>24 Future review periods</b></p> <p>The Welsh Ministers may by regulations amend subsection (3) of section 29 of the Local Government (Democracy) (Wales) Act 2013 (10-yearly review periods).</p> <p style="text-align: center;">Remuneration etc. Arrangements for new Principal Local Authorities</p> <p><b>25 Directions to Independent Remuneration Panel for Wales to perform relevant functions</b></p> <p>(1) The Welsh Ministers may direct the Independent Remuneration Panel for Wales (“the Panel”) that it must perform the relevant functions—</p> <ul style="list-style-type: none"> <li>(a) in relation to a shadow authority, and</li> <li>(b) in relation to a principal local authority for the first financial year in which it will be a principal local authority by virtue of merger regulations or provisions of an Act of the National Assembly for Wales.</li> </ul> <p>(2) The relevant functions are the functions under—</p> <ul style="list-style-type: none"> <li>(a) section 142 (powers and duties relating to payments to members), and</li> <li>(b) section 143 (functions relating to members' pensions),</li> </ul> <p>of the Local Government (Wales) Measure 2011.</p>	
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~~(3) Accordingly Part 8 of that Measure applies in the case of a shadow authority in relation to which a direction has been given under subsection (1)(a) (for so long as the direction has effect) as if it were a relevant authority within the meaning of that Part of that Measure; but in its application by virtue of this subsection Part 8 has effect subject to—~~

~~(a) the modifications in subsection (4), and~~

~~(b) section 26.~~

~~(4) The modifications are that—~~

~~(a) in section 142(8) (account to be taken of financial impact on relevant authorities) the reference to “relevant authorities” is to include shadow authorities, and~~

~~(b) the power for an annual report to impose requirements under section 150(1) (avoidance of duplication of payments etc) is to be a duty for an annual report or supplementary report to impose those requirements.~~

~~(5) In exercising functions by virtue of this section in relation to the first financial year in which an authority is a principal local authority by virtue of merger regulations, the Panel may—~~

~~(a) make different decisions under section 142(1),~~

~~(b) set different amounts under section 142(3),~~

~~(c) make different determinations under section 142(4),~~

~~(d) set different percentages or other rates or indices under section 142(6), and~~

~~(e) make different decisions under section 143(2) and (3),~~

~~in relation to times before and after the principal local authority will consist of councillors elected at the first ordinary election of councillors.~~

## **~~26 Reports of Panel~~**

~~(1) The Panel must include in the first report under Part 8 of the Local Government (Wales) Measure 2011 that relates to an authority specified in a direction under section 25(1) the information relating to the authority which is specified in section 146(3) of that Measure.~~

~~(2) The matters required to be included in a report of the Panel in relation to a shadow authority may be included in an annual report or a supplementary report.~~

~~(3) If the first report that relates to a shadow authority is a supplementary report, it must be published at least 6 weeks before the shadow authority is established or elected.~~

~~(4) The matters required to be included in a report of the Panel in relation to the first financial year in which an authority will be a principal local authority must be included in the annual report of the Panel for that financial year.~~

~~(5) But, if the Panel considers it appropriate to do so, it may, at any time before the date on which an authority which is a principal local authority by virtue of merger regulations first consists of councillors~~

elected to the new principal authority, publish a supplementary report in relation to so much of that first financial year as falls on or after that date.

## **~~27 Directions and guidance to Panel~~**

~~(1) A direction under section 25 may at any time be varied or revoked by a subsequent direction.~~

~~(2) The Panel must comply with a direction given to it under section 25.~~

~~(3) The Welsh Ministers may issue guidance about the exercise by the Panel of its functions in accordance with sections 25 and 26; and the Panel must, when so exercising its functions, have regard to any guidance issued under this subsection.~~

## **~~28 Pay policy statements~~**

~~(1) A transition committee established by merging authorities must publish recommendations as to the pay policy statements to be prepared by the shadow authority for the principal area into which their principal areas are to be merged.~~

~~(2) The recommendations must be published no later than 42 days before the date on which the shadow authority is established or on which elections to the shadow authority take place.~~

~~(3) A shadow authority must prepare and approve (and may amend) a pay policy statement in accordance with sections 38(2) to (5) and 39(1), (4) and (5) of the Localism Act 2011—~~

~~(a) for the period beginning with the approval of the pay policy statement and ending immediately before the transfer date, and~~

~~(b) for the first financial year in which there will be a principal local authority for the new principal area.~~

~~(4) No chief officer (within the meaning of section 43(2) of the Localism Act 2011) may be appointed or designated by the shadow authority until the pay policy statement under subsection (3)(a) has been prepared and approved.~~

~~(5) Sections 38(2) to (5) and 39(1), (4) and (5), 41(1) and (2) and 42(1) and (2) of the Localism Act 2011 apply accordingly but as if the shadow authority were a relevant authority and the period mentioned in subsection (3)(a) were a financial year.~~

~~(6) The Welsh Ministers may issue guidance about the performance of duties imposed by this section and transition committees and shadow authorities must, when performing duties imposed by this section, have regard to any such guidance issued.~~

~~Restraints on Transactions and Recruitment etc by Merging Authorities~~

## **~~29 Restraining transactions and recruitment etc by direction~~**

~~(1) The Welsh Ministers may direct that—~~

~~(a) a merging authority must not carry out a restricted activity unless it has considered the opinion of a specified person or persons on the appropriateness of carrying out the activity;~~

