

To: Members of the County Council

Date: 20 January 2016

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Dear Councillor

You are invited to attend a meeting of the **COUNTY COUNCIL** to be held at **10.00 am** on **TUESDAY, 26 JANUARY 2016** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN LL15 1YN**.

Yours sincerely

G Williams  
Head of Legal, HR and Democratic Services

## **AGENDA**

### **PART 1 - THE PRESS AND PUBLIC ARE INVITED TO ATTEND THIS PART OF THE MEETING**

#### **1 APOLOGIES**

#### **2 DECLARATIONS OF INTEREST**

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

#### **3 URGENT MATTERS AS AGREED BY THE CHAIR**

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

#### **4 CHAIRMAN'S DIARY (Pages 5 - 6)**

To note the civic engagements undertaken by the Chairman of the Council (copy attached).

#### **5 MINUTES (Pages 7 - 14)**

To receive the minutes of the meeting of County Council held on 1 December 2015 (copy attached).

**6 BUDGET FOR 2016/17 (Pages 15 - 22)**

To consider a report (copy attached) providing an update on the budget setting process and detailing proposals to be approved by County Council to set the Council's revenue budget for 2016/2017.

**7 ANNUAL APPROVAL OF THE COUNCIL TAX REDUCTION SCHEME  
(Pages 23 - 26)**

To consider a report (copy attached) to adopt the Council Tax Reduction Schemes and Prescribed Requirement (Wales) Regulations 2013 and the Prescribed Requirements (Wales) Amendments Regulations 2016, in respect of the 2016/2017 financial year.

**8 DRAFT RESPONSE TO THE LOCAL GOVERNMENT (WALES) BILL  
(Pages 27 - 342)**

To consider a report (copy attached) to consider the Council's response to the consultation exercise being conducted by Welsh Government on the provisions of the Draft Local Government (Wales) Bill.

**9 NOTICE OF MOTION**

Councillor Martyn Holland, on behalf of the Welsh Conservative Group, put forward the following Notice of Motion for the consideration of Full Council:

"The Welsh Conservative Group believes that to help improve the public's perception of the County Council, the county should, in future, provide web casting for all Cabinet and Scrutiny meetings".

**10 NOTICE OF MOTION**

Councillors Arwel Roberts and Cefyn Williams put forward the following Notice of Motion for the consideration of Full Council:

"Over the years Denbighshire County Council has been selling its' stock of Council houses, as we still have some left we ask the committee to abolish this practice because it is important that the Council keeps them for families who cannot afford to buy houses on the open market."

## **11 NOTICE OF MOTION**

Councillor Dewi Owens put forward the following Notice of Motion requesting full Council to support the following:

“Denbighshire County Council

- Values the work of the North Wales Community Health Council
- Expresses concern over the diversion of resources from the North Wales Community Health Council to the Board of Community Health Councils in Wales
- Calls upon the Welsh Government to take action to protect the independence of individual Welsh Community Health Councils”.

## **12 COUNTY COUNCIL FORWARD WORK PROGRAMME (Pages 343 - 346)**

To consider the Council’s forward work programme (copy attached).

## **MEMBERSHIP**

### **Councillors**

Councillor Gwyneth Kensler (Chair)

Councillor Ann Davies (Vice-Chair)

Ian Armstrong  
Raymond Bartley  
Brian Blakeley  
Joan Butterfield  
Jeanette Chamberlain-Jones  
Bill Cowie  
Meirick Davies  
Richard Davies  
Stuart Davies  
Peter Duffy  
Hugh Evans  
Peter Evans  
Bobby Feeley  
Carys Guy  
Huw Hilditch-Roberts  
Martyn Holland  
Colin Hughes  
Rhys Hughes  
Hugh Irving  
Alice Jones  
Huw Jones  
Pat Jones  
Geraint Lloyd-Williams

Jason McLellan  
Barry Mellor  
Win Mullen-James  
Bob Murray  
Peter Owen  
Dewi Owens  
Merfyn Parry  
Paul Penlington  
Pete Prendergast  
Arwel Roberts  
Anton Sampson  
Gareth Sandilands  
David Simmons  
Barbara Smith  
David Smith  
Bill Tasker  
Julian Thompson-Hill  
Joe Welch  
Cefyn Williams  
Cheryl Williams  
Eryl Williams  
Huw Williams

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# Agenda Item 4

## Digwyddiadau wedi eu mynychu gan y Cadeirydd / Events attended by Chairman

<u>Dyddiad/Date</u>	<u>Digwyddiad/Event</u>	<u>Lleoliad/Location</u>
20/11/15	Ymweliad Brenhinol Royal Visit (Is-gadeirydd yn bresennol/Vice-Chair attended)	Dinbych/Denbigh
24/11/15	Cyflwyniad Ysgoloriaeth Mynediad Prifysgol Bangor 2015 Bangor University Entrance Scholarship 2015 Presentation (Is-gadeirydd yn bresennol/Vice-Chair attended)	Bangor
26/11/15	Agor Parc Brickfields, y Rhyl Opening of Parc Brickfields, Rhyl (Is-gadeirydd yn bresennol/Vice-Chair attended)	Y Rhyl
03/12/15	Seremoni Torri'r Dywarchen yn Ysgol Glan Clwyd Turf Cutting Ceremony at Ysgol Glan Clwyd (Is-gadeirydd yn bresennol/Vice-Chair attended)	Llanelwy/St. Asaph
03/12/15	Diwrnod Agored Popeth Cymraeg a Lansiad y Dudalen Gwe newydd Popeth Cymraeg Open Day and Launch of New Web Page	Dinbych/Denbigh
04/12/15	Gwobrau Rhagoriaeth Sir Ddinbych Excellence Denbighshire Awards	Prestatyn
04/12/15	Derbyniad VIP ac Agor Canolfan Nova VIP Reception and Opening of the Nova Centre	Prestatyn
05/12/15	Hwyl Nadolig i'r Teulu ac Agor Canolfan Nova Family Festive Fun and Opening of the Nova Centre	Prestatyn
07/12/15	Ymweliad â Swyddfa Ddidoli Dinbych Visit to Denbigh Sorting Office	Dinbych/Denbigh
08/12/15	Gwasanaeth Carolau'r Cadeirydd, Eglwys y Santes Fair Chairman's Carol Service, St. Mary's Church	Dinbych/Denbigh
10/12/15	Sefydlu Canghellor Prifysgol Glyndwr, Trefor Jones a Chinio Dathlu ar gyfer Syr John Shortride Installation of Glyndwr University's Chancellor Designate Trefor Jones and Celebratory Dinner for Sir John Shortride	Wrecsam/Wrexham
12/12/15	Cyngerdd Gala – Noson o Gerddoriaeth a Chân Grand Gala Concert - Evening of Music and Song (Is-gadeirydd yn bresennol/Vice-Chair attended)	Y Rhyl
06/01/16	Swyddfeydd Partneriaeth Civica (Elwy) – Agoriad	Y Rhyl

Swyddogol  
Civica Partnersip (Elwy) Offices – Official Opening

14/01/16	Ymweliadau Ysgolion Cynradd â Neuadd y Sir Primary School Visits to County Hall	Rhuthun/Ruthin
16/01/16	Cyngerdd Elusennol Maer Prestatyn a Gallt Melyd Mayor of Prestatyn and Meliden’s Charity Concert	Prestatyn

## COUNTY COUNCIL

Minutes of a meeting of the County Council held in Council Chamber, County Hall, Ruthin LL15 1YN on Tuesday, 1 December 2015 at 10.00 am.

### PRESENT

Councillors Raymond Bartley, Brian Blakeley, Jeanette Chamberlain-Jones, Bill Cowie, Meirick Davies, Richard Davies, Stuart Davies, Peter Duffy, Hugh Evans, Peter Evans, Carys Guy, Huw Hilditch-Roberts, Martyn Holland, Colin Hughes, Rhys Hughes, Hugh Irving, Alice Jones, Huw Jones, Geraint Lloyd-Williams, Jason McLellan, Barry Mellor, Win Mullen-James, Bob Murray, Dewi Owens, Paul Penlington, Pete Prendergast, Arwel Roberts, Gareth Sandilands, Barbara Smith, David Smith, Bill Tasker, Julian Thompson-Hill, Cefyn Williams, Cheryl Williams and Huw Williams

### ALSO PRESENT

Chief Executive (MM), Head of Legal, HR and Democratic Services (GQ), Interim Head of Finance & Assets (JG), Head of Planning & Public Protection (GB), Chief Finance Officer (RW), Development Planning & Policy Manager (AL), Lead Officer – Community Housing (GD) and Committee Administrator (SLW)

The Head of Legal, HR and Democratic Services opened the meeting with an explanation that the Chair, Councillor Gwyneth Kensler was on holiday. Unfortunately, the Vice-Chair, Councillor Ann Davies was unable to attend the meeting as she was ill.

Councillor Arwel Roberts proposed Councillor Meirick Lloyd Davies as Chair for the meeting, and was seconded by Councillor Bill Cowie. A vote took place by a show of hands, and it was unanimously agreed that Councillor Meirick Lloyd Davies be Chair for the meeting of Full Council.

Councillor Lloyd Davies thanked everyone for the honour of being Chair and welcomed everyone to the meeting.

### 1 APOLOGIES

Apologies for absence were received from Councillors Ian Armstrong, Joan Butterfield, Ann Davies, Bobby Feeley, Pat Jones, Gwyneth Kensler, Peter Owen, Merfyn Parry, Anton Sampson and Joe Welch

### 2 DECLARATIONS OF INTEREST

Councillor Meirick Lloyd Davies declared a personal interest in Item 7 – Draft Denbighshire Housing Strategy.

Councillor Cheryl Williams declared a personal interest in Item 7 – Draft Denbighshire Housing Strategy and Item 8 – Community Housing Policy.

### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No Urgent Matters.

At this juncture Councillor Huw Jones paid tribute to the five people who had lost their lives recently in Corwen. Thoughts were also sent out to the passenger of one of the cars who was extremely unwell in Stoke hospital. Sympathies were extended to the families and friends of all people concerned with those injured and killed. Councillor Jones expressed his thanks to all Councillors, Officers and members of the public from all over Wales who had sent their good wishes to the community of Corwen at this extremely sad time.

The Chair, Councillor Meirick Lloyd Davies also expressed the Councils deepest sympathy to all involved and a one minutes silence was held in tribute to those who had lost their lives.

Following the one minute's silence, Members were informed Councillor Ian Armstrong was currently unwell in hospital and best wishes were sent to both Councillor Armstrong and his family.

### 4 CHAIRMAN'S DIARY

A list of civic engagements undertaken by the Chair and Vice-Chair for the period 15 October, 2015 to 13 November 2015 had been circulated prior to the meeting.

**RESOLVED** that the list of civic engagements undertaken by the Chair and Vice-Chair be received.

### 5 MINUTES

The minutes of the Council meeting held on 7 October, 2015 were submitted.

Page 12 – Councillor Alice Jones referred to the request by the Interim Chief Executive of BCUHB for any evidence of bad care. It was confirmed that any information of evidence be given to either the Chief Executive or the Head of Legal, HR and Democratic Services and they would relay the information on to the Interim Chief Executive on her behalf.

Councillor Jones then requested a conclusion to the 7 October 2015 meeting.

The Chief Executive explained he had summed up at the conclusion of the meeting as follows:

- The issue of primary care in Prestatyn be referred to Scrutiny Committee in February 2015
- Members concern regarding the Royal Alexandra Hospital in Rhyl. The Chief Executive confirmed he had attended a meeting with the Interim Chief Executive of BCUHB and officers and he had been given the assurance that BCUHB were still committed to build the hospital in Rhyl. The Health Board were reconsidering the scope for provision and had agreed to meet again



- with the Chief Executive and the Corporate Director: Communities prior to the Christmas break.
- Members had been informed of HASCAS (Health & Social Care Advisory Service) and were awaiting a report from the Service in early 2016. The Chief Executive would gain an update from the Interim Chief Executive of BCUHB at the meeting prior to Christmas.
    - The information would be shared with the Rhyl Member Area Group and then presented at a Scrutiny Committee. Councillor Alice Jones requested the information should be shared with all Member Area Groups. The Chair confirmed the information be given to all Member Area Groups.

The Minutes of the Council meeting held on 20 October, 2015, were submitted.

**RESOLVED** that subject to the above, the minutes of the meetings held on 7 October 2015 and 20 October 2015 be confirmed as a correct record and signed by the Chair.

## **6 BUDGET 2016/17 - UPDATE**

The Lead Member for Finance and Assets, Councillor Julian Thompson-Hill, introduced the Budget 2016/2017 report (previously circulated).

The report provided the latest position with regard to the delivery of the 2016/2017 revenue budget and highlighted the measures being taken as part of Phase 5 of the current two-year budget process. The report also highlighted the investment that the Council had made in crucial infrastructure and improvements throughout the county over a continuing period of funding reductions. The report also outlined how the Council's budget strategy had protected key services whilst managing a challenging financial position.

The Welsh Government was scheduled to publish its own budget on 8 December with the Provisional Local Government Settlement following on 9 December. This would make the funding position for 2016/17 clearer. The Provisional Settlement announcement would include a headline figure but the impact of changes to revenue grant funding streams may not be published at the same time.

The late announcement of the Provisional Local Government Settlement would mean that the budget timetable may need to be refined. The Council had to set its budget in time to allow the production and distribution of Council Tax bills in March 2016. Depending on the level of Provisional Settlement, it was probable that an extra meeting of the Full Council may be required to finalise the budget in February 2016.

Given the level of uncertainty about the revenue settlement, recent member budget workshops had focussed on a range of proposals that may or may not be required to be implemented for 2016/2017. In order to maintain momentum and limit risks at the end of the process, it had been explained that a set of measures would be presented to Council for information in December so that the impact on the budget could be noted.

There had been no clear steer as to whether there would be directives to protect schools and other budgets. There had been a Ministerial pledge since 2011 to protect school budgets in Wales. To comply with the pledge to “protect” school budgets, the Council should have increased schools funding by £3.4m over the last four years. In fact, school funding in Denbighshire had increased by £6.3m.

Indepth discussion took place and the following issues were raised:

- Scrutiny Committee had raised the issue of the Ruthin School review and funding regarding two new schools which were to be built. What had transpired recently was a new document had been prepared to the Welsh Government which suggested all schemes (21<sup>st</sup> Century School, Ruthin Review, and Faith School) be included as one package. The scheme would be funded 50% by DCC and 50% by the Welsh Government. An addition £6m from the Welsh Government would be expected towards the package. The Chair of Communities Scrutiny Committee confirmed he had written to Assembly Members regarding School issues.
- PFI Agreement – congratulations were offered following the termination of the PFI Agreement. Positive steps were expected for the future of the buildings.
- Clearer presentation of the figures had been requested to include a further breakdown, borrowing and figures for reserves. All members agreed to the request for a more detailed plan.
- The 2016/2017 Budget settlement from Welsh Government would be for one year only. Assurances had been received that following that year, three year settlements were expected.

**RESOLVED** that Council Members:-

- (i) note the progress made in the delivery of the 2016/2017 budget and the proposed steps to finalise the process*
- (ii) note the bulk of the savings made to date in this two year budget process have not imposed cuts to services or increases in charges*
- (iii) note the capital investment of almost £200m on completed and planned projects across the county from 2012 out to 2019.*

## **7 DRAFT DENBIGHSHIRE HOUSING STRATEGY**

The Lead Member for Modernisation and Housing, Councillor Barbara Smith, introduced the Draft Denbighshire Housing Strategy Report (previously circulated) to seek Members’ approval to adopt the Draft Housing Strategy and endorse the accompanying Action Plan.

At this juncture, the Lead Member thanked everyone who had worked on the Draft Housing Strategy including Angela Loftus and her Team together with the Members of the Task and Finish Groups.

The content of the Draft Housing Strategy and Action Plan represented the culmination of consultation with partners, work with officers across the Council and input from Members.

Access to good quality housing was a key corporate priority and the development of a clear and robust Housing Strategy would provide the framework for all relevant Council functions to successfully address the priority. The intention of the Housing Strategy was to provide a clear statement of the Council's vision and aims for housing in the county for the next five years.

The strategic vision was as follows:-

“Everyone is supported with pride to live in homes that meet their needs, within the vibrant and sustainable communities Denbighshire aspire to”.

Within the Strategy, to ensure consistency, there were seven local principles:-

- Supporting the local economy – through house building and regeneration
- Reducing inequalities – by aiming to ensure that decent homes are available for all and vulnerable people are supported
- Engagement and involvement – with partners to help to collectively deliver decent homes and with residents in the regeneration of their neighbourhoods
- Sustainability – supporting a sustainable housing market and delivering sustainable communities
- Welsh language and culture – consideration & promotion in new development
- Monitoring & review – an annual review report will be produced to outline progress and any changes to agreed actions
- Outcome focussed – the strategy will focus on the delivery of the identified outcomes.

The Strategy identified five “themes” which were priority areas for action to be addressed and these formed the core of the Strategy. The five themes were:-

- More homes to meet local need and demand
- Creating a supply of affordable homes
- Ensuring safe and healthy homes
- Homes and support for vulnerable people, and
- Promoting and supporting communities

Indepth discussion took place and the following points were raised:-

- Achievability of target dates. Some of the actions were already in progress and some had almost been achieved. The actions were to be reviewed and would be flagged up if there was a prospect of the time line slipping.
- There were a number of actions under Theme 2 – Affordable Housing. Officers were talking of council housing and social housing all being grouped together. Lead Members were to take responsibility of the Action Plan and would be held to account. It was advised that if any Members had any issues which were not being delivered, they should be put forward to a Scrutiny Committee.

- Councillor Jason McLellan requested that with regards to Action 2.10 – “to develop a business plan to ensure more Council homes are provided” – an update be brought back to Council in April 2016.
- Promotion of the Welsh language and culture – any application over a certain size, the developer would be required to submit a Welsh Language Impact Assessment. The Draft Housing Strategy itself, once approved, would be translated and published in Welsh also.
- The current numbers on the housing waiting list was:-
  - 1915 general applications
  - 264 transfer requests
  - 28 homeless
- Empty Homes – Develop the Council’s Empty Homes Delivery Plan, investigate innovative mechanisms for bringing empty homes back into use and work with partners to develop new initiatives. The performance was quite good regarding working on empty homes.
- 24% of the population had an activity limiting illness or disability and because of this, the type of housing being made available would be imperative
- 176 properties were built between 2014/2015 which was up 17 on 2013/2014
- The Council had a duty to undertake and submit a Gypsy and Traveller Accommodation Needs Assessment prior to February 2016. This was a statutory requirement and would provide up to date information on gypsy & traveller accommodation needs in Denbighshire.
- During the previous ten years, just under 500 available homes had been provided in Denbighshire.

A consensus of gratitude was extended from Members to the Lead Members and Officers for all their work on the Draft Housing Strategy.

***RESOLVED*** that subject to the above, the Council adopt Denbighshire’s Housing Strategy with accompanying draft Action Plan.

## **8 COMMUNITY HOUSING POLICY - UPDATES FOR APPROVAL**

The Lead Member for Modernisation and Housing, Councillor Barbara Smith, introduced the Community Housing Policy report (previously circulated) to seek Members’ approval to the revision of the following Policies:

- (i) Allocations Policy
- (ii) Anti-Social Behaviour Policy, and
- (iii) Introductory Tenancy Policy.

### Allocations Policy

The Allocations Policy had been due for review and needed to be updated to reflect new legislation and a new code of practice issued by the Welsh Government.

Whilst the updated policies ensured compliance with the legal requirements, on 14 January 2014, Cabinet approved adopting SARTH (the Single Access Route to Housing) which incorporated a move away from the current allocations points system to a housing need “banding” system. This Policy was, therefore, an interim

measure to ensure compliance with the legal obligations pending the implementation of SARTH in Denbighshire.

#### Anti-Social Behaviour Policy

The Anti-Social Behaviour Policy had been updated to reflect the introduction of the Anti-Social Behaviour and Policing Act 2014. There were no fundamental changes on dealing with nuisance behaviour, however, common legal remedies, such as the Anti-Social Behaviour Order (ASBO), had been replaced. The Policy had been updated to reflect the changes and all powers could be considered as part of the enforcement activities.

#### Introductory Tenancy Policy

The Introductory Tenancy Policy had been written with support from Whiteheads Solicitors to improve the clarity of the current Policy and procedure, whilst ensuring compliance with legislation.

**RESOLVED** that the Council approve the following Policies:

- (i) Allocations Policy
- (ii) Anti-Social Behaviour Policy, and
- (iii) Introductory Tenancy Policy.

## **9 PROPOSED REVISED HACKNEY CARRIAGE BYELAWS**

The Lead Member for Public Realm, Councillor David Smith, introduced the Proposed Revised Hackney Carriage Byelaws report (previously circulated) for Members approval.

The reason for the report was to seek to adopt revised and up-to-date byelaws to ensure a fair, transparent and consistent approach when determining any hackney carriage enforcement issues.

The reason for bringing the report to Full Council was that making byelaws under s68 of the Town Police Clauses Act 1847 was a Council function (as opposed to an Executive function) under the Local Authorities Executive Arrangements (Functions and Responsibilities)(Wales) Regulations 2007.

**RESOLVED** that:-

- (i) Members agreed to adopt the Department for Transport Model Byelaws, as set out in Appendix 1 of the report
- (ii) Agreed to allow Officers to send the Model Byelaws to the Welsh Assembly Government for confirmation.

## **10 COUNTY COUNCIL FORWARD WORK PROGRAMME**

The Head of Legal, HR and Democratic Services introduced the Council's Forward Work Programme (previously circulated).

January 2016 – Local Government reorganisation – requested by Councillor Jason McLellan.

April 2016 – Add further report on element of housing strategy as agreed earlier in the meeting. To develop a business plan to ensure more council houses were provided – requested by Councillor Jason McLellan.

***RESOLVED*** that subject to the above, the Council Forward Work Programme be approved and noted.

**The meeting concluded at 12.30 p.m.**

**Report To:** County Council

**Date of Meeting:** 26<sup>th</sup> January 2016

**Lead Member / Officer:** Councillor Julian Thompson-Hill/ Richard Weigh

**Report Author:** Richard Weigh, Chief Finance Officer

**Title:** Budget 2016/17 (Final Proposals – Phase 6)

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**1. What is the report about?**

The report sets out the implications of the Provisional Local Government Settlement 2016/17 and proposals to finalise the budget for 2016/17.

**2. What is the reason for making this report?**

The Council is legally required to set a balanced and deliverable budget before the start of each financial year and to set the resulting level of Council Tax to allow bills to be sent to residents.

To provide an overview of the budget process and the impact of the Provisional Local Government Settlement and to make recommendations to set the budget for 2016/17, including the level of Council Tax.

**3. What are the Recommendations?**

To note the impact of the Provisional Local Government Settlement and that no further savings beyond the £5.2m already approved are required from services for 2016/17.

That council approves the budget proposals set out below, based on the Provisional Local Government Settlement in order to finalise the 2016/17 budget:

1. To increase funding to schools to meet the national level of protection of +1.85%
2. To set aside a one-year budget delivery contingency of £480k for 2016/17 to mitigate the risks to the delivery of the budget set out in this report
3. To approve the resulting average increase in Council Tax of 1.5%.

**4. Report details**

The Local Government Settlement for 2015/16 provided a cash reduction to the council's budget of 3.6% which equated to £5.3m. Indications were that the Settlement for 2016/17 would be worse and accordingly, the council planned for a reduction of -4% (equating to a reduction of £5.6m approximately).With

inflationary cost pressures the council has to fund and allowing for an estimate of budget protection for schools, the budget gap for 2016/17 was calculated as £8.0m.

At the same time as dealing with a funding cut and inflation, the council set priorities to protect and invest in important service areas such as schools, social care and the roads and has continued to do this throughout the budget process.

The draft Welsh Government budget and therefore the Provisional Settlement to local government were announced later than usual this year as a consequence of the timing of the UK Government's Autumn Spending Review. The draft Welsh Government budget announced on the 8<sup>th</sup> December showed growth in cash terms from £15.6bn to £15.9bn, an increase of £351m, or 2.3% in total. Nearly two-thirds of the increase £230m (15.8% uplift) applied to capital budgets and £121m (0.85%) to revenue. The budget provided an additional £278m to the NHS, including a £30m increase to the Intermediate Care Fund, which should have benefits for local government.

Since 2011 there has been a ministerial pledge to 'protect' school budgets. The mechanism for this has been to suggest that local authorities uplift school budgets by 1% more than the revenue 'block grant' to Wales. The revenue funding to Wales has increased by 0.85% and so to comply with the required protection policy, the council would need to increase school budgets by 1.85% in total. This level of protection is double what had been assumed (which was based on last year's figure) and results in a cash increase to schools, before adjusting for pupil numbers, of £1.173m. This additional investment will help to maintain Denbighshire's continued financial commitment to schools. On a per pupil basis in 2015/16, the council's total expenditure on schools is the second highest in Wales and is almost 10% higher than the Welsh average.

The Settlement announced on 9<sup>th</sup> December was much better than expected with an overall cash reduction to local government of -1.4% and a reduction to Denbighshire of -1.2%. The range of reductions across Welsh councils varied from -0.1% (Cardiff) to -4.1% (Powys) with the impact generally worse for rural counties. Previous funding floor mechanisms have been removed from the Settlement which is why the range is relatively wide.

Approximately three-quarters of the council's net funding comes via the Settlement so the impact of small percentage changes to it is always significant. The council's funding settlement of -1.2% means the resulting headline funding reduction is £3.9m less than had been anticipated with a -4% reduction.

The process to identify the savings required to deliver the budgets over the last two years is called Freedoms & Flexibilities and has identified savings of £7.7m in 2015/16 and £5.2m in 2016/17. It has involved a review of every service and activity and an analysis of the council's revenue budget. The process incorporated a series of budget workshops with elected members where the council's entire revenue budget was presented on a line-by-line basis, along with saving proposals from each service. The process has delivered sixteen budget workshops with members with the final session held on 14<sup>th</sup> December.



The Freedoms & Flexibilities process ends with the setting of the 2016/17 budget and a new budget process will be developed for 2017/18.

In December, a report to full council set out the latest budget position and assumptions, which indicated a remaining budget gap of £2m. This gap was calculated with a number of assumptions which have changed as a consequence of the Provisional Settlement. Appendix 1 sets these out in detail but a summary is shown in the table below. These were explained in detail at the budget workshop with members on 14<sup>th</sup> December:

	Pre Settlement	Post Settlement	Impact '000
<b>Funding Settlement</b>			
Settlement	-4%	-1.20%	£3,884
Council Tax	2.75%	1.50%	-£551
<b>Total</b>			<b>£3,333</b>
Existing Budget Gap	£2,000k	0	£2,000
Additional School Protection	0	£1,173k	£1,173
Pupil Demography Reduction	-£320k	0	-£320
<b>Total</b>			<b>£2,853</b>
<b>Funding Position</b>			<b>£480</b>

The changes to the Settlement value allow for a proposal to lower the level of proposed Council Tax rise from 2.75% to an average of 1.5%. This will reduce council funding by £551k but will mean that some of the benefits of the Settlement are passed directly onto Council Tax payers. Despite several years of low increases, Denbighshire's Council Tax is relatively high compared to others in Wales and the proposed lower level increase will help to redress this position. The impact of the proposal to increase Council Tax by 1.5% is set out in detail in Appendix 2 and the council's relative position compared to others in Wales in 2015/16 is shown in Appendix 3. At the budget workshop in December, there was a consensus among members that the level of Council Tax rise should be no lower than 1.5%.

The proposals set out above require no further savings from services in 2016/17. Savings of £5.2m have already been identified in previous phases of the two-year process.

Applying the assumptions above results in a positive funding position of £480k. However, this must be considered in the context of the likelihood of further reductions in future years. The Settlement for 2016/17 is better than expected but it is a one-year settlement with no indications about future years. It is hoped that post the Welsh Government elections in May, reliable multi-year settlements will be provided but until then, there are no firm planning guidelines.

Appendix 1 shows that budgets for future years (assuming a 3% reduction and Council Tax of 2.75%) have gaps of almost £6m each year. Even if the budget was 'cash flat' in 17/18, pressures of over £3m would need to be funded. Therefore, the council should not commit the funding available in 2016/17 to any long-term proposals that would have to be cut in 2017/18. The table below summarises the position:

	2016/17 £'000	2017/18 £'000	2018/19 £'000
<b>FUNDING</b>			
<b>Total Funding</b>	<b>185,056</b>	<b>182,104</b>	<b>179,312</b>
<b>EXPENDITURE</b>			
<b>Base Budget carried forward</b>	<b>184,756</b>	<b>184,576</b>	<b>187,939</b>
<b>PRESSURES:</b>			
Inflation (excluding Schools)	2,899	1,969	1,969
Schools Protection	1,173	1,194	1,217
Investment in Priorities	250	200	
Transfers into/out of Settlement	1,036		
<b>SAVINGS / ADJUSTMENTS:</b>			
Phases 1-5	(5,218)		
Net Schools Demography Adjustment	(320)		
<b>Total Expenditure</b>	<b>184,576</b>	<b>187,939</b>	<b>191,125</b>
<b>Funding Shortfall / (Available)</b>	<b>(480)</b>	<b>5,835</b>	<b>11,813</b>

There are also a number of risks remaining within the current Settlement. These include a number of revenue grants that have not yet been confirmed and that there may be further direction to financially 'protect' social care but this is not yet defined. Most importantly however, all councils are having to set budgets and Council Tax based on a provisional settlement. Whilst there is a legal provision to allow this, there is a risk that if, for example, revenue grant streams are transferred into the Revenue Support Grant between the provisional and final settlements, there could be a financial adjustment to the final settlement and it is therefore prudent to have a buffer to be able to absorb this without affecting the tax base. Ongoing national discussions about the range of settlement values between councils could also affect the final position. The Final Local Government Settlement will not be published until 2<sup>nd</sup> March 2016 and the final Welsh Government budget will not be put before the Senedd until 8<sup>th</sup> March. Changes to the tax base at this stage would pose a risk in meeting the requirement to set the Council Tax before the required date of 11<sup>th</sup> March.

It is also prudent, given the level of savings made over recent years to have a financial contingency against non-delivery or slippage in the delivery of savings already agreed. Whilst the council's track record is excellent in delivery of savings, some of the items agreed for 16/17 may require a longer lead-in time to deliver.

It is therefore recommended that surplus in-year resources are set aside as a budget delivery contingency for 2016/17. This can be reviewed during 2016/17 and decisions taken about the best use of any remaining resource during the year if the budget risks are removed. The contingency should then be released as part of the savings required for 2017/18 and should therefore not be committed to funding any ongoing revenue expenditure.

**5. How does the decision contribute to the Corporate Priorities?**

Effective management of the council's budgets and delivery of the agreed budget strategy underpins activity in all areas, including corporate priorities.

**6. What will it cost and how will it affect other services?**

No further savings are required from services as a consequence of these proposals. The proposals include additional net funding for schools of £853k.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision?**

An EqIA has been completed for all relevant proposals.

**8. What consultations have been carried out with Scrutiny and others?**

Previous reports have highlighted in detail the significant consultation process undertaken to deliver the 2015/16 and 2016/17 budgets, including workshops, scrutiny committees, Corporate Governance Committee, task and finish groups, Joint Consultative Committee and a public engagement exercise last year. The engagement exercise completed last year, called 'Cutting our Cloth' included proposals covering the two financial years and yielded 822 survey responses and over 5,179 website hits. The detailed report of responses to the engagement exercise was presented to council last year and is available on the Modern.gov system. A member task and finish group has been established to assess the impact of savings proposals that have been implemented as part of this budget process. Since the conclusion of the second phase of the two-year budget process, proposals to address the budget gap have focussed on efficiency and not measures that would have an impact on the public and therefore further engagement on such proposals would not be worthwhile.

On the 12<sup>th</sup> January 2016, the council's cabinet resolved to support the recommendations in this report coming to full council for approval.

**9. Chief Finance Officer Statement**

This report presents the final phase of the two-year Freedoms & Flexibilities budget process which will have successfully achieved what it set out to do – deliver two budgets. It has been a difficult process at times and some tough decisions have had to be made. However, the vast majority of savings – over 80% - been efficiency or modernisation savings and the impact on services to the public has therefore not been significant.

The aim of the budget process is to ensure that the council delivers a balanced budget. The uncertainty over the level financial settlements in recent years has made financial planning in already difficult circumstances even more challenging. Whilst the revenue settlement for 2016/17 is better than the council had been led to believe it would be and this is clearly welcomed, there is still a lack of any meaningful financial planning indications for the future. It is hoped that this will be addressed following the elections in May 2016 because the uncertainty and variations from year to year that have been the norm since 2013 pose a significant risk to the delivery of future budgets.

Although the precise levels are not known it is likely that funding reductions to local authorities in Wales will continue in the medium term and while the council will always endeavour to be more efficient to save money, this in itself may not be sufficient in future years. Budget decisions will get harder and will probably have a longer lead-in time to deliver.

**10. What risks are there and is there anything we can do to reduce them?**

The budget process itself is a risk management measure with the aim of identifying, assessing and agreeing budget proposals in a planned and timely way. Risk management of the budget process is a key consideration of the Corporate Governance Committee.

**11. Power to make the Decision**

Local authorities are required under Section 151 of the Local Government Act 1972 to make arrangements for the proper administration of their financial affairs.