<p><del>(b) a merging authority must not carry out a restricted activity unless the written consent of a specified person or persons has been given for the activity to be carried out.</del></p> <p><del>(2) The restricted activities are—</del></p> <ul style="list-style-type: none"> <li><del>(a) making a relevant land acquisition or disposal;</del></li> <li><del>(b) entering into a relevant contract or agreement;</del></li> <li><del>(c) making a relevant capital acquisition;</del></li> <li><del>(d) giving a relevant grant or other financial assistance;</del></li> <li><del>(e) making a relevant loan;</del></li> <li><del>(f) including an amount of financial reserves in a calculation under section 32 of the Local Government Finance Act 1992;</del></li> <li><del>(g) starting the process of recruiting (including by way of internal recruitment)—</del> <ul style="list-style-type: none"> <li><del>(i) a non-statutory chief officer mentioned in section 2(7) of the Local Government and Housing Act 1989;</del></li> <li><del>(ii) a deputy chief officer mentioned in section 2(8) of that Act.</del></li> </ul> </li> </ul> <p><del>(3) The Welsh Ministers may direct that a merging authority seeking to appoint or designate a person to a restricted post (including from among its existing officers) must comply with specified requirements about the appointment or designation.</del></p> <p><del>(4) “Restricted post”, in relation to a merging authority, means—</del></p> <ul style="list-style-type: none"> <li><del>(a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;</del></li> <li><del>(b) its monitoring officer designated under section 5(1) of that Act;</del></li> <li><del>(c) a statutory chief officer mentioned in section 2(6) of that Act.</del></li> </ul> <p><del>(5) A merging authority must—</del></p> <ul style="list-style-type: none"> <li><del>(a) provide details of a proposal to carry out a restricted activity to any person specified for the purpose of subsection (1)(a) or (b) in respect of that activity;</del></li> <li><del>(b) provide the Welsh Ministers with details of a proposal to appoint or designate a person to a restricted post where any requirements apply in relation to the appointment or designation by virtue of a direction under subsection (3).</del></li> </ul> <p><del>(6) If an opinion given for the purposes of subsection (1)(a) is that it would not be appropriate for a merging authority to carry out a restricted activity but the authority decides to carry it out, the authority must publish its reasons for making that decision.</del></p> <p><del>(7) Section 143A(1)(b) and (3) of the Local Government (Wales) Measure 2011 (recommendations of Independent Remuneration Panel for Wales on salary) does not apply—</del></p> <ul style="list-style-type: none"> <li><del>(a) where a direction has been given under subsection (1)(b) in relation to the recruitment of a non-statutory chief officer or deputy chief officer, to a proposal to pay the recruited person a</del></li> </ul>	
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<p>salary which is different to that paid to that person's predecessor;</p> <p>(b) where a direction has been given under subsection (3), to a proposal to pay the appointed or designated person a salary which is different to that paid to that person's predecessor.</p> <p>(8) The reference in subsection (7) to section 143A of the Local Government (Wales) Measure 2011 includes a reference to that section as it has effect under section 39 of this Act.</p> <p>(9) A direction given under this section takes effect from the date specified in the direction.</p> <p><b>30 Directions under section 29(1): supplementary</b></p> <p>(1) This section applies in relation to a direction under section 29(1).</p> <p>(2) A direction may be given in respect of—</p> <p>(a) a single merging authority;</p> <p>(b) two or more specified authorities;</p> <p>(c) authorities of a specified description.</p> <p>(3) A person specified as a person whose opinion or consent is required may be such authority or person as the Welsh Ministers consider appropriate, and this may include the Welsh Ministers, any transition committee and any shadow authority.</p> <p>(4) A direction may specify different persons—</p> <p>(a) in relation to different matters for which an opinion or consent is required;</p> <p>(b) in relation to different merging authorities or descriptions of authority.</p> <p>(5) A direction may specify, in relation to the same restricted activity, different requirements in respect of transactions of different values.</p> <p>(6) A direction may specify, in relation to the recruitment of a non-statutory chief officer or deputy chief officer—</p> <p>(a) different requirements in respect of different levels of proposed remuneration;</p> <p>(b) different requirements in respect of different descriptions of officer.</p> <p>(7) An opinion or consent for the purposes of a direction may be given in respect of a particular transaction or transactions of any description.</p> <p>(8) Any consent for the purposes of a direction may be given unconditionally or subject to conditions.</p> <p>(9) For the purposes of a direction relating to the recruitment of a non-statutory chief officer or deputy chief officer, an opinion given, or conditions to which a consent is subject, may in particular relate to—</p> <p>(a) the remuneration to be payable to a recruited person;</p>	
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~~(b) the duration of an appointment.~~

~~(10) Any enactments relating to acquisitions or disposals, entering into contracts or agreements, giving grants or other financial assistance, making loans, or the recruitment or appointment of persons by merging authorities have effect subject to any direction.~~

~~(11) Consent required by a direction is in addition to any consent required by any of those enactments.~~

### **31 Directions under section 29(1): further provision about reserves**

~~(1) A direction under section 29(1)—~~

~~(a) may provide that the opinion or consent of the person or persons specified in the direction is not required for the inclusion, in a calculation under section 32 of the Local Government Finance Act 1992, of financial reserves of a description specified in the direction;~~

~~(b) may, in relation to any merging authority or description of merging authority, provide that an opinion or consent is not required for the inclusion in such a calculation of an amount of financial reserves not exceeding an amount specified in or determined under the direction.~~

~~(2) If a direction contains provision by virtue of subsection (1), the reference in section 29(2)(f) to an amount of financial reserves is to be read as a reference to an amount of financial reserves other than an amount permitted by the direction.~~

### **32 Directions under section 29(3): supplementary**

~~(1) This section applies in relation to a direction under section 29(3).~~

~~(2) A direction may be given in respect of—~~

~~(a) a single merging authority;~~

~~(b) two or more specified authorities;~~

~~(c) authorities of a specified description.~~

~~(3) A direction may specify different requirements for different descriptions of post.~~

~~(4) Requirements imposed on a merging authority by a direction may, in particular, relate to—~~

~~(a) the remuneration to be payable to an appointed or designated person;~~

~~(b) the duration of an appointment or designation.~~

~~(5) Any enactments relating to the recruitment, designation or appointment of persons by merging authorities have effect subject to any direction.~~

### **33 Directions: consequences of contravention**

~~(1) An acquisition or disposal made in contravention of a direction given under section 29 is void.~~

- (2) A contract (including a contract for employment) or agreement entered into in contravention of a direction given under section 29 is unenforceable.
- (3) A grant or other financial assistance given, or a loan made, in contravention of a direction given under section 29 is repayable.
- (4) If a merging authority includes financial reserves in a calculation under section 32 of the Local Government Finance Act 1992 in contravention of a direction given under section 29, the authority is to be treated for the purposes of section 30(8) of that Act as not having made the calculations required by Chapter 3 of Part 1 of that Act.

### **34 Interpretation of sections 29 to 36**

(1) In sections 29 and 35, “relevant land acquisition or disposal” means the acquisition or disposal of land if the consideration for the acquisition or disposal exceeds £150,000.

(2) In subsection (1) the reference to the acquisition or disposal of land includes—

- (a) the acquisition or grant or disposal of any interest in land,
- (b) entering into a contract to acquire or dispose of land or to acquire or grant or dispose of any interest in land, and
- (c) acquiring or granting an option to acquire any land or any interest in land.