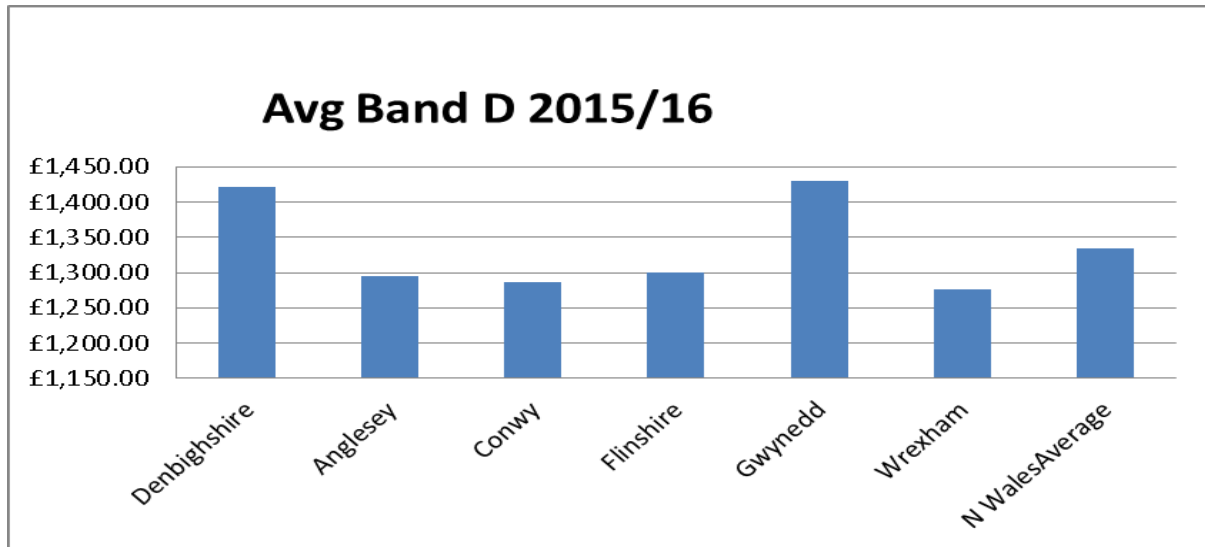
## Appendix 1

	at 1st Dec £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
<b>FUNDING</b>				
Revenue Support Grant & NNDR (RSG)	134,533	139,602	135,414	131,352
Council Tax	45,731	44,954	46,190	47,461
<b>SSA / Budget Requirement</b>	<b>180,264</b>	<b>184,556</b>	<b>181,604</b>	<b>178,812</b>
Use of Balances	500	500	500	500
<b>Total Funding</b>	<b>180,764</b>	<b>185,056</b>	<b>182,104</b>	<b>179,312</b>
<b>EXPENDITURE</b>				
Base Budget carried forward	184,756	184,756	184,576	187,939
<b>PRESSURES:</b>				
Inflation (excluding Schools)	2,977	2,899	1,969	1,969
Schools Protection	320	1,173	1,194	1,217
Investment in Priorities	250	250	200	
Transfers into/out of Settlement		1,036		
<b>EFFICIENCIES / SAVINGS:</b>				
F&F Phase 1	(870)	(870)		
F&F Phase 2	(1,785)	(1,785)		
F&F Phase 4	(1,290)	(1,290)		
F&F Phase 5	(1,273)	(1,273)		
Schools Demography Adjustment	(320)	(320)		
<b>Total Expenditure</b>	<b>182,765</b>	<b>184,576</b>	<b>187,939</b>	<b>191,125</b>
<b>Funding Shortfall / (Available)</b>	<b>2,001</b>	<b>(480)</b>	<b>5,835</b>	<b>11,813</b>
Annual increase/(decrease) in shortfall	2,001	(480)	6,315	5,978

## Appendix 2

2016/17 Options	Increase %	Funding Increase £'000	Budget Impact £'000	Avg Band D Annual Impact	Avg Band D Annual £
	0.00%	0	-661.71	£0.00	£1,142.22
	0.25%	110	-551.43	£2.86	£1,145.08
	0.50%	221	-441.14	£5.71	£1,147.93
	0.75%	331	-330.86	£8.57	£1,150.79
	1.00%	441	-220.57	£11.42	£1,153.64
	1.25%	551	-110.29	£14.28	£1,156.50
<b>New Proposal</b>	<b>1.50%</b>	<b>662</b>	<b>0.00</b>	<b>£17.13</b>	<b>£1,159.35</b>
	1.75%	772	110.29	£19.99	£1,162.21
	2.00%	882	220.57	£22.84	£1,165.06
	2.50%	1,103	441.14	£28.56	£1,170.78
<b>Original Case</b>	<b>2.75%</b>	<b>1,213</b>	<b>551.43</b>	<b>£31.41</b>	<b>£1,173.63</b>
	3.00%	1,323	661.71	£34.27	£1,176.49
	3.50%	1,544	882.28	£39.98	£1,182.20
	4.00%	1,765	1,102.85	£45.69	£1,187.91
	4.50%	1,985	1,323.42	£51.40	£1,193.62
	5.00%	2,206	1,543.99	£57.11	£1,199.33

**Appendix 3**



**Report To: Full Council**

**Date of Meeting: 26<sup>th</sup> January 2015**

**Lead Member / Officer: Julian Thompson-Hill / Richard Weigh**

**Report Author: Rod Urquhart / Steve Gadd**

**Title: Council Tax Reduction Scheme 2016/17**

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## **1. What is the report about?**

The adoption of the All Wales Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the All Wales Council Tax Reduction Schemes and Prescribed Requirements (Wales) Amendments Regulations 2016.

## **2. What is the reason for making this report?**

The Welfare Reform Act 2012 contained provisions to abolish council tax benefit in its current form across the UK. From 31 March 2013 council tax benefit ceased and the responsibility for providing support for council tax and the funding associated with it, has been passed to the Welsh Government. The Welsh Government, in partnership with local authorities in Wales, introduced a new scheme to provide council tax support which was adopted by the Council in January 2013.

The Welsh Government are to finalise both sets of regulations on 19<sup>th</sup> January 2016 and the new Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and amendments Regulations 2016 are required to be adopted by 31<sup>st</sup> January 2016.

## **3. What are the Recommendations?**

Members adopt the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Prescribed Requirements (Wales) Amendments Regulations 2016, in respect of the 2016/17 financial year.

That members approve the 3 discretionary elements of the scheme, shown in section 4.1, are continued in 2016/17.

## 4. Report details

### The Proposed Scheme 2016/17

In considering the development of a new scheme for 2016/17 the Welsh Government agreed that the amended scheme should observe the following parameters:

- To continue with a single nationally defined scheme to providing a consistent level of support to claimants across Wales. The maximum level of support is set at 100%.
- To continue providing a small number of discretionary elements, similar to those available under the current scheme, allowing local authorities to respond to their differing local circumstances (provided that the costs of any local variation are locally funded).
- To continue to be based on a reform of the previous Council Tax Benefit system, until 2017-18 so that operational risks are managed and that support can continue to be provided.
- A number of amendments are necessary to reflect the new arrangements in relation to care and support needs which have been introduced in England by the Care Act 2014 and which will be introduced in Wales by the Social Services and Well-being (Wales) Act 2014 which is due to come fully into force by April 2016.

The majority of these amendments are required to replace the current method by which a person is determined to be blind with the condition that a person must either be blind or severely sight-impaired. This is because the definition of “blind” will be repealed by the Care Act 2014 and orders under the Social Services and Well-being (Wales) Act 2014 with one for “severely sight-impaired” (this definition broadly replicates the previous definition of blind).

Other amendments are required to ensure that a range of payments which have previously been disregarded for the purposes of calculating CTRS remain so that they are provided under the 2014 Acts. These include:

- an amendment to ensure that those receiving payments from Local Authorities under the 2014 Acts for their care and support will continue to have these disregarded; and
- an amendment ensuring that those receiving bursaries under the Social Services and Well-being (Wales) Act 2014 will have this disregarded.

All the above amendments are necessary to ensure the affected applicants are still entitled to the disability premium.

- Consequential changes have been made to take into account terminology changes used in legislation as a consequence of the National Insurance Contributions Act 2015. All references to “small earnings exception” have been replaced with references to “small profits threshold”.
- Consequential changes are also required to take account of the new arrangements and terminology introduced via the Pensions Act 2014. Amendments to the 2013 Regulations are required to insert references to ‘a



state pension' where there are references to 'retirement pension'. This is because from April 2016, there will be two types of state pension. These amendments are necessary to ensure the affected applicants are still entitled to the relevant premiums and reliefs.

- In addition amendments are required to take into account a new section of the Social Security Contributions and Benefits Act 1992 (section 55A) which concerns the 'new state pension credit'.
- The figures used to calculate applicants' entitlement to Council Tax reduction will be updated in line with CPI, as set by the UK and Welsh Government.

#### **4.1 Discretionary Elements for Council decision**

- a) The ability to increase the standard extended payment period of 4 weeks given to people after they return to work, when they have been in receipt of a relevant qualifying benefit for at least 26 weeks
- b) Discretion to disregard part or the whole amount of War Disablement pensions and War Widows Pensions when calculating income
- c) The ability to backdate, for up to 6 months any application of Council Tax Support awards for working age customers more than the standard period of 3 months prior to the claim.

**4.2** The Welsh Government undertook a formal consultation exercise on the current scheme and potential changes, enabling it to be cost neutral to Local Authorities. Representation was made by many organisations, including Denbighshire County Council, suggesting amendments to the scheme.

After due consideration it was decided to continue with the scheme as is until after the next assembly elections, with any shortfall between the amount of reduction granted and the specific grant received being owned by the Local Authority.

Unfortunately the Welsh Government has also decided that the funding levels for the scheme are to remain at the 2013/14 levels, which created a budgetary pressure in 2015/16 and will continue to do so in 2016/17.

#### **5. How does the decision contribute to the Corporate Priorities?**

Adopting this scheme will help vulnerable people, ensuring they live as independently as possible.

#### **6. What will it cost and how will it affect other services?**

There was a loss of grant income through the changes to the Council Tax Benefits system. In 2016/17 the Council will receive £9.167m funding for Council Tax Support from the Welsh Government. However current expenditure is £9.647m, if the Net Council Tax increased by 2.5% (i.e the councils proposed increase and an allowance

for changes to other precepts included in the total bill) the forecast expenditure for 2016/17 is circa £9.863m. This gives a shortfall of around £696k for 2016/17.

This shortfall may either increase or decrease dependant on the levels of Council Tax charged for 2016/17 and / or any further caseload fluctuations.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

The Welsh Government has undertaken an Equality Impact Assessment at a national level on its proposed changes to the Council Tax Reduction Scheme.

**8. What consultations have been carried out with Scrutiny and others?**

Not applicable as this is an extension of the current scheme, which was consulted on in 2012.

**9. Chief Finance Officer Statement**

The Council has no real choice but to adopt the scheme. It represents a significant pressure on the Council's finances. The 2016/17 budget contains prudent assumptions about the costs and provides budget to cover the estimated shortfall.

**10. What risks are there and is there anything we can do to reduce them?**

There are risks to the Council in not adopting this scheme, in that Denbighshire CC would then have to adopt the default scheme, which may increase the cost.

**11. Power to make the Decision**

- Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013.
- The Council Tax Reduction Scheme (Default Scheme)(Wales) Regulations 2013.
- Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2016.

**Report To:** County Council

**Date of Meeting:** 26<sup>th</sup> January 2016

**Lead Member / Officer:** Councillor Hugh Evans/Gary Williams

**Report Author:** Gary Williams

**Title:** Draft Local Government (Wales) Bill

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## **1. What is the report about?**

1.1 The report is about the consultation exercise being conducted by Welsh Government on the provisions of the Draft Local Government (Wales) Bill (“the Draft Bill”).

## **2. What is the reason for making this report?**

2.1 The reason for making the report is to determine Council’s response to the consultation exercise.

## **3. What are the Recommendations?**

3.1 That Council notes the contents of the Draft Bill and considers the draft consultation response set out in Appendix 3.

3.2 That Council authorises the Leader in consultation with Group Leaders to finalise the terms of the Council’s response taking into account the views expressed by Council.

## **4. Report details.**

4.1 Members will recall, in 2015, providing a consultation response to the White Paper entitled “Reforming Local Government – Power to Local People (“the White Paper”). The Welsh Government has, since then, enacted the Local Government (Wales) Act 2015 which makes provision for voluntary mergers of local authorities, transition committees, the review of electoral arrangements for new authorities and restraints on transactions and recruitment by merging authorities.

4.2 The Draft Bill makes proposals for the future merger of local authorities in Wales and seeks views on those proposals. The Draft Bill, however, contains much more than proposals for merger. The merger proposals are set out in Part 1 of the Draft Bill. There are 8 parts to the Draft Bill and Parts 2-8, if enacted as a standalone piece of legislation, would see the most substantial local government reforms in Wales since the Local Government Act 2000. It is therefore important that Members consider the implications of these provisions

in at least as much depth as the proposals for mergers. It is also important that the response considers the timing of some proposals and whether they should be deferred until the creation of the new councils.

4.3 Members have attached to this report the following appendices:

Appendix 1 Summary of the main provisions of the Draft Bill  
Appendix 2 Consultation Document  
Appendix 3 Draft consultation response  
Appendix 4 Draft Local Government Wales Bill  
Appendix 5 Draft Explanatory Memorandum

4.4 The Draft Bill is structured in 8 parts as follows:

Part 1 Local Government Areas and County Councils  
Part 2 General Power of Competence  
Part 3 Promoting Access to Local Government  
Part 4 Functions of County Councils and their Members  
Part 5 County Councils: Improvement of Governance  
Part 6 Community Councils  
Part 7 Workforce Matters  
Part 8 General and Schedules

4.5 It is important to note that in producing the Draft Bill, the Welsh Government has taken into account many of the concerns expressed by Councils during the White Paper consultation. Some of the controversial proposals such as term limits for Councillors, phased elections and review of members' remuneration, do not appear in the Draft Bill. It is suggested that the Council's response to the Draft Bill should welcome the removal of proposals contained in the White Paper that it had previously criticised.

4.6 There are however a number of proposals with which the Council did not agree when they were first consulted upon in the White Paper that remain in the Draft Bill. Where such proposals appear, the draft response is based upon that which was agreed in response to the White Paper.

4.7 Where the Draft Bill contains proposals which have been substantially altered from those in the White Paper a draft response has been prepared by officers for consideration by Members.

4.8 The consultation document also contains questions relating to issues which are not included in this Draft Bill but are issues that the Welsh Government are seeking views upon prior to giving them further consideration, some of which may appear in the final Bill placed before the National Assembly.

4.9 It is suggested that Council debates the contents of the draft response and authorises the Leader in consultation with Group Leaders to finalise the terms of the Council's response.

**5. How does the decision contribute to the Corporate Priorities?**

5.1 The decision does not impact directly on corporate priorities.

**6. What will it cost and how will it affect other services?**

6.1 Responding to the consultation will not incur any additional costs.

**7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

7.1 There is no requirement for an assessment.

**8. What consultations have been carried out with Scrutiny and others?**

8.1 There have been no consultations with Scrutiny in respect of this consultation response, however, the Council's response to the White Paper was the subject of consideration by Chairs and Vice Chairs of Scrutiny, Corporate Governance Committee and Democratic Services Committee. The Draft Bill will be considered by Democratic Services Committee on 22<sup>nd</sup> January insofar as it relates to the terms of reference of that Committee and the Committee's views will be relayed to Council.

**9. Chief Finance Officer Statement**

9.1 There are no additional costs associated with the consultation process. There are a wide range of financial and other possible implications that are discussed in the response to the consultation document.

**10. What risks are there and is there anything we can do to reduce them?**

10.1 The risks of not responding to the consultation is that the Council's view will not be taken into account when the Welsh Government finalises the provisions of the Bill to be put before the National Assembly for Wales.

**11. Power to make the Decision**

11.1 Section 111 Local Government Act 1972.

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## **Draft Local Government Wales Bill – Summary of Provisions**

### **Part 1 – Local Government Areas and County Councils**

#### **Chapter 1 – Local Government Areas**

- 1.1.1 The only provision of this Chapter of the Draft Bill is concerned with the creation of new local government areas from 1<sup>st</sup> April 2020. There are 2 tables set out in Schedule 1 to the Draft Bill, Table 1 which shows 8 counties including 2 in North Wales, and Table 2, which shows 9 counties including 3 in North Wales. Consultees are asked to provide their views on the options for North Wales and the overall configuration of local government areas in Wales as proposed in the Draft Bill.
- 1.1.2 Members will be most interested in the issues raised in respect of proposals for North Wales. These are set out on Pages 9 and 10 of the Consultation Document. These are described as being finely balanced and include consideration of population sizes, language, regional variances in financial indicators, and the sub-regional structures of other bodies such as health, police and fire.

#### **Chapter 2 – County Councils**

- 1.2.1 This Chapter contains provisions relating to the election of a Chair, the power for a County Council to give the Chair the title of Mayor, the power to appoint a presiding officer and sets a new fixed cycle of 5 year terms for County Councillors beginning in 2023. It introduces Schedule 2 to the Draft Bill which contains provisions relating to the first elections to and the first meetings of the new councils.

#### **Chapter 3 – Establishing the Councils for the New Counties**

- 1.3.1 This Chapter provides for the process by which the new councils come into being. The proposed election timetable is that elections to the existing councils will take place in May 2017 for a period of three years. In May 2019, there will be elections to the new councils which will be shadow authorities until 1<sup>st</sup> April 2020 when they will take on the full functions of local authorities for the new areas. There will then be elections to these authorities in May 2023 from which point Councillors will be elected for fixed 5 year terms.
- 1.3.2 This Chapter also introduces Schedule 3 to the Act which makes provision in respect of the new councils relating to finance issues such as council tax and non-domestic rating and council funds giving the shadow authorities the ability to make preparations for the new authorities. Further detail will be provided in Regulations. It also introduces Schedule 4 which makes provision for the transfer of staff, property, rights and liabilities.

#### **Chapter 4 – Miscellaneous Provision**

- 1.4.1 This Chapter makes various technical provisions to include the power for Welsh Ministers to make regulations to make consequential amendments to previous legislation and transitional provisions. It also makes provision for the amendment of previous legislation.

## **Other Matters**

- 1.5 The Consultation Document, in respect of Part 1 confirms that the previous White Paper proposal for phased elections will not be taken forward. The previous cap of 75 on the number of Councillors for a County Council has been removed. Consideration is currently being given to the appropriate number for the new councils.
- 1.6 The Government proposes to abolish the “preserved counties”. These were the counties created under the Local Government Act 1972 which after local government reorganisation in 1996 were preserved for various administrative and judicial purposes. Since then most of the purposes for these areas have fallen away. The proposal is that these “preserved counties” be abolished and their place taken for those purposes that remain, e.g. the appointment of Lord-Lieutenants and High Sheriffs by the new counties. Views are sought on these issues.