(3) In sections 29 and 35, “relevant contract or agreement” means—

(a) any contract, other than a capital contract, under which the consideration exceeds £150,000 where—

- (i) the period of the contract extends beyond the transfer date, or
- (ii) under the terms of the contract, that period may be extended beyond the transfer date,

(b) any capital contract under which the consideration exceeds £500,000, or

(c) any framework agreement within the meaning of regulation 2(1) of the Public Contracts Regulations 2006 (SI 2006/5) where—

- (i) the period of the framework agreement extends beyond the transfer date, or
- (ii) under the terms of the framework agreement, that period may be extended beyond the transfer date.

(4) In subsection (3) “capital contract” means a contract in respect of which the consideration payable by the merging authority is expenditure which is capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance).

(5) In sections 29 and 35, “relevant capital acquisition” means an acquisition of share capital or loan capital in any body corporate in

<p>respect of which the consideration exceeds £500,000, other than an acquisition of loan capital where—</p> <p>(a) the acquisition of the loan capital is an investment for the purposes of the prudent management of the merging authority's financial affairs, and</p> <p>(b) the investment is admitted to an official list maintained by a competent authority in an EEA State.</p> <p>(6) In subsection (5) (and this subsection)—</p> <p>“competent authority” (“awdurdod cymwys”) means an authority which is responsible for maintaining the official list in an EEA State;</p> <p>“official list” (“rhestr swyddogol”)—</p> <p>(a) in relation to the United Kingdom, has the meaning given by section 103(1) of the Financial Services and Markets Act 2000, and</p> <p>(b) in relation to any other EEA State means the equivalent list maintained by the competent authority of that State.</p> <p>(7) In sections 29 and 35, “relevant grant or other financial assistance” means a grant or other financial assistance (other than a loan) of more than £150,000.</p> <p>(8) In sections 29 and 35, “relevant loan” means a loan of more than £150,000 where—</p> <p>(a) the period of the loan extends beyond the transfer date, or</p> <p>(b) under the terms of the loan, that period may be extended beyond the transfer date.</p> <p>(9) In sections 29 to 32 and 36, “specified” means specified in a direction given under section 29.</p> <p><b>35 Determining whether financial limits have been exceeded</b></p> <p>(1) For the purpose of making a determination as to whether a financial limit set out in section 34 is exceeded—</p> <p>(a) in the case of a relevant land acquisition or disposal, the consideration for any other acquisition or disposal of land relating to the same or a similar description of matter made by the merging authority after 26 January 2015 (which was the day on which the Bill for this Act was introduced in the National Assembly for Wales) is to form part of the determination;</p> <p>(b) in the case of a relevant contract or agreement, the consideration under any other contract or agreement relating to the same or a similar description of matter entered into by the merging authority after 26 January 2015 is to form part of the determination;</p> <p>(c) in the case of a relevant capital acquisition, the consideration in respect of the acquisition of share capital or loan capital in the same body corporate made by the merging authority after 26 January 2015 (other than an acquisition where the conditions set out in paragraphs (a) and (b) of section 34(5) are met) is to form part of the determination;</p>	
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~~(d) in the case of a relevant grant or other financial assistance, the amount of any grant or other financial assistance (other than a loan) given by the merging authority to the same person after 26 January 2015 is to form part of the determination;~~

~~(e) in the case of a relevant loan, the amount of any loan made by the merging authority to the same person after 26 January 2015 is to form part of the determination.~~

~~(2) Where the consideration or any of the consideration in respect of a transaction is not in money, the limits set out in section 34 apply to the value of the consideration.~~

~~(3) Where, in determining whether a limit set out in section 34 is exceeded, a question arises as to the value of the consideration in relation to a transaction and the persons concerned fail to reach agreement, for the purposes of the determination the question is to be decided by the Welsh Ministers.~~

~~(4) The Welsh Ministers may by regulations substitute a different figure for that for the time being set out in subsection (1), (3)(a) or (b), (5), (7) or (8) of section 34.~~

### **~~36 Guidance in relation to transactions, recruitment etc.~~**

~~(1) The Welsh Ministers may issue guidance—~~

~~(a) as to the operation of sections 29 to 35;~~

~~(b) in relation to any direction given under section 29;~~

~~(c) on carrying out restricted activities;~~

~~(d) on appointing and designating persons to restricted posts.~~

~~(2) Merging authorities and any specified persons must have regard to any guidance issued under subsection (1).~~

~~(3) In subsection (1), “restricted activity” and “restricted post” each have the meaning given in section 29.~~

## **Information Requirements**

### **~~37 Requirement on merging authority to provide information to Welsh Ministers~~**

~~The Welsh Ministers may require a merging authority to provide to the Welsh Ministers any information which the Welsh Ministers consider it appropriate to require to be provided to them for the purposes of giving effect to, or otherwise in connection with, the transfer of the functions of the merging authority to the new principal local authority for the new principal area into which the merging authority's area is to be merged.~~

### **~~38 Requirement on merging authority to provide information to other authorities~~**

~~(1) The Welsh Ministers may require a merging authority to provide to a relevant body any information which the Welsh Ministers consider it appropriate to require to be provided by it to the relevant body for the purposes of giving effect to, or otherwise in connection with, the transfer of the functions of the merging authority to the~~

new principal local authority for the new principal area into which the merging authority's area is to be merged.

(2) The following are relevant bodies—

(a) ~~any other merging authority whose area is to be merged into the same new principal area;~~

(b) ~~the transition committee established by the merging authority and another merging authority or authorities;~~

(c) ~~the shadow authority for the new principal area.~~

#### Other Provisions Relating to Independent Remuneration Panel for Wales

### **~~39 Temporary extension of functions of Panel relating to heads of paid service to chief officers~~**

(1) ~~Section 143A of the Local Government (Wales) Measure 2011 (functions of Panel in relation to salaries of heads of paid service) has effect in relation to salary for service or services during the relevant period paid to a chief officer of a principal local authority other than the head of paid service as in relation to salary paid to that head of paid service.~~

(2) In subsection (1)—

~~“chief officer” (“prif swyddog”), in relation to a principal local authority, has the same meaning as in section 43(2) of the Localism Act 2011;~~

~~“head of paid service” (“pennaeth gwasanaeth cyflogedig”) and “salary” (“cyflog”) have the meanings given by section 143A(7) of the Local Government (Wales) Measure 2011;~~

~~“the relevant period” (“y cyfnod perthnasol”) means the period beginning with the day on which this section comes into force and ending with 31 March 2020.~~

(3) ~~The Welsh Ministers may issue guidance about the exercise of its functions under section 143A of the Local Government (Wales) Measure 2011 in accordance with subsection (1); and in exercising those functions in accordance with that subsection the Panel must have regard to any guidance issued under this subsection.~~

### **40 Changes to duty to have regard to Panel recommendations about salaries**

(1) Section 143A of the Local Government (Wales) Measure 2011 (functions of Panel in relation to salaries of heads of paid service) is amended as follows.