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

### **Chapter 1 – The General Power**

- 2.1.1 Chapter 1 provides for the introduction of a general power of competence for County Councils and Community Councils with competence. This power enables a Council to do anything that an individual may do provided that it is not otherwise prohibited by law from doing it. The Draft Bill places restrictions on the extent of the power. A Council may not charge for anything that it has a statutory duty to do. Any charge is subject to a duty that from one financial year to the other, the income from charges is not greater than the cost of providing the service.
- 2.1.2 The general power includes the power to do things for a commercial purpose provided that the Council is not under a statutory duty to provide the service and that the service is provided through a company. Welsh Ministers may make regulations regarding conditions to be placed on the exercise of the power and to remove any obstructions to the exercise of the power.
- 2.1.3 It is intended to bring this into force at the earliest opportunity to allow existing authorities to use it.

### **Chapter 2 – Community Councils with Competence**

- 2.2.1 This Chapter sets out how Community Councils may become Community Councils with competence. A Community Council will be able to pass a resolution that it meets the competency requirements and that it is a Community Council with competence. It will then remain “competent” until the first meeting after the next ordinary election whether or not it continues to satisfy those requirements, unless it declares itself to no longer be competent. Even if it ceases to be competent it may continue to exercise the power of competence in respect of any activity it undertook whilst it was a Council with competence.



2.2.2 There are three requirements. Firstly that at least two thirds of the Members have been elected, secondly that the Clerk has a relevant professional qualification and thirdly that the Council has, for two consecutive years, received an unqualified Auditor's opinion.

2.2.3 This is different to the White Paper proposal which suggested that Community Councils would in addition only be competent if they had a turnover of greater than £200k and placed an obligation on the County Council to determine whether a Community Council continued to be competent.

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

### **Chapter 1**

3.1.1 This chapter provides an overview of this Part.

### **Chapter 2 – Public Participation in Local Government**

3.2.1 This chapter requires councils to encourage local people to participate in decision making by the Council and other authorities connected with the Council in the area. These are set out in the Draft Bill as Community Councils, the Fire and Rescue Authority for the area and a National Park Authority for a national park which is in any part of the Council's area.

3.2.2 A Council will also be required to prepare and publish a public participation strategy that sets out how it will comply with these requirements. The Draft Bill contains a list of issues that must be addressed by the strategy. When preparing a strategy the Council must consult local people. The strategy must be reviewed after each ordinary election, and local people must be consulted as part of the review.

3.2.3 This Chapter also requires a Council to consult prior to formally setting a budget. The Draft Bill sets out a list of those who must be consulted, including, local people, businesses in the area, persons who provide services on the Council's behalf, persons who carry out activities in the area for which the Council provides financial assistance, voluntary bodies and trade unions.

3.2.4 In the White Paper it was suggested that Councils should have to set up Youth Councils. This has not been included in the Draft Bill although guidance to be issued on public participation strategies will emphasise the role of children and young people.

### **Chapter 3 – Community Area Committees**

3.3.1 Further provisions in Part 3 relate to the creation of Community Area Committees which must be fully established statutory committees. These committees will comprise County Councillors for that area, representation from Community Councils, other public bodies and voluntary bodies. Each of these members and representatives will be able to vote. They will publish an annual statement of local priorities and objectives which must have regard to the local well-being assessment conducted under the Well Being of Future Generations (Wales) Act. The committees must consult local people and voluntary bodies on a draft of the statement before it is submitted to the

County Council. The committees may have functions delegated to them and may themselves delegate to a sub-committee or officer. Welsh Ministers may make regulations to require or restrict the delegation of certain functions to these committees.

3.3.2 Part 3 also provides that “interested bodies” may make improvement requests to a County Council with the aim of entering a dialogue about how services could be improved. In respect of each request the Council would have to accept or refuse within 45 days. A County Council would have to agree to the request unless there are reasonable grounds for refusing it. If it agrees to enter discussions about the improvement request the County Council must enter into those discussions within 45 days and publish online, a summary of the discussions and agreed actions. The County Council must publish an annual report of all improvement requests and maintain a complaints system in respect of them. Welsh Ministers can make regulations to make further provision regarding the procedure to be used by Councils in dealing with requests, the reporting of them and the support that Councils must make available to interested bodies to enable them to make requests and enter into discussions.

## **Chapter 5 – Access to Meetings of Local Authorities**

3.5.1 At least once a year the Leader must attend a meeting at which local people are given an opportunity to put questions to the Leader about the discharge of Cabinet functions.

3.5.2 All public meetings of Council or any committee or sub-committee must be broadcast live and must be available electronically for a reasonable period after the meeting. Welsh Ministers may make regulations for allowing persons to film, photograph or make sound recordings of meetings and to provide written or oral commentary as the meeting takes place or later. These regulations can set out the facilities to be made available by the Council to persons wishing to do this, and the steps to be taken by those persons before doing it.

3.5.3 The chapter also provides for Community Councils to make standing orders enabling members of the public in attendance at a meeting to make representations about the business to be conducted.

## **Chapter 6 – Further Duties of County Councils**

3.6.1 The Council will have to produce a guide to the constitution explaining the content of the Constitution in ordinary language.

3.6.2 The Council must publish an official electronic and postal address for every member of the Council on its website to which correspondence may be sent.

## **Part 4 – Functions of County Council and their Members**

### **Chapter 1**

4.1.1 This provides an overview of this Part.

## **Chapter 2 – Duties of Members of County Councils**

This Chapter places duties on individual members.

- 4.2.1 A member must attend all relevant meetings unless they have a good reason not to. This includes all formal meetings as well as any other meeting that a Member would be reasonably expected to attend in the exercise of his or her functions as a Member. However, the Draft Bill expressly states that nothing in this duty affects or changes the legal requirement that a Member be disqualified if he/she fails to attend for 6 months.
- 4.2.2 A Member must hold at least four surgeries in every 12 month period following their taking up office, unless they have a good reason not to. A surgery is held if a Member makes him or herself available for at least one hour to meet members of the public to discuss matters in private. The date, time and location of the surgery must be published on the Council's website at least seven days in advance of the surgery.
- 4.2.3 A Member must respond to all correspondence sent to his or her official address within 14 days of receipt unless he or she has a good reason not to.
- 4.2.4 A Member must complete all compulsory training courses unless they have a good reason not to. Training is compulsory if the Council has notified a Member that they must complete it.
- 4.2.5 A Member must make an annual report about his or her activities as a Member and the results of those activities every year. These must be submitted to the Head of Democratic Services and they must be published. There is no provision for having a good reason not to do this.

## **Chapter 3 – Breaches of Duties under Chapter 2**

- 4.3.1 Any person may make a complaint, in writing, to the Monitoring Officer about a possible breach by a Member of any of the duties set out in Chapter 2 other than the duty to make an Annual Report.
- 4.3.2 The Monitoring Officer must refer any complaint received to the Chair of the Standards Committee and together they must decide whether or not the matter should be investigated. The Monitoring Officer must investigate the complaint unless both the Chair of Standards Committee and the Monitoring Officer consider that it should not be investigated.
- 4.3.3 If the Head of Democratic Services believes that a Member has breached the duty to make an annual report he/she can refer it to the Monitoring Officer for investigation. When considering whether to investigate the Monitoring Officer must consult the Chair of Standards Committee.
- 4.3.4 If an investigation is conducted a report must be provided to the Standards Committee with any recommendations that the Monitoring Officer considers appropriate.
- 4.3.5 A procedure is set out in this Chapter for the hearing of these matters by the Standards Committee. If the Standards Committee decides that a Member

has breached one of the duties then it can impose a censure, a suspension or partial suspension for up to six months or take no further action.

- 4.3.6 Welsh Ministers may make regulations about how investigations and hearings into breaches of these duties are dealt with, as well as for an appeals mechanism.
- 4.3.7 Standards Committees must also arrange training for Members on these duties.
- 4.3.8 This Chapter also places a personal duty on leaders of political groups to co-operate with the Standards Committee and take reasonable steps to promote and maintain high standards of conduct by Members of their group. Standards Committee must arrange training for Group Leaders and monitor their compliance with this duty.
- 4.3.9 Welsh Ministers may make regulations regarding the circumstances in which Members are treated as being a political group and a Member is treated as a leader of a group.

#### **Chapter 5 – Executives of County Councils**

- 4.5.1 This Chapter requires the Leader as soon as practicable after they are elected to set objectives to be met by the executive (Cabinet). The Leader must keep these under review and report annually on performance against these objectives. The objectives and the annual report must be published.
- 4.5.2 All candidates for the post of Leader must prepare a written manifesto and this must be made available to all Members before they elect a Leader.
- 4.5.3 The Council's executive arrangements may include provision for the appointment by the Leader of Councillors to assist the executive who are referred to in the Draft Bill as Assistants to the Executive. They are not members of the executive but would be entitled to attend and speak at Cabinet meetings but not vote and would not be eligible for a senior salary. This replaces the proposal in the White Paper that there be deputy cabinet members.

#### **Chapter 6 – Appointment etc. of Certain Chief Officers**

- 4.6.1 This Chapter requires the appointment of a Chief Executive and provides that the role includes the duties currently required by legislation to be those of the Head of Paid Service.
- 4.6.2 The Leader must set objectives to be met by the Chief Executive, review annually the extent to which the Chief Executive has met the objectives and if appropriate revise them. The objectives must be published.
- 4.6.3 The Leader must prepare and publish a report on the review of achievement against the objectives. The Council must consider the report within 3 months of its publication.

4.6.4 The Head of Democratic Services is to be included in the statutory definition of a Chief Officer and the prohibition on the Monitoring Officer from fulfilling that role has been removed.

## **Chapter 7 - Overview and Scrutiny Committees and Standards Committees**

- 4.7.1 The law does not generally permit co-opted members of scrutiny committees to have voting rights with some exceptions e.g. education co-optees. This chapter gives Councils power to grant voting rights to co-optees on an individual basis which can be limited by time and by the questions upon which a vote may be cast. Welsh Ministers may make regulations to govern this provision which may also set maximum or minimum numbers of co-opted members on a Scrutiny Committee that may be able to vote.
- 4.7.2 This Chapter also gives Welsh Ministers power to make regulations to require Councils to establish Joint Scrutiny Committees, and regulations to require information to be made available to Scrutiny Committees about decisions that Cabinet has made or intends to make akin to the “key decisions” framework in England.
- 4.7.3 The Chapter also requires Standards Committees to make annual reports to Council on their activities to include in particular the committee’s assessment of the extent to which Group Leaders have complied with their duties regarding conduct and a summary of the breaches of Members’ duties as set out above that have been referred to it.
- 4.7.4 The Consultation Document in respect of this Part refers to other matters which are not included in the Draft Bill but were raised in the White Paper

### **Delegation of functions**

- 4.8 It seeks views on the Government’s intention to repeal Part 2 Deregulation and Contracting Out Act 1994 to be replaced with regulations allowing County Councils and others to delegate functions to third parties. It is intended to do this as soon as practicable after the passing of the Bill to make this available to existing Councils.

### **Electoral qualification**

- 4.9 The government will not be proceeding with the proposal that they lift the bar on employees of a council seeking election to that Council.
- 4.10 The Draft Bill does not include proposals that candidates be required to declare membership of a political party, nor that members of County Councils be prevented from being members of a Community Council, nor that persons be prevented from being a member of more than one Community Council. They will give these issues further consideration.

### **Term Limits**

- 4.11 The White Paper contained proposals for term limits for Councillors, Leaders and Cabinet Members. These will not be taken forward.

### **Release of Councillors from Employment**

- 4.12 The White Paper proposal to require public bodies to release employees to undertake duties as Councillors will not be taken forward in the Draft Bill.

### Remuneration of Councillors

4.13 The White Paper considered members' remuneration. No proposals are included in the Draft Bill, however, the Consultation Document seeks views on the proposal that the final Bill include power for Welsh Ministers to direct the Independent Remuneration Panel for Wales to have regard to guidance when reviewing members' remuneration.

### Recall of Councillors

4.14 The Draft Bill does not include recall provisions but the Consultation Document states that provisions for recall be included presumably in the final Bill are being considered whereby a by-election would be triggered if a Member was suspended and twenty electors signed a petition. No views are specifically sought on this point.

### Remote Attendance at Meetings

4.15 Although no provision is made in the Draft Bill it is Government's intention to include provisions in the final Bill provisions to further facilitate remote attendance at meetings. Views are sought on this point.

### Costs of Senior Management in Local Government

4.16 The proposals in the White Paper for central appointments for Chief Executives and Chief Officers, term limits for Chief Executives and central control mechanisms for salaries of Chief Officers are not included in the Draft Bill. The Consultation Document says that these will be considered further as part of a wider exercise in respect of the whole public service. Views are not specifically sought on this.

### The Role and Responsibilities of Chief Executives

4.17 No provision is made in the Draft Bill for including the Returning Officer role as an intrinsic duty of a Chief Executive for which no additional fee would be payable but the Consultation Document states that this will be brought forward in other legislation at some point.

4.18 It is proposed that Shadow Authorities appoint Returning Officers for the 2020 General Election given that it will take place only one month after the new authorities come into being.

4.19 There was in the White Paper a proposal that Chief Executives should have a specific duty to promote engagement and diversity in democracy. This is not included in the Draft Bill although it is suggested that future guidance to Leaders about the setting of objectives for Chief Executives will deal with this issue.

### Power to Dismiss Senior Officers by a Vote of the Full Council

4.20 Currently, the law requires that the Chief Executive, Chief Finance Officer, Monitoring Officer and Head of Public Services can only be dismissed if

an independent person has conducted an investigation which would justify this. The Government is considering a change which would allow these officers to be dismissed by a vote in Full Council without the necessity of this independent investigation. This is not included in the Draft Bill but the Consultation Document seeks views on whether this approach should be taken in Wales as it has been in England.

#### Council Functions and Responsibilities

4.21 Currently the legality of whether a decision is to be made or a function exercised by Cabinet or Council is one which is prescribed in detailed regulations. These are liable to become out of date quite quickly and require frequent revision and amendment. The Government is suggesting that the final Bill includes provision for local authorities to decide which functions are exercised by whom subject to having to abide by certain principles, having regard to Ministerial Guidance and a reserve power for Welsh Ministers to direct a local authority to allocate responsibility in a certain way. The Consultation Document seeks views on this approach.

#### Transfer of Local Authority Assets

4.22 The White Paper contained proposals that community bodies could initiate the transfer to them of local authority assets. There are no proposals relating to this in the Draft Bill but the Consultation Document states that Government intends to include provisions in the final Bill and seeks views on a modified approach which would require local authorities to give statutory notice to community bodies that they intend to dispose of assets above a certain as yet unidentified value. There may also be further provisions relating to the length of notice given, how a local authority responds when a community body indicates an interest in a particular asset and how urgent situations should be dealt with.

#### Assets of Community Value

4.23 The White Paper contained a proposal that local authorities be required to maintain a register of assets of community value e.g. village pub etc. There is no provision for this in the Draft Bill but further ministerial consideration will be given to what action is to be taken and whether there is a need for legislation.

### **Part 5 – County Councils: Improvement of Governance**

#### **Chapter 1 – Duty To Make Arrangements To Secure Good Governance**

5.1.1 Councils are currently required to secure continuous improvement. This Chapter will replace that duty with a duty to make implement and comply with arrangements to ensure good governance, accountability, and economy, efficiency and effectiveness in the use of Council resources.

5.1.2 Welsh Ministers will issue regulations setting out principles, processes and practices to be applied in making governance arrangements and can prescribe a Code of Practice or guidance.



## **Chapter 2 – Corporate plans**

- 5.2.1 The White Paper proposed that a Council should have a Corporate Plan produced by the Chief Executive. The Consultation Document accepts the arguments made in response to the White Paper that the Corporate Plan should be approved by the Council.
- 5.2.2 The Corporate Plan must include a statement of the Council's priorities for the short, medium and long term and identify issues in respect of which it expects to have to make significant decisions. It must contain certain documents such as a self-assessment report about governance, a statement of well-being objectives published under the Well-Being of Future Generations Act and the assessment of local well-being produced by the Public Services Board.
- 5.2.3 It must also include details about the Council's strategies for workforce planning, financial planning, complaints handling, risk management, scrutiny, management of assets and public participation.
- 5.2.4 Welsh Ministers can make regulations about what else must be included.
- 5.2.5 The Corporate Plan must be produced within three months of the date of the first ordinary election of councillors after the coming into force of this part of the Draft Bill and each subsequent election.
- 5.2.6 A Council can review the plan from time to time but must do so at least once a year.
- 5.2.7 A Council must consult the Local Health Board, the Public Services Board and any other person it thinks appropriate before preparing or revising the Corporate Plan.

## **Chapter 3 – Assessments of Governance Arrangements**

- 5.3.1 A Council must conduct a self-assessment of its compliance with the duty in Chapter 1 to make, implement and comply with arrangements to achieve good governance, accountability and efficient and effective use of resources. It must do this at least once a year. A draft of the self-assessment report must be put to the Corporate Governance and Audit Committee and take into account any changes it recommends. The final report must be published.
- 5.3.2 Welsh Ministers may make regulations about the form and content of a self-assessment report and how and when it must be published.
- 5.3.3 In addition, a Council must arrange for a peer assessment by a panel appointed by the Council. This must be done before 31<sup>st</sup> March 2023 and at least once during each subsequent electoral cycle. A model approach to peer assessment is set out in Annex A to the Consultation Document.
- 5.3.4 The Council must consider and publish the peer assessment report. It must also respond to it and publish the response setting out whether it accepts the recommendations made and identifying any action it proposes to take as a result.