(2) After subsection (3) insert—

“(3A) But a qualifying relevant authority that has consulted the Panel about a proposed reduction in salary may make the reduction before receiving a recommendation from the Panel if the contract under which the salary is payable does not prevent the authority from changing the salary after receiving a recommendation.

<p>(3B) A qualifying relevant authority that makes a change to the salary of its head of paid service in accordance with subsection (3A) and subsequently receives a recommendation from the Panel about the change—</p> <p>(a) must reconsider the salary, and</p> <p>(b) when doing so, must have regard to the recommendation.”</p> <p>(3) After subsection (4) insert—</p> <p>“(4A) The Panel must notify the Welsh Ministers of every recommendation it makes under this section.”</p> <p>(4) After subsection (5) insert—</p> <p>“(5A) A qualifying relevant authority—</p> <p>(a) must notify the Panel and the Welsh Ministers of its response to a recommendation made by the Panel about a change to the salary of its head of paid service before the end of the period of 14 days starting with the day on which the authority determines the response, and</p> <p>(b) must not make a change to the salary before—</p> <p>(i) the end of the period of eight weeks starting with the day on which the authority notifies the Welsh Ministers under paragraph (a), or</p> <p>(ii) if, before the end of that period, the Welsh Ministers notify the authority that they will not be giving the authority a direction under subsection (5B), the day on which that notice is received.</p> <p>(5B) If the Welsh Ministers consider that a qualifying relevant authority's response to a recommendation made by the Panel about a change of salary means that the authority will pay (or, under subsection (3A), is paying) a salary which is inconsistent with the recommendation, the Welsh Ministers—</p> <p>(a) may direct the authority to reconsider the salary, and</p> <p>(b) may specify in the direction the time by which the authority must do so.”</p> <p><b>41 Panel membership</b></p> <p>(1) Paragraph 1 of Schedule 2 to the Local Government (Wales) Measure 2011 (membership of Panel) is amended as follows.</p> <p>(2) In sub-paragraph (1), for “five” substitute “not fewer than 3, and not more than 7,”.</p> <p>(3) Omit sub-paragraph (5) (employees of local authorities etc not disqualified from membership).</p> <p style="text-align: center;">Miscellaneous</p> <p><b>42 Survey of councillors and unsuccessful candidates for election as councillors</b></p>	
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(1) Section 1 of the Local Government (Wales) Measure 2011 (duty to conduct survey of councillors and unsuccessful candidates for election as councillors) is amended as follows.

(2) In subsection (2) (local authority to conduct survey after each ordinary election), for “after” substitute “, or arrange for the conduct of a survey, in relation to”.

(3) After subsection (3) insert—

“(3A) A survey in the case of an ordinary election may be conducted—

(a) entirely after the ordinary election, or

(b) by asking the candidates for election to the office of councillor to answer the prescribed questions before the ordinary election and collating the information provided afterwards.”

(4) In subsection (5) (no duty to provide information) for “a councillor or an unsuccessful candidate for election to the office of councillor” substitute “any individual”.

(5) Omit subsection (6) (local authority to arrange for information to be provided anonymously).

### **43 Proposals submitted before commencement of Part 3 of Local Government (Democracy) (Wales) Act 2013**

In section 74(2) of the Local Government (Democracy) (Wales) Act 2013 (reviews under Part 4 of Local Government Act 1972 ongoing at commencement of Part 3 of Local Government (Democracy) (Wales) Act 2013), insert at the end “and for the purposes of proposals submitted to the Welsh Ministers before that time.”

## **Supplementary**

### **44 Regulations**

~~(1) Any power of the Welsh Ministers to make regulations under this Act is exercisable by statutory instrument.~~

~~(2) Merger regulations and regulations under section 10 or 11 may not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, the National Assembly for Wales.~~

~~(3) A statutory instrument containing regulations under section 24 or 35(4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.~~

### **45 Interpretation**

In this Act—

~~“the Commission” (“y Comisiwn”) means the Local Democracy and Boundary Commission for Wales;~~

~~“electoral arrangements” (“trefniadau etholiadol”) has the meaning given by section 16(4);~~

~~“initial review” (“adolygiad cychwynnol”) has the meaning given by section 16(2);~~

<p><del>“the mandatory consultees” (“yr ymgynghoreion mandadol”) has the meaning given by section 19(3);</del></p> <p><del>“merger regulations” (“rheoliadau uno”) has the meaning given by section 2(2);</del></p> <p><del>“merging authority” (“awdurdod sy'n uno”) has the meaning given by section 2(3);</del></p> <p><del>“the Panel” (“y Panel”) means the Independent Remuneration Panel for Wales;</del></p> <p><del>“principal area” (“prif ardal”) has the meaning given by section 2(4);</del></p> <p><del>“principal local authority” (“prif awdurdod lleol”) has the meaning given by section 2(5);</del></p> <p><del>“proposed principal area” (“prif ardal arfaethedig”) has the meaning given by section 2(6);</del></p> <p><del>“relevant consequential changes” (“newidiadau canlyniadol perthnasol”) has the meaning given by section 16(3);</del></p> <p><del>“shadow authority” (“awdurdod cysgodol”) has the meaning given by section 2(7);</del></p> <p><del>“transfer date” (“dyddiad trosglwyddo”) has the meaning given by section 2(8);</del></p> <p><del>“transition committee” (“pwyllgor pontio”) has the meaning given by section 2(9).</del></p> <p><b>46 Commencement</b></p> <p>(1) Sections 25 to 28 and 37 to 43 come into force at the end of the period of 2 months beginning with the day on which this Act receives Royal Assent.</p> <p>(2) Subject to that, this Act comes into force on the day following that on which this Act receives Royal Assent.</p> <p><b>47 Short title</b></p> <p>The short title of this Act is the Local Government (Wales) Act 2015.</p>	
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## Fire and Rescue Services Act 2004