- 5.3.5 Welsh Ministers may make regulations about the form and content or peer assessment reports and responses.
- 5.3.6 The Council's regulators must produce a combined assessment of governance arrangements at a council at such intervals as they think fit. There are similar provisions relating to the reporting and response to reports as are set out above in relation to peer assessments. Welsh Ministers will have the power to make regulations as to when such assessments should be carried out and the form and content of reports and responses.

### **Chapter 5 – Governance Reviews and Intervention**

- 5.5.1 If Welsh Ministers believe that a Council is failing in its governance duty they may arrange for a governance review of the Council. Before doing so they must consult the Council and other persons they think appropriate. The Council will be required to co-operate with the review. Other public bodies such as the Public Services Board, Local Health Board, Community Council, Estyn and Auditor General for Wales will be required to take reasonable steps to facilitate the review by providing documents records and other information.
- 5.5.2 There must be a review report which the Council must publish within 14 days of receipt.
- 5.5.3 The Council must prepare a response taking into account the views of the Corporate Governance and Audit Committee and identifying the action it proposes to take.
- 5.5.4 Welsh Ministers can on receipt of the response give certain directions, called intervention directions, with which the Council must comply. These can include a direction to enter into a contract with a provider for the provision of advice training or support, a direction to take specific steps and a direction that specified functions of the Council be exercised by Welsh Ministers or persons nominated by them.
- 5.5.5 There is a duty to co-operate with Welsh Ministers or persons authorised by them in connection with an intervention direction.

### **Chapter 5 – Co-ordination Between Regulators**

- 5.5.6 Welsh Ministers may make regulations in connection with the co-ordination by regulators of relevant functions.

### **Chapter 6 – Miscellaneous Provisions about Chapters 1-5**

- 5.6.1 This Chapter requires those exercising functions under this Part to have regard to Guidance. It also allows the Council to determine whether the Council or Cabinet exercises functions under this Part.

### **Chapter 7 – Corporate Governance and Audit Committees**

- 5.7.1 Each Council must have a "Corporate Governance and Audit Committee" which will have in addition to its current functions as an Audit Committee the following additional functions.

- 5.7.2 It must assess the Council's ability to comply with its governance duty, its ability to make progress in relation to the priorities set out in the Corporate Plan, its arrangements for self and peer assessment and its ability to handle complaints effectively.
- 5.7.3 In addition the Committee will have functions relating to making recommendations to Council in respect of the content of self-assessment reports, peer assessment reports and responses, combined assessment reports and responses, and responses to governance reviews.
- 5.7.4 Membership of the Committee will be amended. At present our Corporate Governance Committee which is the Council's Audit Committee for the purposes of the current legislation, has the statutory minimum of one lay member. The Draft Bill proposes that there be a minimum of at least one third of the members of the Corporate Governance and Audit Committee who are lay members and that the Chair must be a lay member. The Deputy Chair must not be a member of the Cabinet.
- 5.7.5 Views are sought in the Consultation Document on the role of the Committee in the various assessment and review processes.

#### Other Matters

The Consultation Document then refers under this Part to matters which are not included in the Draft Bill.

#### Strengthening External and Internal Scrutiny

5.7.6 The White Paper proposed stronger links between scrutiny and external regulators. There are no provisions regarding this in the Draft Bill but the Consultation Document says that there will be provision made in the final Bill. The proposal is that regulators would be required to provide copies of their reports to Scrutiny at the same time that final reports are issued to the Council. The Council would be required to involve Scrutiny in the development of its response and have regard to any recommendations made by the relevant committee. The regulators would be required to present their report to the relevant Scrutiny Committee when requested to do so.

#### Report on the "State of Local Government"

5.7.7 The White Paper contained a proposal for regulators to make a State of Local Government Report". It has been decided not to include this in the Draft Bill since the Well-Being of Future Generations Act requires a number of reports.

#### Single Information Portal

5.7.8 The White Paper proposed a single information portal for key documents and data. There are no provisions in the Draft Bill but the Government intends to include provision in the final Bill.

## Complaints

5.7.9 The White Paper suggested a statutory complaints system be established. A Draft Public Services Ombudsman (Wales) Bill has been introduced and the Government proposes to reflect on how this develops before making further proposals.

## Local Public Accounts Committees

5.7.10 The White Paper contained a proposal to create a Public Accounts Committee to examine the impact of public spending on outcomes in an area. This is no longer proposed. The Consultation Document does however ask for views on whether Public Services Boards created under the Well-Being of Future Generations (Wales) Act should be the appropriate forum for examining prospective policy choices facing local public services, and if so, whether they should be given additional powers to call officers to give evidence and commission external experts to inform their investigations.

## Shared Services

5.7.11 The Consultation Document makes reference to the Williams Commission's recommendation that the NHS Wales Shared Service Partnership was a good model for public sector wide shared services. It also makes reference to the KPMG report into support functions which suggests cost savings and improved service through operating on a larger scale.

5.7.12 The Consultation Document asks for views on whether the current legislative framework is appropriate for enabling public sector wide shared services and asks what legislative measures could be taken to improve this.

## **Part 6 – Community Councils**

### **Chapter 1 – Review of Community Council Arrangements**

6.1.1 The White Paper proposed that County Councils conduct a review of Community Councils in their area with a view to having fewer, larger Councils. The Government has recognised that this would impose a significant burden on new Councils. This task is now proposed to be done by the Local Democracy and Boundary Commission who will submit reports to the new Councils on or after 1<sup>st</sup> April 2020. Views are sought on whether this is brought forward to May 2019 in order that the reviews may be undertaken in a more timely fashion. Views are also sought on whether the new Councils should implement the reviews, which is the current proposal in the Draft Bill, or whether the Commission should do so themselves.

### **Chapter 2 – Members of Community Councils to Complete Training**

6.2.1 The Draft Bill contains provisions that a County Council must, having regard to guidance from Welsh Ministers, decide whether it should be compulsory for members of Community Councils in their area to complete training on certain matters. If they do so decide then the County Council must provide that

training or secure its provision. Members of Community Councils must complete compulsory training unless they have a good reason not to.

6.2.2 Any person can complain that a Member has not completed compulsory training. The Draft Bill imposes a duty on the Clerk to the Community Council to determine whether or not the Member has breached their duty and if so must notify the Community Council of the breach at a meeting of the Community Council.

### **Chapter 3 – Community Council Election Dates**

6.3.1 The Draft Bill contains provision that Community Council elections be held in 2017 and 2023 and thereafter at five yearly intervals on the same cycle as County Councils. Views are sought on this proposal.

#### Other Matters

There are in the Consultation Document in reference to this Part, other matters which are not included in the Draft Bill.

#### Capping the Community Council Precept

6.3.2 The White Paper contained proposals to cap the precept of non-competent Community Councils. This is not in the Draft Bill and will be considered on a longer term basis.

#### Annual Reports

6.3.3 It is the Government's intention to include in the final Bill a requirement for Community Councils to produce an Annual Report on their activities. No views are particularly sought on this.

#### Training

6.3.4 A new proposal in the Consultation Document which does not appear in the Draft Bill but will appear in the final Bill is that Community Councils should consider the training needs of their staff and members and, where appropriate make that training compulsory. Views are sought on this proposal.

#### Performance Management

6.3.5 The White Paper contained a proposal that the Chair of a Community Council should set objectives for the Clerk. This does not appear in the Draft Bill but views are sought on whether the duty should rest with the Council as a whole or just the Chair, and whether it should apply to all Community Councils or only some.

#### Community Polls

6.3.6 The White Paper said that the framework for Community Polls would be clarified.

- 6.3.7 These are costly and the turnout generally low. The outcomes are not binding.
- 6.3.8 The Government intends to introduce into the final Bill a provision repealing the legislation regarding Community Polls and replace it with an obligation on County Councils to have a petitions scheme and an e-petition facility. This would allow communities to express their views without the cost of Community Polls and there would be a requirement on County Councils to respond. Views are sought on this issue.

## **Part 7 – Workforce Matters**

### **Chapter 1 – Guidance to Public Bodies on Workforce Matters**

- 7.1.1 This Chapter provides power for Welsh Ministers to issue guidance to public bodies on workforce matters. A public body must have regard to any such guidance issued to it. They must consult a public body or bodies before issuing guidance.

### **Chapter 2 – Public Services Staff Commission**

- 7.2.1 A non-statutory Public Services Staff Commission has already been established. The Consultation Document suggests that the passing by the UK Government of the Wales Bill may, depending on the content, mean that a statutory staff commission would be more constrained on the matters on which it could offer workforce guidance than a non-statutory commission. The Consultation Document asks for views on whether it would still be desirable to establish a statutory commission even if it were more constrained.
- 7.2.2 Even if it is established, such a commission would only exist until 1<sup>st</sup> April 2021 unless extended in being by Welsh Ministers to a date not beyond 1<sup>st</sup> April 2023.

## **Part 8 – General**

This contains interpretation clauses and technical clauses relating to powers to make transitional and consequential provisions.

- 8.1 It is made clear that reference to County Councils in the Draft Bill apply to the existing County and County Borough Councils until 1<sup>st</sup> April 2020.
- 8.2 The Bill, if enacted, will be known as the Local Government (Wales) Act 2017.



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## Consultation Document

Devolution, Democracy and Delivery

# Draft Local Government (Wales) Bill and Explanatory Memorandum

Reforming Local Government

Date of issue: **24 November 2015**

Action required: Responses by **15 February 2016**

## Overview

This Welsh Government consultation seeks views on the content of the Draft Local Government (Wales) Bill, Draft Explanatory Memorandum and Draft Regulatory Impact Assessment.

The objective of the Draft Bill is to complete the programme of Local Authority mergers and set out a new and reformed legislative framework for Local Authority democracy, accountability, performance and elements of finance. It will also establish a statutory Public Services Staff Commission.

## How to respond

Closing date for responses is  
**15 February 2016.**

Responses should be sent by e-mail or by post to the address below. Responses are welcome in English or Welsh.

## Further information and related documents

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

The consultation documents can be accessed via the Welsh Government's website at [www.gov.wales/consultations](http://www.gov.wales/consultations)

## Contact details

For further information, please contact:

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e-mail: [RLGProgramme@wales.gsi.gov.uk](mailto:RLGProgramme@wales.gsi.gov.uk)

## Data protection

### How the views and information you give us will be used

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

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full.

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

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



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## **Foreword by the Minister for Public Services**

The White Paper *Reforming Local Government: Power to Local People* set out my vision for Local Government in Wales. This is based on activist Councils, engaged in delivering modern, accessible, high quality public services with their local communities. Councils should be acting as community leaders and agents of change, with leadership focusing on excellence, and Councils committed to looking outwards in their place-shaping role.

It also set out the vision for the different spheres of government in Wales and the relationship between them. We wish to see Local Government which is strong, flexible and empowered to deliver the strategic direction set by the Welsh Government in the light of local circumstances. The Well-being of Future Generations (Wales) Act 2015 provides the framework for co-ordinating the different parts of government in Wales. This Draft Bill and the programme of reform will contribute to better outcomes by ensuring Local Government services are sustainable, integrated and involve the people of Wales.

In June I announced the Welsh Government's preference for the future configuration of Local Government in Wales. Maps, with two options in respect of North Wales, were published alongside this announcement. The maps set out our preference for the future structure in South, Mid and West Wales whilst facilitating further discussion around North Wales. The case in North Wales is finely balanced between two or three Local Authorities. I welcome views, through this formal consultation, on all our proposals for Local Authority mergers.

I understand this is an unsettling time, and I am committed to ensuring the terms and conditions of Local Authority staff are protected so no-one will be disadvantaged by transfer to a new Authority. The Bill will, therefore, also establish a statutory Public Services Staff Commission, a proposal which has attracted widespread support from Local Government. The Public Services Workforce Partnership Council will remain at the heart of the vision to support the development of a world class public service workforce. It will be the primary reference point for the Commission.

This consultation is very much part of an on-going dialogue about the reform of Local Government. I want to hear from you whether our proposals for legislation will help to achieve the objective of creating the 'activist' Councils Wales needs. I would also be interested to hear if you think there is more we might do to achieve this objective.

**Leighton Andrews AM**  
**Minister for Public Services**

## Introduction – What this consultation is about

The Welsh Government is consulting on a Draft Local Government (Wales) Bill (“the Draft Bill”) which will complete the programme of Local Authority mergers and set out a new and reformed legislative framework for Local Authority democracy, accountability, performance and elements of finance. It will also establish a statutory Public Services Staff Commission.

We have previously consulted on proposals to reform Local Government. The three White Papers *Reforming Local Government* (July 2014), *Public Services Staff Commission* (October 2014) and *Reforming Local Government: Power to Local People* (February 2015),<sup>1</sup> set out the reasons why we are proposing change and our proposed approach to the reform of Local Government. Full details of the consultation, responses received and links to the documentation are given in the Explanatory Memorandum to the Draft Bill.

As part of the package of reforms, the first Local Government (Wales) Bill was passed by the Assembly on 20 October. It is anticipated that Royal Assent will be received during the consultation period. This legislation makes provision for voluntary mergers and puts in place preparatory legislation for further mergers and reform. The legislation includes provisions relating to Transition Committees, electoral arrangements, remuneration arrangements, and restraints of transactions and recruitment etc.

Having taken into account the issues and views raised through consultation, we are now publishing the Draft Local Government (Wales) Bill, Draft Explanatory Memorandum, Draft Regulatory Impact Assessment and specific impact assessments for a further period of consultation. We will take account of comments received during this consultation as we prepare the Bill and accompanying documents for introduction into the next Assembly, after May 2016.

This Paper sets out additional policy explanation where we have modified or decided not to proceed with the proposals in the *Power to Local People* White Paper, additional proposals we wish to consult on, and matters which we have not included in the Draft Bill but intend including in the Bill for introduction. Where the provisions in the Draft Bill are substantially the same as the proposals in the White Paper, further explanation is given in the Explanatory Memorandum and is not repeated here. This Paper should therefore be read in conjunction with the Draft Bill and the accompanying documents. In structure, this Paper follows the Draft Bill rather than the White Paper.

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<sup>1</sup> [Welsh Government | Devolution, Democracy and Delivery White Paper – Reforming Local Government](http://gov.wales/consultations/localgovernment/power-to-local-people/?status=closed&lang=en)  
<http://gov.wales/consultations/localgovernment/power-to-local-people/?status=closed&lang=en>  
<http://gov.wales/consultations/improving/public-services-staff-commission-consultation/?lang=en>

In this document, a reference to “the White Paper” is a reference to the *Reforming Local Government: Power to Local People* White Paper, unless stated otherwise.

## **The Draft Bill**

The proposals contained within the Draft Bill will complete the programme of Local Authority mergers and set out a new and reformed legislative framework for Local Authority democracy, accountability, performance and elements of finance. It will also establish a statutory Public Services Staff Commission.

The purpose and intended effect of the provisions outlined in the Draft Bill can be found at Chapter 3 of the Explanatory Memorandum. Explanatory Notes for the provisions of the Draft Bill can also be found at Annex A to the Explanatory Memorandum. The following sections provide an update on proposals which were outlined in the White Paper, and new or changed proposals which we would like your views on.

## **Consequential Amendments**

The Draft Bill does not include comprehensive consequential amendments or transitional arrangements. These will be drafted for inclusion in the Bill on introduction. For example, there are some statutory planning requirements that are linked to the ordinary elections of Councillors (by 'ordinary' we mean the regular election of the full Council). The intention is that transitional arrangements will be made to ensure that the ordinary elections to the Shadow Authorities of the new Authorities in 2019 do not trigger the review of strategies required under the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 or the preparation of Local Well-being Plans required under the Well-being of Future Generations (Wales) Act 2015.

## Part 1: Local Government Areas and County Councils

Part 1 of the Draft Bill contains the provisions which will establish new Counties and their Councils. Chapter 1 specifies the Local Government areas in Wales. Chapter 2 provides for the constitution and election of the new Councils. Chapter 3 provides for establishment of the new Councils and Chapter 4 makes miscellaneous provision.

**Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?**

We also welcome your views on the following matters.

### Chapter 1: Local Government Areas

The Commission on Public Service Governance and Delivery (“the Commission”) recommended reducing the number of Local Authorities in Wales through a series of mergers. The arguments for this recommendation and supporting evidence were set out extensively in the Commission’s Report. The Welsh Government accepted these arguments in a White Paper published in July 2014, *Devolution, Democracy and Delivery: Reforming Local Government*. This document set out the Welsh Government’s preference to merge Local Authorities on the basis of the Commission’s Option 1, which would result in 12 new Authorities. It also signalled that Ministers remained open to considering alternative configurations.