Section	Amended by
<p data-bbox="443 297 916 331"><b>Part 1 Fire and rescue authorities</b></p> <p data-bbox="443 365 916 398">Combined fire and rescue authorities</p> <p data-bbox="240 432 967 499"><b>Section 2 Power to create combined fire and rescue authorities</b></p> <p data-bbox="240 499 1067 600">(1) The Secretary of State may by order make a scheme constituting a fire and rescue authority for the combined area of two or more existing fire and rescue authorities.</p> <p data-bbox="240 611 1099 678">(2) A scheme under this section may be made only if it appears to the Secretary of State that, in the interests of—</p> <ul style="list-style-type: none"> <li data-bbox="288 701 871 734">(a) economy, efficiency and effectiveness, or</li> <li data-bbox="288 745 504 779">(b) public safety,</li> </ul> <p data-bbox="288 801 1118 869">there should be a single fire and rescue authority for the combined area.</p> <p data-bbox="240 880 1099 947">(3) A scheme under this section may be made by the Secretary of State—</p> <ul style="list-style-type: none"> <li data-bbox="288 969 1046 1037">(a) to give effect to a draft scheme submitted to him by the existing authorities in question, or</li> <li data-bbox="288 1048 592 1081">(b) on his own initiative.</li> </ul> <p data-bbox="240 1093 1102 1238">(4) A scheme under this section made as mentioned in subsection (3)(a) may include any modifications to the draft scheme which seem appropriate to the Secretary of State after consulting the existing authorities in question.</p> <p data-bbox="240 1249 1067 1317">(5) Before making a scheme under this section as mentioned in subsection (3)(b) the Secretary of State must consult—</p> <ul style="list-style-type: none"> <li data-bbox="288 1328 783 1361">(a) the existing authorities in question,</li> <li data-bbox="288 1373 1118 1440">(b) any local authority all or part of whose area forms part of the combined area, and</li> <li data-bbox="288 1451 903 1485">(c) any other persons he considers appropriate.</li> </ul> <p data-bbox="240 1507 1091 1574">(6) The Secretary of State may by order vary or revoke a scheme under this section but before doing so must consult—</p> <ul style="list-style-type: none"> <li data-bbox="288 1597 1099 1664">(a) any fire and rescue authority which appears to him likely to be affected,</li> <li data-bbox="288 1675 1102 1776">(b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,</li> <li data-bbox="288 1787 1118 1888">(c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and</li> <li data-bbox="288 1899 903 1933">(d) any other persons he considers appropriate.</li> </ul> <p data-bbox="240 1955 1083 1989">(6A) The duty to consult under subsection (6) does not apply if—</p>	<p data-bbox="1174 297 1326 365">Part 9 Section 164</p>

<p>(a) the scheme constituted a fire and rescue authority for an area in England, and</p> <p>(b) the variation or revocation has been proposed by the fire and rescue authority.</p> <p>(7) An order under subsection (6) varying or revoking a scheme may include provision for the transfer of staff, property, rights and liabilities from the combined fire and rescue authority to any other fire and rescue authority.</p> <p>(8) The Secretary of State <del>must cause an inquiry to be held</del> –</p> <p>(a) <u>must cause an inquiry to be held</u> before making a scheme as mentioned in subsection (3)(b); <del>or</del></p> <p>(b) <u>where a scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held before varying or revoking the scheme under this section, or</u></p> <p>(c) <u>where a scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held before—</u></p> <p style="padding-left: 40px;">(i) <u>varying the scheme in a way which changes the combined area (and may cause an inquiry to be held before varying the scheme in any other way), or</u></p> <p style="padding-left: 40px;">(ii) <u>revoking the scheme.</u></p> <p>(9) The Secretary of State is not required to cause an inquiry to be held under subsection (8) (but may do so) if—</p> <p>(a) in a case within subsection (8)(a), the existing authorities in question agree to the making of the scheme,</p> <p>(b) in a case within subsection (8)(b) <u>or (c)</u>, the combined fire and rescue authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,</p> <p>(c) in <u>any</u> case, it appears to the Secretary of State that the scheme, variation or revocation is to be made solely for the purpose of giving effect to an order under Part 4 of the Local Government Act 1972 (c. 70), Part 1 of the Local Government and Public Involvement in Health Act 2007 <u>or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2020, or</u></p> <p>(d) in <u>any</u> case, the Secretary of State considers that, in the interests of public safety, the scheme should be made, varied or revoked without delay.</p> <p>(10) Subsection (11) applies if—</p> <p>(a) an order is made under Part 4 of the Local Government Act 1972 (c. 70), Part 1 of the Local Government and Public Involvement in Health Act 2007 <u>or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or regulations are made under Part 7 of the Local Government and Elections (Wales) Act 2020</u> in relation to any area, but</p>	
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<p>(b) the order, or any provision of the order, has not come into force.</p> <p>(11) If this subsection applies—</p> <p>(a) a scheme under this section may be made as if the order or provision referred to in subsection (10)(b) were in force, and</p> <p>(b) this section has effect in relation to any scheme so made, or proposed to be so made, as if the order or provision were in force;</p> <p>but a scheme so made may not come into force before the order or provision does.</p>	
<p><b>4 Combined authorities under the Fire Services Act 1947</b></p> <p>(1) This section applies to a scheme approved under section 5 of the Fire Services Act 1947 (c. 41) (voluntary schemes for combining fire authorities), or made under section 6 of that Act (combination schemes made by the Secretary of State), which is in force immediately before the repeal of those sections by this Act.</p> <p>(2) A scheme to which this section applies continues to have effect despite that repeal.</p> <p>(3) The combined authority constituted by a scheme to which this section applies is the fire and rescue authority for the area for which it is constituted.</p> <p>(4) The Secretary of State may by order vary or revoke a scheme to which this section applies.</p> <p>(5) Before making an order under subsection (4) in relation to a scheme the Secretary of State must consult—</p> <p>(a) any fire and rescue authority which appears to him likely to be affected,</p> <p>(b) any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which appears to him likely to be affected,</p> <p>(c) any local authority all or part of whose area forms part of the combined area or would, under the scheme as varied, form part of the combined area, and</p> <p>(d) any other persons he considers appropriate.</p> <p>(5A) The duty to consult under subsection (5) does not apply if—</p> <p>(a) the scheme constituted a fire and rescue authority for an area in England, and</p> <p>(b) the variation or revocation has been proposed by the fire and rescue authority.</p> <p>(6) Before making an order under subsection (4) varying or revoking a scheme the Secretary of State –</p> <p><u>(a) where the scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held, and</u></p> <p><u>(b) where the scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held if under the order—</u></p>	<p>Part 9 Section 164</p>

<p><u>(i) the scheme would be varied in a way which changes the combined area (and may cause an inquiry to be held if the scheme would be varied in any other way), or</u></p> <p><u>(ii) the scheme would be revoked.</u></p> <p>(7) The Secretary of State is not required to cause an inquiry to be held under subsection (6) (but may do so) if—</p> <p>(a) the combined authority and any other authority which would, apart from the scheme, be a fire and rescue authority under section 1 and which would be affected by the variation or revocation, agree to the variation or revocation,</p> <p>(b) it appears to the Secretary of State that the scheme is to be varied or revoked solely for the purpose of giving effect to an order made under Part 4 of the Local Government Act 1972 (c. 70), Part 1 of the Local Government and Public Involvement in Health Act 2007 <u>or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2020,</u> or</p> <p>(c) the Secretary of State considers that, in the interests of public safety, the scheme should be varied or revoked without delay.</p>	
<p><b>Part 3 Administration</b></p> <p>Fire and Rescue National Framework</p> <p><b>21 Fire and Rescue National Framework</b></p> <p>(1) The Secretary of State must prepare a Fire and Rescue National Framework.</p> <p>(2) The Framework—</p> <p>(a) must set out priorities and objectives for fire and rescue authorities in connection with the discharge of their functions;</p> <p>(b) may contain guidance to fire and rescue authorities in connection with the discharge of any of their functions;</p> <p>(c) may contain any other matter relating to fire and rescue authorities or their functions that the Secretary of State considers appropriate.</p> <p>(2A) The Framework may contain different provision for different descriptions of fire and rescue authority.</p> <p>(3) The Secretary of State must keep the terms of the Framework under review and may from time to time make revisions to it.</p> <p>(4) The Secretary of State must discharge his functions under subsections (1) and (3) in the manner and to the extent that appear to him to be best calculated to promote—</p> <p>(a) public safety,</p> <p>(b) the economy, efficiency and effectiveness of fire and rescue authorities, and</p> <p>(c) economy, efficiency and effectiveness in connection with the matters in relation to which fire and rescue authorities have functions.</p>	<p>Part 9 Section 165</p>

(5) In preparing the Framework, or any revisions to the Framework which appear to him to be significant, the Secretary of State—

- (a) must consult fire and rescue authorities or persons considered by him to represent them;
- (b) must consult persons considered by him to represent employees of fire and rescue authorities;
- (c) may consult any other persons he considers appropriate.

(6) The Framework as first prepared, and any revisions to the Framework which appear to the Secretary of State to be significant, have effect only when brought into effect by the Secretary of State by order.

(7) Fire and rescue authorities must have regard to the Framework in carrying out their functions.

### **21A Fire and rescue authorities in Wales: performance and governance**

(1) The Welsh Ministers may by regulations—

- (a) require a fire and rescue authority for an area in Wales to make a plan in relation to the exercise of the authority's functions;
- (b) impose requirements relating to such a plan.

(2) The requirements which may be imposed under subsection

(1)(b) include requirements about—

- (a) a plan's content;
- (b) its preparation and revision;
- (c) when it is to be made;
- (d) the period to which it is to relate;
- (e) its publication.

(3) Requirements about a plan's content include requirements to—

- (a) set out an authority's priorities and objectives;
- (b) describe and explain the extent to which the plan reflects the Framework prepared by the Welsh Ministers under section 21;
- (c) set out actions the authority intends to take in relation to its priorities and objectives;
- (d) set out how the authority intends to assess its performance.

(4) The Welsh Ministers may by regulations make provision (including imposing requirements on an authority) for the purposes of assessing or reporting on the performance of an authority.

(5) Before making regulations under subsection (1) or (4) the Welsh Ministers—

- (a) must consult fire and rescue authorities for areas in Wales or persons who the Welsh Ministers consider represent those authorities;

<p><u>(b) must consult persons who the Welsh Ministers consider represent employees of fire and rescue authorities for areas in Wales;</u></p> <p><u>(c) may consult any other persons the Welsh Ministers consider appropriate.</u></p>	
<p><b>24 Best value</b></p> <p>(1) Sections 10 to 13A of the Local Government Act 1999 (c. 27) (best value inspections) apply in relation to a fire and rescue authority's compliance with section 21(7) as they apply in relation to a best value authority's compliance with the requirements of Part 1 of that Act.</p> <p>(2) As applied by subsection (1), those sections have effect as if, in sections 13(2)(b) and (4) and 13A(2)(b) and (4), for "give a direction under section 15" there were substituted " make an order under section 22 of the Fire and Rescue Services Act 2004 ".</p> <p>(2A) When carrying out an inspection under section 10 of the Local Government Act 1999 as applied by subsection (1) of a fire and rescue authority created by an order under section 4A, an inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.</p> <p>(2B) In subsection (2A) "excluded function", in relation to a fire and rescue authority, means a function which is an excluded function in relation to that authority for the purposes of subsection (A6) of section 28 (inspections by English inspectors) (see subsections (A7) and (A8) of that section).</p> <p>(3) Subsection (1) does not apply to a fire and rescue authority in Wales.</p> <p><del>(4) Sections 21, 22, 26 and 27 of the Local Government (Wales) Measure 2009 apply in relation to a fire and rescue authority in Wales' compliance with section 21(7) as they apply in relation to a Welsh improvement authority's compliance with the requirements of Part 1 of that Measure.</del></p> <p><del>(5) As applied by subsection (4), those sections have effect as if—</del></p> <p><del>(a) in section 21(1), paragraphs (a) and (b) and the word "if" preceding paragraph (a) were omitted;</del></p> <p><del>(b) sections 21(2)(b), (3), (5), (8) and (10) and 22(4) were omitted;</del></p> <p><del>(c) in section 22(1), for the words "a special inspection" there were substituted " an inspection under section 21 ";</del></p> <p><del>(d) in section 22(2)(b), for the words "do either or both of the following" to the end there were substituted " make an order under section 22 of the Fire and Rescue Services Act 2004 ";</del></p> <p><del>(e) in section 26(11), the words "or an inspection under section 21 as applied by section 24(4) of the Fire and Rescue Services Act 2004" were inserted at the end;</del></p> <p><del>(f) in section 27(1), the words "or inspections under section 21 as applied by section 24(4) of the Fire and Rescue Services Act 2004" were inserted at the end.</del></p>	<p>Part 9</p> <p>Section 166</p>