The White Paper *Reforming Local Government: Power to Local People* highlighted the intention to proceed with mergers of Local Authorities through this Draft Bill. On 17 June 2015, the Welsh Government announced its preference for the future configuration of Local Government in Wales, based on eight or nine new Principal Local Authorities. These alternatives are set out in two tables in Schedule 1 to the Draft Bill, the difference between them being the configuration of the proposed new Counties in North Wales:

**Table 1**

Name	Area
County 1 <sup>2</sup>	Isle of Anglesey, Gwynedd and Conwy
County 2	Denbighshire, Flintshire and Wrexham
County 3	Ceredigion, Pembrokeshire and Carmarthenshire
County 4	Swansea and Neath Port Talbot
County 5	Bridgend, Rhondda Cynon Taf and Merthyr Tydfil
County 6	Cardiff and the Vale of Glamorgan
County 7	Blaenau Gwent, Caerphilly, Torfaen, Monmouthshire and Newport
Powys	Powys

<sup>2</sup> The naming of the new Counties is dealt with below.

**Table 2**

<b>Name</b>	<b>Area</b>
County 1	Isle of Anglesey and Gwynedd
County 2	Conwy and Denbighshire
County 3	Flintshire and Wrexham
County 4	Ceredigion, Pembrokeshire and Carmarthenshire
County 5	Swansea and Neath Port Talbot
County 6	Bridgend, Rhondda Cynon Taf and Merthyr Tydfil
County 7	Cardiff and the Vale of Glamorgan
County 8	Blaenau Gwent, Caerphilly, Torfaen, Monmouthshire and Newport
Powys	Powys

In setting out its preference, the Welsh Government emphasised there would be an opportunity for members of the public, interested organisations and stakeholders to put forward their views formally on the proposals. The following section sets out a range of issues associated with the proposed mergers and formally invites views on the future configuration of Local Authorities in Wales.

### The Issues

The Commission considered possibilities that would have yielded seven or eight very large Local Authorities, but advised against pursuing them. They felt that the need to sustain local democracy and coherence might act as a limiting factor on the extent of such change. However, we believe that the proposals in the White Paper around greater public participation in democracy, more open and transparent decision making and greater diversity in Local Government, together with community area committees provide effective mechanisms for maintaining democratic engagement with communities in larger areas. It is also important to note there are many Authorities in other parts of the UK operating at the larger end of the scale of what is proposed in Wales.

On the matter of European Funding, the Commission identified an issue of alignment with the West Wales and the Valleys ‘convergence’ area, which has links to EU funding and state aid allowances. While a relevant consideration, we do not think that it should override a strategic, long-term case for mergers. There should be minimal impact on the delivery and related eligibility during the current 2014-2020 EU funding period. The majority of regions in the West Wales and the Valleys ‘convergence’ area remain in that area. The criteria for determining EU funding eligibility post-2020 is yet to be agreed and the Welsh Government will continue to press for the best possible settlement in negotiations for any new EU programmes.

The Commission took a wide range of factors into consideration including the minimum extent of mergers necessary to systematically address problems of scale, alignment of Local Authority areas with Local Health Board and Police Force areas, and avoiding the disruption entailed by splitting up existing Local Authorities. Apart from one exception in terms of alignment with Local Health Board boundaries (Bridgend), the maps published in June 2015 are consistent

with the principles set out in the Commission's Report. They are a refinement of the Commission's Option 1, informed by further consideration of a range of issues including the views of individual Local Authorities.

### Carmarthenshire and Swansea

In terms of Carmarthenshire and Swansea, the Commission report itself noted that *'matters are less clear elsewhere – in the Bridgend / Neath Port Talbot / Swansea and Carmarthenshire / Ceredigion / Pembrokeshire areas – and our preferred options differ only in how they would affect those areas.'*<sup>3</sup> The report made it clear that all of its *'favoured options have different strengths and weaknesses'* and that it had no preference between them.<sup>4</sup>

In the case of Carmarthenshire, a merger with Ceredigion and Pembrokeshire would help integrate health and social care in the Hywel Dda Local Health Board area and bring together an area which has some significant common features in terms of rurality, local economy and, in much of the area, use of the Welsh language. This configuration fits within the option of "larger" configurations as expressed in the Prospectus<sup>5</sup> issued inviting voluntary merger applications, and provides a single, stronger Authority with greater capacity and capability. It would also be compliant with the Commission's Option 2b and 3.

As for Swansea, there is a question as to whether the Authority is of sufficient scale to remain alone and sustainable in the longer term. It is already closely engaged with Neath Port Talbot on a project bringing together social services. A merger with Neath Port Talbot would avoid the anomaly of retaining Swansea as a single entity while merging the city of Cardiff with the Vale of Glamorgan, as well as combining two areas with similar socio-economic conditions. There is also a strong argument that Swansea is the focal point for economic growth in the wider Western Bay wider area (see "Regional Footprint and Collaborations" section below), and that future development is focussed towards its eastern boundary with Neath Port Talbot (for example the new university development). Indeed, both Local Authorities argued with some force back in November 2014 as part of deliberations on voluntary mergers, that they should form the core of a new city region authority for the area (albeit encompassing in addition the Llanelli / Ammanford area and south west Powys). Clearly, breaching existing boundaries in this way does not meet our current preferred options. On the other hand, leaving out the additional areas does not undermine the argument of bringing the two existing Authorities together. A merger between Swansea and Neath Port Talbot would also be partially in line with the Commission's Option 2a and 3.

### Bridgend

The Commission's report did not highlight any specific issues regarding Bridgend. In Option 1 it was included with Swansea and Neath Port Talbot in line with the principle that there should be alignment of Local Authority areas with Local Health Board areas and this remains a strong argument. However,

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<sup>3</sup> Commission on Public Service Governance and Delivery, 2014, p96.

<sup>4</sup> Commission on Public Service Governance and Delivery, 2014, p98.

<sup>5</sup> Invitation to Principal Local Authorities to Submit Proposals for Voluntary Mergers



while some feel Bridgend is in a 'buffer zone' between south east and south west Wales, there is evidence that points towards its natural position lying with the South East Wales City Region rather than to the west.

The Local Authority as part of its voluntary merger expression of interest presented evidence around retailing patterns, transport links and travel to work destinations which all pointed towards the south east rather than west. There are more socio-economic similarities with the Vale of Glamorgan or southern Rhondda Cynon Taf than with Neath Port Talbot. In terms of collaboration arrangements and partnership agreements, again the evidence suggests it operates more naturally within the south east Wales region. The most obvious examples include its membership of the Cardiff Capital City Region and the Central South Education Consortium. It is also a member of a number of Local Government established forums including the South East Wales Strategic Planning Group, South East Wales Regional Housing Forum, and the South East Wales Regional Partnership Board.

The key issue to consider is that a configuration comprising Bridgend / Rhondda Cynon Taf / Merthyr would cross the current Local Health Board boundary and thus move away from the principles of alignment and coterminosity. Our view is while there would be challenges to work through, this cross health boundary arrangement could be made to work in ways which could resolve the additional complexity. We consider there are no challenges which could not be overcome and there appears to be willingness within the Health Boards to do what is necessary to make any new arrangements work. While there are no plans currently to propose any changes to any Local Health Board boundaries, consideration will be given to the implications for Local Health Board boundaries at the point in the process where the conversation is complete and there is a confirmed map in place. Irrespective of the final map, the Welsh Government wants Local Health Boards to work much more closely together to provide hospital services across traditional boundaries regardless of where the formal boundaries are drawn.

Of course, any merger comprising Bridgend / Rhondda Cynon Taf / Merthyr would result in a significantly larger new Authority with commensurate gains in capacity and capability, but these would need to be balanced against the possible disincentive of health boundary issues. Finally, another factor to consider is that in practical terms, Bridgend occupies a particular geographical location and its position in a new structure will determine other choices. This was made clear by the proposed merger of Bridgend and the Vale of Glamorgan which would have prevented delivery of the Option 1 map as the city of Cardiff would have stood alone. In turn, this may have driven different configurations across South East Wales which may have impacted on the proposals in Gwent and the Valleys. A merger between Bridgend and Rhondda Cynon Taf / Merthyr would not prevent the delivery of a modified Williams Option 1 map.

#### South East Wales

The Commission, in recommending mergers between Newport / Monmouthshire and Blaenau Gwent / Caerphilly / Torfaen, nevertheless recognised there may be alternatives. It stated the Gwent Police Force area

contains a diverse mixture of urban, valleys and rural Authorities, of areas of very high and very low deprivation, and of relatively very high and very low Council Tax. The Commission noted other combinations of Authorities were possible. However, it was concerned alternative combinations would breach the criterion on EU convergence funding. It also felt creating Local Authority areas like the whole of Gwent or the whole of North Wales could lead to difficulties in meeting multiple diverse local needs effectively or to maintaining fair democratic representation within such areas, thus potentially jeopardising some of the gains from merger.

It is clear a Gwent area configuration in South East Wales would create the biggest Local Authority in Wales with a combined population of over 580,000. This would make it on a par with other populous Unitary Authorities in the UK such as Glasgow and Cornwall, but still significantly less than Authorities such as Birmingham and Leeds. Despite this and the variety of geographical and socio-economic conditions within the area, we have seen stronger than average collaboration and a distinct sense of a Gwent identity among the public services. It is important to highlight that Authorities in the Gwent areas pride themselves on having established effective collaboration and partnership arrangements in recent years and those in place are working well. For example, the five Local Authorities are part of the Education Achievement Service Consortium, the Gwent Regional Collaborative Committee (Supporting People), and are piloting a regional funding approach for violence against women, domestic abuse and sexual violence services. On top of this, both the Police Force and the Local Health Board operate on a Gwent area footprint.

Another factor to note is the considerable opposition in the Gwent area to the potential configurations proposed by the Commission. Three of the five Local Authorities have expressed clear views around merging with others or remaining independent, with Newport against merging with Monmouthshire and vice versa, and Caerphilly against merging with anyone. Given the strength of feeling and clear opposition to the configurations suggested by the Commission, there is an argument merging the five Local Authorities and creating a larger Authority may be an advantage, not least in terms of maximising economies of scale and giving the Authority a strong voice. It would also be Option 1 compliant, albeit as part of a larger unit.

### North Wales

In North Wales, all of the options presented by the Commission included three Local Authorities. While it is the case that collaboration tends to happen on a North Wales regional basis (GwE Consortium, North Wales Economic Ambition Board, Supporting People etc.), the Commission dismissed the creation of a single Local Authority area covering the whole of North Wales. Doing so could be likely to lead to difficulties in meeting multiple diverse local needs effectively, or to maintaining fair democratic representation.

In addition, the EU convergence funding criterion was not consistent with the division of North Wales into two Local Authorities rather than three by merging Anglesey, Gwynedd and Conwy; and Denbighshire, Flintshire and Wrexham. Denbighshire could jeopardise its qualification for convergence funding by

merger with Flintshire and Wrexham which are not eligible. Setting this issue to one side, the case for either two or three Local Authorities in the North Wales area is finely balanced. Issues include:

- population – if the configuration in North Wales was three Authorities, two of those would have populations around the 200,000 mark i.e. Gwynedd / Anglesey and Conwy / Denbighshire. Notwithstanding Powys, this would be considerably lower than most of the other configurations in Wales which would be 380,000 plus with Wrexham / Flintshire just below the 300,000 mark;
- Welsh Language – there is an important question as to whether it would be supported better by creating three or two Authorities in North Wales. Some argue that placing Denbighshire with the border Counties of Flintshire and Wrexham might impact adversely on maintaining and strengthening the vibrancy of the language in the Denbighshire area. On the other hand, merging Conwy with the Isle of Anglesey and Gwynedd could create an area where possibly less than 50% of the population are Welsh speakers. This would mean that no Authority in Wales would have a majority of Welsh speakers and could impact on current internal administrative practice in Gwynedd;
- the creation of two rather than three Authorities would reduce the variance across North Wales on financial indicators, particularly in terms of the key indicators such as Council Tax raising ability (size of tax base) and spending power (gross revenue expenditure);
- current sub regional delivery structures for police, fire and health currently operate on a three area basis – Anglesey / Gwynedd, Conwy / Denbighshire and Wrexham / Flintshire. The Health Board has recently introduced an area director structure based on these areas; and
- the strong preference expressed by Conwy that in the event mergers were to proceed, a merger between themselves and Denbighshire should be examined further given their supporting evidence.

The case in North Wales is, therefore, finely balanced between two or three Local Authorities and there are pros and cons for both.

A full analysis of the options for eight or nine new Authorities is presented in the accompanying draft Regulatory Impact Assessment (RIA). We would welcome your views on the Welsh Government's preference for the future configuration of Local Government in Wales.

**Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?**

**Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?**

#### Powys

The Commission on Public Service Governance and Delivery recommended that because of the unique characteristics of the County of Powys and the

distinctive patterns of service delivery this creates, Powys County Council (PCC) and Powys Teaching Health Board (PTHB) should merge.

In considering the available options, Ministers recognise the difficulties in successfully merging two organisations with such different functions, governance arrangements and legislative basis. As a result, the Welsh Government believes the funding and governance issues mean a formal merger is not the best solution, but work should continue to encourage and explore other opportunities for greater front-line and strategic integration, including where these opportunities could result in the need to legislate to remove barriers or facilitate further progress.

PCC and PTHB are already co-terminous organisations, serving the same population, largely experiencing the same challenges and opportunities of a geographically large, sparsely populated, highly rural County. The organisations have a track record of working together to develop services for the people of Powys and have a history of working with communities, the voluntary sector and other stakeholders and partners to deliver improvements. This resulted in the formulation of the One Powys Plan 2014-17.

In November 2014, a joint Expression of Interest was submitted to the Welsh Government in which both organisations sought support to progress integration. In spring 2015, the Minister for Public Services agreed to provide Welsh Government support in response to proposals put forward by PCC and PTHB in *Working Together for a Thriving Powys*. This agreement includes a funding contribution towards the work.

Since November 2014, both Chief Executives together with their executive teams have been meeting regularly as a Joint Management Team. Research has been undertaken to identify what lessons could be learnt from other organisations already undertaking this level of integration. They have developed an integration plan which sets out the priorities for action. Their first priority is to create health and social care teams in the community. These could include staff such as district nurses, speech and language therapists, social workers, physiotherapists, and occupational therapists. These teams will work closely with local GPs to offer care in, or as close to people's homes as possible using technology where practicable.

<p><b>Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?</b></p>
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#### Naming the New Counties

With the exception of Powys, which is a continuing Authority, the proposed new Counties are simply referred to as County 1 etc. in the Tables presented in Schedule 1 to the Draft Bill. The intention is that the Shadow Authorities, to be elected in 2019 will determine the names of their new County (in English and Welsh forms). The regulation-making power in paragraph 2(1) of Schedule 1 will enable the Welsh Ministers to give legal effect to the names determined by the Shadow Authorities.

### **Question 1.5: What are your views on the procedure for naming the new Counties?**

#### Regional Footprint and Collaborations

In 2011 a common public service Regional Collaborative Footprint (RCF) was established based on six areas: North Wales, Mid & West Wales, Western Bay, Cwm Taf, Cardiff and Vale, and Gwent. The Commission on Public Service Governance and Delivery noted that the boundaries of most major service providers were reasonably well-aligned, but that despite the development of the RCF, regional collaborations were still too complex, fragmented and hard to administer. They argued that aligning public service collaborations would simplify working arrangements, avoid duplication and help create more integrated services for the public.

In July 2014, the Welsh Government published its vision for reforming devolved public services in the document '*Devolution, Democracy and Delivery: Improving Public Services for People in Wales*'. One of the 20 high-level actions outlined in the document focuses on the importance of aligning existing collaborations with the boundaries of new, merged Local Authorities and other delivery partners.

Since then, work has been undertaken across the Welsh Government to identify the most strategic regional collaborations. The information received has highlighted that current collaborations and partnerships are broadly well-aligned with the proposed Local Government areas and are consistent with the Welsh Government's RCF, particularly in areas such as North Wales and Gwent.

The Welsh Government does not propose to take any action on aligning collaborations and partnerships ahead of a final decision on the Local Authority areas. In the meantime however, Ministers have agreed that there *should be a moratorium on the establishment of any new collaborations and partnerships prior to finalising the map*. Such a moratorium does not apply to any existing statutory requirements. For example, it will not impact Public Services Boards where provisions under the Well-being of Future Generations (Wales) Act 2015 are due to be brought into force in April 2016. The same is true for planned regulations under the Social Services and Well-being (Wales) Act 2014, such as for the establishment of the Social Services Regional Partnerships.

## **Chapter 2: Ordinary elections of Councillors and term of office**

In accordance with the Fixed-term Parliaments Act 2011, from 2015 Parliamentary general elections are held every five years on a fixed term basis. The Wales Act 2014 likewise moved the National Assembly for Wales elections to a five-year fixed term, with effect from 2016. In accordance with those cycles and to avoid clashes, we are proposing to create five-year fixed term cycles for elections to Local Government (Principal and Community Councils), with effect from 2023.

Before moving to this five year cycle, we propose making various transitional arrangements as follows:

- The term of office of Councillors elected to existing Principal Authorities (Counties and County Boroughs) in the Local Government elections in May 2017 will be three years. The existing Authorities will be abolished from 1 April 2020. This is not the case for Powys which will be a continuing Authority, details of which are found below.
- Elections to the new County Councils will be held in May 2019 and Councillors will serve a four year term. For the first year of that term, the new County Councils will exist as Shadow Authorities, which will exercise only preparatory functions specified in regulations made by the Welsh Ministers. The new County Councils will take over the full range of Local Government functions from 1 April 2020. The Draft Bill provides that the next ordinary elections of the new County Councils will be in May 2023. This will give the new County Councils three years from 1 April 2020 in which to consolidate their new arrangements.
- Holding elections in 2017 and 2023 in Powys, as a continuing Authority, would mean Councillors elected in 2017 would serve a six-year term. This would be an unprecedented length of term and to avoid straining the democratic mandate, ordinary elections will be held in Powys in 2020, meaning two three-year terms for Councillors. Community Councillors in Powys will, however, serve a six-year term between 2017 and 2023 (see Part 6 below).