<p style="text-align: center;"><b>Part 7 General</b></p>	<p style="text-align: center;">Part 9 Section 165</p>
<p><b>60 Orders and regulations</b></p> <p>(1) References in this section to subordinate legislation are to an order or regulations made under this Act by the Secretary of State or the Welsh Ministers.</p> <p>(2) Subordinate legislation –</p> <ul style="list-style-type: none"> <li>(a) may make different provision for different purposes (including different provision for different areas, different authorities and different descriptions of authorities);</li> <li>(b) may include incidental, supplemental, consequential, saving or transitional provision.</li> </ul> <p>(3) A power to make subordinate legislation is exercisable by statutory instrument.</p> <p>(4) A statutory instrument containing (alone or with other provisions) –</p> <ul style="list-style-type: none"> <li>(a) an order made by the Secretary of State under section 5C(3), other than one that is made only for the purpose mentioned in section 5C(7)(b),</li> <li>(b) an order made by the Secretary of State under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,</li> <li>(c) an order made by the Secretary of State under section 5C(2) that – <ul style="list-style-type: none"> <li>(i) amends any Act or provision of an Act, and</li> <li>(ii) is not made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or</li> </ul> </li> <li>(d) subordinate legislation made by the Secretary of State, other than an order under section 5C, that amends or repeals any Act or provision of an Act,</li> </ul> <p>may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.</p> <p>(5) A statutory instrument containing any other subordinate legislation made by the Secretary of State, apart from—</p> <ul style="list-style-type: none"> <li>(a) an order under section 5C(1),</li> <li>(b) an order under section 5C(2) that is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or</li> <li>(c) an order under section 30 or 61,</li> </ul> <p>is subject to annulment in pursuance of a resolution of either House of Parliament.</p> <p>(6) A statutory instrument containing (alone or with other provisions)—</p>	

<p>(a) an order made by the Welsh Ministers under section 5C(3), other than one that it is made only for the purpose mentioned in section 5C(7)(b),</p> <p>(b) an order made by the Welsh Ministers under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,</p> <p>(c) an order made by the Welsh Ministers under section 5C(2) that—</p> <p style="padding-left: 40px;">(i) amends any Act or provision of an Act or amends any Act, or Measure, of the National Assembly for Wales or provision of such an Act or Measure, and</p> <p style="padding-left: 40px;">(ii) is not made in accordance with sections 5G to 5L,</p> <p><u>(ca) regulations made by the Welsh Ministers under section 21A(1) or (4), or</u></p> <p>(d) subordinate legislation made by the Welsh Ministers, other than an order under section 5C, that amends any Act or provision of an Act,</p> <p>may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.</p> <p>(7) A statutory instrument containing any other subordinate legislation made by the Welsh Ministers, apart from—</p> <p style="padding-left: 40px;">(a) an order under section 5C(1),</p> <p style="padding-left: 40px;">(b) an order under section 5C(2) that is made in accordance with sections 5G to 5L, or</p> <p style="padding-left: 40px;">(c) an order under section 30 or 61,</p> <p>is subject to annulment in pursuance of a resolution of the National Assembly for Wales.</p>	
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# Local Elections (Principal Areas) (England and Wales) Rules 2006

Section	Amended by
<p><b>Schedule 2 Rules for Conduct of an election of councillors of a Principal Area where Poll is not taken together with poll at another election</b></p> <p>Chapter 2 Action to be Taken Before the Poll</p> <p><b>Equipment of polling stations</b></p> <p><b>26</b></p> <p>(1) The returning officer must provide each presiding officer with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary.</p> <p>(2) Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or, where the box has no lock, the seal being broken.</p> <p>(3) The returning officer must provide each polling station with—</p> <ul style="list-style-type: none"> <li>(a) materials to enable voters to mark the ballot papers;</li> <li>(b) copies of the register of electors for the electoral area or such part of it as contains the names of the electors allotted to the station;</li> <li>(c) the parts of any special lists prepared for the election corresponding to the register of electors for the electoral area or the part of it provided under sub-paragraph (b);</li> <li>(d) a list consisting of that part of the list prepared under rule 17 which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.</li> </ul> <p>(4) The reference in paragraph (3)(b) to the copies of the register of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act in respect of alterations to the register.</p> <p><u>(4A) In the case of an election of councillors of a principal area in Wales, the returning officer must cause to be displayed at each polling station an enlarged sample copy of the ballot paper.</u></p> <p><u>(4B) The enlarged sample copy displayed may include a translation of the words on the ballot paper into such languages other than English and Welsh as the returning officer considers appropriate</u></p> <p>(5) The returning officer must also provide each polling station with—</p> <ul style="list-style-type: none"> <li>(a) <u>in the case of an election of councillors of a principal area in England, at least one large version of the ballot paper which must be displayed inside the polling station for the assistance of voters who are partially sighted;</u><del>and</del></li> </ul>	<p>Schedule 2 Paragraph 20</p>

<p><u>(aa) in the case of an election of councillors of a principal area in Wales, an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted; and</u></p> <p>(b) a device of such description as is set out in paragraph (9) for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 37(1)).</p> <p><u>(5A) The sample copy of the ballot paper referred to in paragraph (4A) and (5)(aa) must be clearly marked as specimen and provided only for the guidance of voters.</u></p> <p>(6) A notice in the form in the Appendix, giving directions for the guidance of voters in voting, must be printed in conspicuous characters and exhibited inside and outside every polling station.</p> <p>(7) The returning officer may also provide copies of the notice mentioned in paragraph (6) in Braille or translated into languages other than English as he considers appropriate, provided that these notices are accurate reproductions in Braille or that other language of that notice.</p> <p>(8) In every compartment of every polling station there must be exhibited the notice:</p> <p style="padding-left: 40px;">“Vote for NO MORE THAN ... CANDIDATES by putting a cross [X] in the box next to EACH of your choices.</p> <p style="padding-left: 40px;">Vote ONLY ONCE by putting a cross [X] in the box next to your choice.</p> <p style="padding-left: 40px;">PUT NO OTHER MARK ON THE BALLOT PAPER OR YOUR VOTE MAY NOT COUNT.</p> <p>(9) The device referred to in paragraph (5)(b) must—</p> <p style="padding-left: 40px;">(a) allow a ballot paper to be inserted into and removed from, or attached to and detached from, the device easily and without damage to the paper;</p> <p style="padding-left: 40px;">(b) hold the ballot paper firmly in place during use; and</p> <p style="padding-left: 40px;">(c) provide suitable means for the voter to—</p> <p style="padding-left: 80px;">(i) identify the spaces on the ballot paper on which he may mark his vote;</p> <p style="padding-left: 80px;">(ii) identify the candidate to which each such space refers; and</p> <p style="padding-left: 80px;">(iii) mark his vote on the space he has chosen</p>	
<p><b>Schedule 3 Rules for Conduct of an Election of Councillors of a Principal Area where the Poll is Taken Together with the Poll at a Relevant Election or Referendum</b></p> <p style="text-align: center;">Chapter 2 Action to be Taken Before the Poll</p> <p><b>Equipment of polling stations</b></p> <p>26</p>	<p>Schedule 2 Paragraph 20</p>

<p>(1) The returning officer must provide each presiding officer with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary.</p> <p>(2) The same ballot box may be used for the poll at the principal area election and the poll at every relevant election or referendum, if the returning officer thinks fit.</p> <p>(3) Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or, where the box has no lock, the seal being broken.</p> <p>(4) The returning officer must provide each polling station with—</p> <ul style="list-style-type: none"> <li>(a) materials to enable voters to mark the ballot papers;</li> <li>(b) copies of the register of electors for the electoral area or such part of it as contains the names of the electors allotted to the station;</li> <li>(c) the parts of any special lists prepared for the election corresponding to the register of electors for the electoral area or the part of it provided under sub-paragraph (b);</li> <li>(d) a list consisting of that part of the list prepared under rule 17 which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.</li> </ul> <p>(5) The reference in paragraph (4)(b) to the copies of the register of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act in respect of alterations to the register.</p> <p><u>(5A) In relation to an election of councillors of a principal area in Wales the returning officer must cause to be displayed inside each polling station an enlarged sample copy of the ballot paper.</u></p> <p><u>(5B) The enlarged sample copy displayed may include a translation of the words on the ballot paper into such languages other than English and Welsh as the returning officer considers appropriate</u></p> <p>(6) The returning officer must also provide each polling station with—</p> <ul style="list-style-type: none"> <li>(a) <u>In relation to an election of councillors of a principal area in England,</u> at least one large version of the ballot paper which must be printed on the same colour paper as the ballot papers and displayed inside the polling station for the assistance of voters who are partially sighted; <del>and</del></li> <li>(aa) <u>in relation to an election of councillors of a principal area in Wales, an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted; and</u></li> <li>(b) a device of such description as is set out in paragraph (11) for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 37(1)).</li> </ul> <p><u>(6A) The sample copy of the ballot paper referred to in paragraph (5A) and (6)(aa) must be—</u></p>	
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(a) clearly marked as specimen and provided only for the guidance of voters, and

(b) printed on the same colour paper as the ballot papers.

(7) Where notwithstanding paragraph (2) separate ballot boxes are to be used, each ballot box must be clearly marked with—

(a) the election or referendum to which it relates, as shown on the ballot papers for that election or referendum; and

(b) the words “Place the [specify colour of ballot papers in question] ballot papers in here”.

(8) A notice in the form in the Appendix, giving directions for the guidance of voters in voting, must be printed in conspicuous characters and exhibited inside and outside every polling station.

(9) The returning officer may also provide copies of the notice mentioned in paragraph (8) in Braille or translated into languages other than English as he considers appropriate, provided that these notices are accurate reproductions in Braille or that other language of that notice.

(10) In every compartment of every polling station there must be exhibited the notice—

**\*PARLIAMENTARY ELECTION**

([Specify colour] ballot paper)

Vote for ONLY ONE CANDIDATE by putting a cross [X] in the box next to your choice.

**\*EUROPEAN PARLIAMENTARY ELECTION**

([Specify colour] ballot paper)

Vote ONLY ONCE by putting a cross [X] in the box next to your choice.

**\*[Specify name of council] COUNCIL ELECTION**

([Specify colour] ballot paper)

\*Vote for NO MORE THAN ... CANDIDATES by putting a cross [X] in the box next to EACH of your choices.

\*Vote ONLY ONCE by putting a cross [X] in the box next to your choice.

**\*ELECTION OF THE MAYOR OF LONDON**

([Specify colour] ballot paper)

#On the ballot paper for the election of the Mayor, vote ONCE for your first choice and ONCE for your second choice.

**\*ELECTION OF THE LONDON ASSEMBLY**

#On the constituency members ballot paper ([specify colour]) vote for ONE candidate only.

#On the London members ballot paper ([specify colour]) vote for ONE party or individual candidate only.

**\*[Specify other] ELECTION/REFERENDUM**

([Specify colour] ballot paper)

<p>[Specify voting instructions in accordance with the legislation governing the election or referendum]</p> <p>PUT NO OTHER MARK ON THE BALLOT PAPER OR YOUR VOTE MAY NOT COUNT.</p> <p>*[PLEASE DO NOT FOLD THE BALLOT PAPERS FOR [specify the election(s) and/or referendum(s) at which the votes are to be counted electronically]. Post them, face downwards, in the [*appropriate] ballot box.]</p> <p>*Complete or omit as necessary.</p> <p>Alternatively, insert such information as the GLRO may decide.</p> <p>(11) The device referred to in paragraph (6)(b) must—</p> <ul style="list-style-type: none"> <li>(a) allow a ballot paper to be inserted into and removed from, or attached to and detached from, the device easily and without damage to the paper;</li> <li>(b) hold the ballot paper firmly in place during use; and</li> <li>(c) provide suitable means for the voter to— <ul style="list-style-type: none"> <li>(i) identify the spaces on the ballot paper on which he may mark his vote;</li> <li>(ii) identify the registered party or individual candidate to which each such space refers; and</li> <li>(iii) mark his vote on the space he has chosen.</li> </ul> </li> </ul>	
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