4 May 2017	(i) Elections to <b>continuing Authorities</b> not subject to merger  (ii) Last elections to all <b>Authorities which would be subject to merger</b>	(i) i.e. Powys. These Councillors will serve 3-year terms until May 2020  (ii) These Councillors will serve 3-year terms until 1 April 2020
May 2019	First elections to <b>new County Councils</b>	New County Councils exist in shadow form until Vesting Day on 1 April 2020. These Councillors will serve a 4 year term
May 2020	Elections to continuing Authorities	I.e. Powys. These Councillors will serve 3-year terms until 2023
May 2023	Elections to <b>all</b> Local Authorities in Wales	All Councillors will serve a 5 year term until May 2028

<b>Question 1.6: What are your views on the proposed changes to the Local Government election timetable?</b>
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### **Chapter 3: New Councils: Finance**

The Draft Bill includes legislative changes in relation to finance which are needed to support structural mergers and some of the wider reforms proposed elsewhere in the Draft Bill. The White Paper discussed the need to review the Local Government finance system over a longer timetable than that planned for mergers and the reforms set out in the Draft Bill. This proposal was accepted by most respondents, with the majority acknowledging the risks of fundamental change to the finance system too soon in the reform process.

The Welsh Government intends to consult on proposals including separate legislation dedicated to the mechanisms for distributing, raising, managing and accounting for the funding of Local Government in Wales. This will enable us to design a system which takes account of wider changes to the powers and fiscal responsibilities of the Assembly, and devolves greater financial independence and responsibility to Local Authorities.

#### Accounts and Audit Requirements

The Bill for introduction will contain updated and modernised provisions setting out how Local Government bodies in Wales should account for the money they spend and how their accounts will be audited. Local Government bodies in Wales abide by the requirements set out in regulations made under the Public Audit (Wales) Act 2004. We will take the opportunity provided by this Bill to modernise the accounts and audit requirements of local bodies in Wales in line with the latest good practice for financial management and internal control systems.

The Welsh Ministers will also make provision in regulations in relation to the mechanism by which Shadow Authorities will be funded during the shadow period. The regulations will include the processes a Shadow Authority will be required to undertake in relation to monitoring its internal resources and, if deemed necessary, the keeping of, any audit of accounts.

#### Council Tax

One of the core principles of local taxation is that tax-payers living within the same Local Authority area contribute equivalent amounts (relative to their circumstances) for the provision of local services in that area. Each Local Authority has democratic responsibility for deciding on the amount of Council Tax charged within its area. This means when existing Authorities are brought together to form a new larger Authority, each new Authority will need to set its own level of Council Tax.

In some cases, this may require a process of harmonisation to move to the same level of Council Tax across an Authority's area. This would not necessarily need to be achieved immediately upon the creation of a new Authority. For example, a period of transition could help to promote stability in

tax revenues and to ensure residents are protected from sudden changes in Council Tax liability. Conversely, early harmonisation could result in a fairer system for those taxpayers who would see a reduction in their bills. The existing finance legislation contains a broad range of powers which could be used to effect a number of policy approaches to the setting of Council Tax. There are also existing powers for Ministers to limit increases in Council Tax. We do not propose the Welsh Ministers take any new powers in relation to this and have not, therefore, included new provisions in the Draft Bill.

The Welsh Government is committed to consulting fully on any proposed future approach to Council Tax when the time is right. In light of the changing financial landscape, we consider it too early in the reform process to draw up firm plans for harmonisation, but we will examine and monitor the developing picture across Wales. We will expect Transition Committees and Shadow Authorities to carefully assess the particular characteristics of the new Authority, as well as consider the financial pressures on households, and use this information to inform immediate budgets and medium term plans for Council Tax. At the very least, we expect Transition Committees and Shadow Authorities to safeguard against any divergence in Council Tax levels in the period running up to mergers. The restrictions on certain transactions set out in the first Local Government (Wales) Bill will assist in the process of financial management and further guidance will be issued in due course.

#### Controls on Avoidance of Non-Domestic Rates

The White Paper recognised there are inconsistencies between local tax systems which we may wish to review as part of shorter term improvements to the finance system. We consider one of those inconsistencies to be the absence of a duty on Non-Domestic Rates-payers to notify their Billing Authority of a change in their circumstances which may affect their liability, or eligibility to claim a relief, discount or exemption. Although valuation officers can serve notices on rate-payers to provide information, there is no requirement for rate-payers to inform the valuation officers or the Billing Authority of a change in circumstances. This differs from some of the requirements placed on Council Tax payers and can result in large backdated bills when changes are made. The summary of responses to the recent discussion paper on rates avoidance<sup>6</sup> produced by the Department for Communities and Local Government and HM Treasury indicates that one of the common avoidance measures is rate-payers notifying Billing Authorities retrospectively of periods of occupation, which are subsequently difficult to verify.

The extent of avoidance in the Non-Domestic Rates system in Wales, whether unintended or deliberate, is not currently known and will require further investigation. However, recent analysis undertaken by the Local Government Association estimates that in England around £230 million (approximately 1%) of rates revenue is lost to avoidance each year.<sup>7</sup> As this is a complex and

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<sup>6</sup> *Business Rates Avoidance: Summary of Responses*, Department for Communities and Local Government, HM Treasury, July 2015.

<https://www.gov.uk/government/consultations/business-rates-avoidance-discussion-paper>

<sup>7</sup> Local Government Association response to *Business Rates Avoidance* discussion paper, February 2015.



developing area of policy, we propose the Bill on introduction contains a provision to enable Welsh Ministers to make regulations in the area of Non-Domestic Rates avoidance.

We do not envisage providing for a detailed policy approach in the Bill as we will wish to develop the proposals in consultation with Local Government, rate-payers, the Valuation Office Agency, the Valuation Tribunal for Wales and the Lord Chief Justice Office. Full consideration will also be given to the appeals process for rate-payers aggrieved by a decision and to reasonable protocols for enforcement by Billing Authorities. In drawing up detailed proposals, we will take into account the available evidence, the findings of the Business Rates Panel,<sup>8</sup> the outcome of a review on rates avoidance in England and powers proposed in the UK Government's Enterprise Bill to facilitate the sharing of more information between the Valuation Office Agency and Billing Authorities. Any regulations developed in due course would be subject to the affirmative legislative procedure, meaning the detailed proposals would undergo specific scrutiny before being debated by the National Assembly for Wales.

The policy development process will be consistent with the Welsh Government's approach to tax collection and management and the principles for tax policy published in 2014.<sup>9</sup> Measures to tackle avoidance and fraudulent activity support the Welsh Government's principles of fairness to all taxpayers, by ensuring that the rates due are responsive to changes in circumstances and that liability is spread fairly across all taxpayers, of having clear rules which seek to minimise administration costs by improving the accuracy of information, and of providing stability and certainty to taxpayers by reducing the instance of backdated liabilities.

**Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?**

**Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?**

**Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?**

**Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?**

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<http://www.local.gov.uk/documents/10180/6869714/Business+rates+avoidance+-+discussion+paper+-+LGA+response.pdf/89897cc8-7bba-4257-a97b-243bf6d22ece>

<sup>8</sup> *The Devolution of Business Rates to Wales*, February 2015.

<http://gov.wales/docs/det/publications/150202-devolution-of-business-rates-en.pdf>

<sup>9</sup> *Tax powers, purpose, principles and priorities*, Welsh Government, December 2014.

<http://gov.wales/docs/caecd/publications/150109-treasury-paper-en.pdf>

## **Other matters**

### Phased Elections

The White Paper sought views on whether Local Government elections should be conducted in phases. In response to the concerns of stakeholders, the Welsh Government will not be proceeding with this proposal.

### The Number of Councillors

In recognition of the democratic requirements of the new Authorities, the previous cap of 75 Councillors per Authority has been removed. Consultation on Draft Directions to the Local Democracy and Boundary Commission for Wales took place between August and November 2015. This consultation sought views on what an appropriate number of Councillors might be for the new Authorities to best deliver effective representation and democratic governance. We are currently considering the responses to this consultation.

### The Preserved Counties

The preserved counties of Wales are the counties created by the Local Government Act 1972 (“the 1972 Act”). The counties created under the 1972 Act were abolished by the Local Government (Wales) Act 1994 (“the 1994 Act”). However, the 1994 Act created the concept of preserved counties based on the areas of the eight counties, to be used for a range of purposes largely relating to judicial and administrative purposes. The eight preserved counties are notional entities only; they have no elected Councils, no administrations and no functions of their own.

Since the 1994 Act, most of the purposes for which the counties were preserved have fallen away. For example, justice areas are now based on new geographical areas rather than the preserved counties. In some instances there remain obsolete references to “preserved counties” in legislation which will require amendment. However, there are references to preserved counties which remain relevant. They relate to lieutenancies, shrievalties and sea fisheries.

### *Lord Lieutenants and High Sheriffs*

Lord-Lieutenants and High Sheriffs have traditionally been appointed by reference to local administrative areas. At the time of Local Government reform in 1972, the Local Government Act 1972 (“the 1972 Act”) required the Queen to appoint a Lord-Lieutenant for each County in England and Wales. High Sheriffs are appointed annually by the Queen under the provisions of the Sheriffs Act 1887 and the 1972 Act put in place transitional arrangements so that High Sheriffs were appointed to the new counties established under the 1972 Act. Lord-Lieutenants and High Sheriffs continued to be appointed for the counties established under the 1972 Act between 1974 and 1996.

As stated above, the Local Government (Wales) Act 1994 reformed Local Government in Wales, but preserved the counties established under the 1972 Act for certain purposes. This included the geographical area for which Lord-Lieutenants and High Sheriffs would be appointed.

Today, the preserved counties continue to serve as the areas for defining the lieutenancies and shrievalties in Wales, in accordance with the Lieutenancies Act 1997 and the Sheriffs Act 1887. There is a Lord-Lieutenant and a High Sheriff for each preserved county in Wales, making eight Lord Lieutenants and eight High Sheriffs in total. Some Lord-Lieutenants and High Sheriffs cover two or more of the existing administrative Local Authorities created by the 1994 Act. The lieutenancy and the shrievalty of Gwent cover five Local Authorities (Blaenau Gwent, Caerphilly, Monmouthshire, Newport and Torfaen); in contrast, the lieutenancy and the shrievalty of Powys cover one Authority only, the administrative County of Powys.

#### *Sea Fisheries (Shellfish) Act 1967*

Section 10 of the Sea Fisheries (Shellfish) Act 1967 (“the 1967 Act”) states that the portion of the sea shore to which an order under section 1 (power to make orders as to fisheries for shellfish) of that Act relates, shall for all purposes of jurisdiction be deemed to be within the body of the adjoining county, borough or burgh. The 1994 Act provided that the reference to “county” in section 10(1) of the 1967 Act in relation to Wales includes a reference to a preserved county.

The Welsh Government’s proposals for Local Government mergers will result in the number of Principal Local Authorities being reduced to eight or nine, from 1 April 2020. Whichever of the two options is decided upon, there seems little purpose in retaining an equivalent number of preserved counties, to add unnecessary complexity to the Local Government map of Wales.

We propose to abolish the preserved counties in Wales with effect from 1 April 2020. In consequence, it will be necessary to amend the relevant statutes to ensure the appointments of Lord-Lieutenants and High Sheriffs relate to the new Counties in existence after 1 April 2020 and that the reference in the 1967 Act is updated. **Lord-Lieutenants and High Sheriffs are appointed by the Queen, so any changes would be made in consultation with office-holders and the Queen’s advisers.** We will work with all affected to ensure that, where necessary, transitional arrangements are in place before 1 April 2020.

**Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the Counties in existence after 1 April 2020?**

#### Other Technical Matters

There are a number of issues which may be considered technical in nature on which we will be seeking views. These include:

- any property, rights and liabilities, including grants, which require specific provision for their effective transfer to the new Councils;
- any impact on existing contracts and property which would need express provision in the Bill;

- the length of time for suspension of by-elections in existing Councils prior to the new Councils assuming their full functions and responsibilities on 1 April 2020 e.g. where there are casual vacancies;
- mechanisms to preserve historic ceremonial rights, including city and borough status; and
- joint committees, joint boards and port health authorities.

It is our intention to engage directly with Local Authorities on these matters, however, we welcome views on these and any other similar technical matters as part of this consultation.

**Question 1.12: Are there other matters of a technical nature which should also be considered?**

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

The provisions in Chapter 1 of Part 2 relate to County Councils' general power of competence and those in Chapter 2 set out the conditions which Community Councils must meet in order to be Community Councils with competence.

**Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?**

We also welcome your views on the following matters.

### **Chapter 2: Community Councils with Competence**

The Draft Bill includes conditions which a Community Council must meet if it is to resolve itself 'with competence'. Being 'with competence' would enable a Community Council to use the general power of competence and provide other organisations with a degree of confidence that the Council has the capacity and capability to 'do business'. There will also be a reputational benefit, with communities able to see that their Council is meeting certain standards.

The consultation on the White Paper established that there were clear views against the proposal that one of the competency tests should be a minimum annual turnover of £200,000. In particular, this was seen to disadvantage rural Councils. The Welsh Government accepts the argument and no such provision is included in the Draft Bill.

We also stated in the White Paper our intention that a Community Council resolving itself competent should be required to notify a committee of the Principal Authority for the area, and that the nominated committee should have powers to revoke the Community Council's competency qualification in some circumstances. More consultation responses were in favour than against these proposals. However, we have considered the implications this might have for the relationship between Principal Councils and Community Councils, notably the risk of blurring accountability and of creating tensions in the working relationship between the two tiers of Local Government. Therefore, we have taken a different approach in the Draft Bill.

The provisions in the Draft Bill enable a Community Council to pass a resolution at any meeting of the Council that it meets the competency requirements and that it is a Community Council 'with competence'. Such a Community Council will remain competent until the first annual general meeting following ordinary elections, when it must pass a resolution that it continues or ceases to be a Community Council with competence. A Community Council with competence may also pass a resolution at any meeting of the Council that it ceases to be a Community Council with competence. A Council that ceases to be a Community Council with

competence may continue any activities it has commenced whilst exercising the general power of competence.

This means that a Council would be able to resolve itself competent at its first meeting following an election and remain competent for the five years until its annual general meeting following the next elections, even though in each of the intervening years it might fail to meet any or all of the three competency requirements, including the requirement to have two years' unqualified accounts. During this period the Community Council would be able to exercise the general power of competence and do things it could not otherwise do if it had not resolved itself competent, as is the case with eligible Parish Councils in England. This approach would provide certainty for Community Councils undertaking activities in reliance on the general power and certainty for third parties in their dealings with Community Councils as to the extent of a particular Council's powers. The Welsh Government would welcome your views about this.

**Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?**

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

This Part contains provisions relating to promoting access to Local Government. Chapter 1 gives an overview of the provisions. Chapter 2 requires Local Authorities to encourage public participation in Local Government. Chapter 3 establishes community area committees, for the purpose of ensuring that community interests and priorities are taken into account by the Council in exercising its functions. Chapter 4 deals with improvement requests, by which a Council enters into discussions with community bodies for the purpose of improving local outcomes. Chapter 5 extends public access to Local Authority meetings and Chapter 6 requires Local Authorities to publish a guide to their constitution and publish the official addresses of their members. The provisions relating to public participation, community area committees and improvement requests support the Welsh Government's *Principles for Working with Communities*.<sup>10</sup>

**Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?**

We also welcome your views on the following matters.

### **Chapter 2: Public Participation in Local Government**

The White Paper makes a number of references to the need for Local Authorities to be more active in involving the public in the Council's work and in decisions which affect them. This part of the Draft Bill draws together the proposals for public participation into a single overarching duty on Local Authorities to encourage participation in the decision making of County Councils and their connected authorities (Community Councils, Fire and Rescue Authorities and National Park Authorities) and to set out how it means to achieve this in a strategy. The participation strategy must address promoting awareness of the Council's functions and how to become a member of the Council, facilitating access to information about decisions and ways for the public to make representations to the Council, public involvement in scrutiny and the use of social media.

Given the importance of the budget setting process, separate provision is made to ensure wide and meaningful consultation on the annual budget.

**Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?**

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<sup>10</sup> See Welsh Government Written Statement, 15 September 2015, <http://gov.wales/about/cabinet/cabinetstatements/2015/workingcommunities/?lang=en>

## **Chapter 3: Community Area Committees**

In the White Paper we made a case for establishing a model of community governance so communities could maintain and improve their engagement with the larger, merged Local Authorities, with a leading role for Elected Members. We described an area-based approach, with 'area boards' made up of Elected Members, community bodies, the third sector, Community Councils and other public services.

Respondents to the consultation asked for more detail about what is intended, showed concern about the potential for increasing bureaucracy, and the importance of ensuring appropriate representation, especially from the third sector and Community Councils. The majority agreed that Local Authorities should have flexibility to design an approach suitable to their area. The public have also told us that, while they support bigger Local Authorities, they are concerned about them losing touch with communities.

The provisions included in the Draft Bill seek to articulate our intentions and provide a more informed basis from which to comment. They set out the intention to require Local Authorities to establish a committee in each of their community areas (as determined under the Well-being of Future Generations (Wales) Act 2015). Community area committees will provide a structured way for views on local priorities to be expressed and fed into the Local Authority budget planning process, and for communities and local people to engage with their Elected Members on practical matters of local importance. Local Authorities will also be able to seek the advice of these committees on any matter relating to the committee's community area. The provisions also enable the Local Authority to delegate functions to community area committees. Which functions may be delegated to community area committees will be determined by regulations to be made by the Welsh Ministers.

**Question 3.3: How should community representatives to sit on community area committees be sought and selected?**

**Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?**

**Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?**

## **Chapter 4: Improvement Requests**

In the White Paper we consulted on a proposal that there should be a 'right to participate'. This would enable community bodies to become involved in service improvement. The Draft Bill includes provisions which oblige Local



Authorities to enter into a dialogue with community bodies about how an outcome can be improved on receiving a request from a community body, unless they have reasonable grounds for not doing so. The definition of community bodies is widely drawn.

The procedure sets out that at the end of a period of dialogue, the Local Authority will publish on its website a summary of the discussions and the actions that have been agreed. We will expect both Local Authorities and community bodies to hold to the matters they have agreed publicly. However, we do not consider it would be conducive to good relations between Local Authorities and community groups or for fostering a culture of involvement if we were to impose more heavily prescribed duties on the Local Authority.

**Question 3.6: Do you have any comments on the revised provisions for 'improvement requests' or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?**

## **Chapter 5: Access to Meetings etc.**

In addition to the matters we consulted on in the White Paper and which are provided for in Part 3, Chapter 5 of the Draft Bill, we also wish to consult on various additional proposals relating to Council meetings.

- Electronic publication of notices of meetings. The Local Government (Democracy) (Wales) Act 2013 introduced a requirement on Community Councils to have websites and publish information concerning the Council. We propose that Principal Councils should be placed in a similar position to Community Councils.
- Electronic summons. We propose that Principal Councils should be able to choose to send out notices only by electronic means if they so wished.
- Prohibition of alcohol at Community Council meetings and removal of the restriction on having meetings in licenced premises. Society has changed considerably since the provisions of the Local Government Act 1972. Many more premises are licensed now and a great deal of public activity, such as weddings and conferences, takes place in places licensed to sell alcohol. The prohibitions, therefore, seem dated and we propose to repeal them. It would, however, be proposed that Community Councils may adopt standing orders which would prohibit Councillors or members of the public from consuming alcohol during a meeting.
- A regulation making power for the Welsh Ministers to require meetings of the Executive to keep and maintain minutes. At the moment, regulations made under the Local Government Act 2000 require that records of executive decisions are written, maintained and published. The proposed regulatory power would enable the Welsh Ministers to make meetings of Council Cabinets the subject of recorded minutes. We would welcome your views on this proposal in the light of our intention that Cabinet meetings would be subject to live broadcasting.

**Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?**

## **Other matters**

### Youth Councils

The White Paper proposed requiring the Chief Executive to establish a Youth Council, with the objective of encouraging better participation in democracy by children and young people. Following the consultation, further consideration has been given to this proposal, and it is now felt it is not sufficiently broad to reflect the best practice which already exists in many Local Authorities, in terms of engagement with children and young people, including through digital and social media.

Section 12 of the Children and Families (Wales) Measure 2010 ('the 2010 Measure') requires a Local Authority to make such arrangements as it considers suitable to promote and facilitate participation by children in decisions of the Authority which might affect them. Statutory guidance under the 2010 Measure sets out the Welsh Ministers' expectations that:

- Local Authorities should promote and facilitate children and young people's participation, within the broad context of the UN Convention on the Rights of the Child, as part of their policies, services and wider citizen engagement;
- children and young people's participation should be embedded into all aspects of planning, delivering and reviewing services, including local well-being plans; and
- Local Authorities should establish a county-wide youth forum or council, as a channel for young people's views to the Authority and other local and national decision-making bodies.

The guidance is currently being updated to reflect the commencement of the Well-being of Future Generations (Wales) Act 2015 from April 2016.

Whilst the 2010 Measure goes some way to fulfilling our policy aim of encouraging participation in local democracy, the public participation provisions in Part 3 of the Draft Bill would require a Local Authority to involve children and young people (amongst other 'local people') in the decision-making process of the Authority. This is a step further than section 12 of the 2010 Measure, which is limited to participation by children in decisions of the Authority '*which might affect them*'. The role of children and young people would be emphasised in guidance to be issued under the Bill and we intend it to include specific measures which Councils could take to assist in the organisation of young people in their area and the channelling of their views into Council deliberations.

**Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?**

## **Part 4: Functions of County Councils and their Members**

The provisions in Part 4 of the Draft Bill deal with the functions of the new Councils and their members. Chapter 1 provides an overview of the provisions in this Part. Chapter 2 sets out the duties all Councillors must discharge. Chapter 3 sets out how breaches of the duties on Councillors are to be dealt with and Chapter 4 makes further provision in relation to these duties. Chapter 5 provides that the Elected Mayor or the Leader must set objectives for the Cabinet and that candidates for Elected Mayor or the Leader must prepare a written manifesto. It also enables Councillors to be appointed as assistants to the Executive. Chapter 6 makes provision about the appointment of the Chief Executive, setting his or her objectives, as well as making the post of Head of Democratic Services a chief officer. Chapter 7 makes various provisions relating to Overview and Scrutiny Committees and Standards Committees. Chapter 8 makes minor amendments to other legislation.

**Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?**

We also welcome your views on the following matters.

### **Chapter 4: Further Provision about Duties on Members**

In the White Paper we proposed that Group Leaders should be under a duty to ensure diversity is respected, and that Monitoring Officers and Standards Committees should have enforcement roles. The majority of consultees that responded on this issue were supportive. Chapter 4 puts a duty on leaders of political groups to promote and maintain high standards of conduct by the members of the group. Standards Committees are given new functions to monitor compliance by leaders of political groups with this duty and to advise and arrange training relating to the duty.

### **Chapter 7: Overview and Scrutiny Committees and Standards Committees**

The Draft Bill gives Standards Committees new functions to handle complaints that Councillors have breached the duties imposed on them by Chapter 2 of this Part (sections 82 to 86), and to monitor compliance of leaders of political groups with the duty imposed on them by Chapter 4. Given the enhanced role of the Standards Committee, we believe there is merit in the Authority being provided with an overview of the work of the Standards Committee during the year, in all its functions, to gain a better understanding of trends in standards of conduct within the Authority. In Chapter 7, therefore, we put a duty on Standards Committees to publish an annual report and, if appropriate, make recommendations to the Authority.

**Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?**

## **Other Matters**

### Delegation of Functions

In the White Paper we set out our intention to review the provisions in the Deregulation and Contracting Out Act 1994 (“the 1994 Act”) with a view to allowing Local Authorities generally to make decisions on how they deliver services, other than in prescribed circumstances. This proposal was connected to the proposal to provide Principal Councils and eligible Community Councils with a general power of competence. Provision has been included within the Draft Bill for a general power of competence.

It is our intention, as is the case now under the 1994 Act, that Local Authorities should be permitted to delegate the exercise of certain of their functions to third parties. However, we consider the current provisions are inflexible. The contracting out power is not currently exercisable in relation to Wales by the Welsh Ministers, and the orders that have been made to date do little to encourage Local Authorities to be more innovative in the way they deliver their services.

We, therefore, propose that Part 2 of the 1994 Act, as it applies to the contracting out of functions of Local Authorities in Wales, should be repealed and replaced with a new regime that will allow for the delegation of Local Authority functions to third parties by regulations made by the Welsh Ministers. We propose this power of delegation should apply to Principal Councils, Community Councils, Fire and Rescue Authorities, National Park Authorities and Joint Planning Boards. As with the general power of competence, it is our intention to bring the provision into force at the earliest opportunity after the Bill is passed in order that the new regime is available to existing Authorities.

**Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?**

### Electoral Qualification

Respondents to the White Paper expressed concerns over lifting the prohibition on Local Authority officers standing for election to their own Authority. As previously announced, we will not be proceeding with this proposal.

In addition, the White Paper proposed:

- requiring candidates at Local Government elections to declare their membership of a political party, where appropriate;
- preventing Elected Members of Principal Councils from serving as a Community Councillor at the same time; and

- preventing a person from serving on more than one Community Council at the same time.

Further consideration is being given to these proposals and no provision is made in the Draft Bill.

#### Term Limits

There were clear views in the White Paper consultation regarding the proposal to limit the length of continual service of Elected Members, the Leader and Cabinet Members. As a result, and as previously announced, these proposals will not proceed.

#### Release of Councillors from Employment

The White Paper proposed placing a duty on devolved public services to release employees to undertake duties as Councillors. Given the provision in section 50 of the Employment Rights Act 1996 (right to time off for public duties) further provision has not been made for this in the Draft Bill. Raising awareness and promoting the use of this existing provision will be taken forward through the *Diversity in Democracy* programme.<sup>11</sup>

#### Remuneration of Councillors

As stated in the White Paper, there is a justifiable expectation amongst the general public that elected politicians should receive no greater remuneration than can be justified in relation to the scale of their responsibilities and time commitment. Equally, the Welsh Government does not wish to financially disadvantage anybody for being a Councillor, as this would contradict our clear intention to increase diversity among Councillors.

The framework of remuneration for Councillors is decided by the Independent Remuneration Panel for Wales (IRPW). Although no provision is included in the Draft Bill, it is proposed the Welsh Ministers will have a power in the Bill for introduction to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors.

**Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?**

#### Recall of Councillors

75% of online respondents agreed there should be a right of recall. Whilst five Local Authorities agreed (with conditions, especially safeguards against abuse), 13 were against. Although not included within the Draft Bill, provisions which introduce a right of recall over Members of Principal Councils are being considered, similar to arrangements that are in place in relation to Members of Parliament. Standards Committees would have their responsibilities strengthened by enabling them to consider allegations of a failure of a Councillor to perform his or her duties, as well as misconduct matters. In both cases, if a Councillor becomes subject to a suspension from office, this would enable local people, if they wished, to raise a petition calling for a by-election

<sup>11</sup> <http://gov.wales/topics/localgovernment/diversity-in-democracy/?lang=en>

in relation to that Councillor's seat. If a petition was signed by at least twenty percent of the electorate in that ward, a by-election would have to be called.

#### Remote Attendance at Meetings

The provisions enabling remote attendance at Council meetings, introduced in the Local Government (Wales) Measure 2011 ("the 2011 Measure"), have not been widely adopted. Feedback from Local Government has indicated either a lack of demand for the facility or a view that the technical challenges required to abide by the detailed provisions of the Measure has led to the reform not being implemented at Local Authority level.

The Welsh Government believes that enabling remote attendance has particular attractions for Members who may, for employment, travel or domestic reasons, find it difficult to attend some meetings. This may increase with the move to new Authorities, given their larger size and if the age, gender and employment profile of Councillors improves, as intended.

Although no provision is made in the Draft Bill, it is our intention to include in the Bill for introduction provisions which would amend the 2011 Measure in order to further facilitate the operation of remote attendance by Councillors at Council meetings.

<b>Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?</b>
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#### The Cost of Senior Management in Local Government

The White Paper proposed a permanent control mechanism for salary awards for all Chief Officers through the IRPW, a 'central' appointment process for Chief Executives and Chief Officers, and term limits for Chief Executives. Following further consideration, these issues will be addressed as part of wider considerations in respect of senior managers across the public service to create a more transparent and open framework for senior appointments and pay in Local Government, and through the work of the Public Services Staff Commission.

#### The Role and Responsibilities of Chief Executives

We will seek a further appropriate legislative opportunity to provide that the Returning Officer role in each Principal Authority should form an intrinsic duty of the Chief Executive, for which no additional personal fee would be payable.

On the basis of existing electoral cycles, the new County Councils would assume the full functions of Local Government on 1 April 2020, just over a month before the scheduled General Election of May of that year. That being the case, it would not be practical for a new Returning Officer for that new Authority to be appointed at that time. Whilst there is no provision in the Draft Bill, we propose that the Shadow Authorities be given powers in the Bill for introduction to appoint Returning Officers to serve until such time as it was convenient.

**Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?**

Chief Executives to Promote Engagement and Diversity in Democracy

In the White Paper we consulted on a proposal that there should be a duty on the Chief Executive to promote engagement and diversity in democracy. On reflection, we consider the duty to promote engagement in democracy should rest on the Authority as a whole, as set out in Part 3 of the Draft Bill, *Promoting access to Local Government*.

Local Authority Chief Executives will inherit powers and duties currently placed upon the Local Authority's Head of Paid Services. This will include a requirement that they keep under review the proper management of the Council's staff and, if appropriate, make proposals to the Council. This means compliance with existing legal provision and legal duties (for example, in relation to bullying, harassment and discrimination) should be taken account of in proposing policies and procedures for the Authority to consider adopting. In addition, in Section 104 of the Draft Bill, there is a requirement for the Leader to set objectives for the Chief Executive, which could include objectives relating to equality and diversity. The Welsh Ministers could recommend in statutory guidance that Leaders should be mindful of the importance of setting and monitoring such objectives to ensure compliance with equalities legislation. There is, therefore, no specific additional provision for this in the Draft Bill, as there is extensive legislative provision already in place on these matters.

Power to Dismiss Senior Officers by a Vote of the Full Council

Certain senior officers (the Chief Executive, Chief Finance Officer, Monitoring Officer and the Head of Democratic Services) are subject to arrangements governing their employment which prevent an Authority dismissing them unless there has first been an investigation by an independent person which would justify this course of action. In England, the UK Government has replaced this with a vote in full Council being required to bring about a dismissal. There is a possibility this could give rise to claims against Local Authorities for unfair dismissal and careful consideration would need to be given if such an approach was adopted in Wales. Nevertheless, the Welsh Government would welcome views as to whether it should adopt a similar approach.

**Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?**

Council Functions and Responsibilities

The arrangements for determining who within a Local Authority has responsibility for making decisions in relation to the various functions of Local



Government is provided for in regulations made under the Local Government Act 2000.<sup>12</sup>

In short, most functions are the responsibility of the Local Authorities' Executive, but the regulations describe those functions which cannot be the responsibility of the Executive, cannot solely be the responsibility of the Executive, or can either be the responsibility of the Executive or the full Council, dependent on local choice.

These regulations are detailed and prescriptive. They are also liable to become out of date and require frequent revision. We are proposing to simplify the system and give greater flexibility to new Authorities following mergers.

We propose the provisions of section 13 of the 2000 Act should be replaced by a more liberal provision in relation to the allocation of responsibility within the Local Authority. Authorities would be obliged to have regard to guidance from the Welsh Ministers when deciding responsibility for functions. They should, however, need to abide by certain principles which we propose to include in the Bill for introduction. We also propose there should be a power of direction vested in the Welsh Ministers requiring a Local Authority to allocate responsibility for a function in a particular way.

We propose that the principles which would guide the allocation of functions would be:

- when the Council is operating in a quasi-judicial role the functions involved must not be for the Executive. This would include decisions in relation to planning and licensing;
- approval of the Council's budget and financial planning, including the amount of Council Tax required, should fall to full Council;
- appointments of senior staff should be reserved to full Council;
- the appointment of the Electoral Registration Officer and electoral matters more generally should fall to full Council;
- remuneration of Members of the Authority should be reserved for full Council;
- functions related to the provision of services by the Council should be the responsibility of the Executive;
- the allocation of functions requires the agreement of both full Council and the Executive; and
- the Council's scheme of delegation should be published and be accessible through the Council's website.

Local Authorities and their Executives are able to delegate their functions, subject to some exceptions, if they wish and, under these proposals, this would include an ability to delegate certain functions to community area committees, as well as a new regime for the delegation of functions to third parties (see above).

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<sup>12</sup> <http://www.legislation.gov.uk/wsi/2007/399/contents/made>

**Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?**

Transfer of Local Authority Assets

The White Paper included proposals to enable eligible community bodies to initiate the transfer of assets from a Local Authority. A majority of consultation responses were in favour (59% for, 22% against). The objective of the proposal was to facilitate asset transfer to community bodies.

From the perspective of community bodies, the issue which was raised most frequently at the consultation workshops and in the written responses as a barrier to asset transfer was the quality of engagement between Local Authorities and community bodies. The period of notice given to community bodies of a disposal and the quality of information provided (including about liabilities) were frequently mentioned. Community bodies were also looking to Local Authorities to adopt a partnership, rather than a transactional, approach and to recognise the need for ongoing support in the early stages of transfer. Local Authorities identified the lack of capacity among community bodies, such as legal and health and safety expertise, as a barrier to doing business.

The Welsh Government has considered the issues raised and proposes to modify its approach. The proposals as set out in the White Paper could lead to complex bureaucratic processes and create friction between Local Authorities and community bodies, rather than promoting better relations. The Draft Bill does not include any provision in relation to asset transfer, but the Welsh Government intends to include provision in the Bill for introduction.

We propose that community bodies are given statutory notice when Local Authority assets above a certain value are to be disposed of, giving them the opportunity to come forward with new ideas. This would not prevent Local Authorities from taking a planned approach to the disposal of assets whilst giving community bodies greater notice of local opportunities and ensuring more consistent practice across Wales.

For example, Local Authorities could be required to identify disposal of assets above a certain value as a 'key decision'. The Welsh Ministers have regulation making powers under section 22 of the Local Government Act 2000 to require Local Authority Executives to give members of the public or Councillors information about certain types of decisions. Section 107 of the Draft Bill amends section 22 of the 2000 Act to require the information is also provided to Scrutiny Committees and their sub-committees. The regulations can set out types of decision (which could include disposal of assets), the information that must be made available, and the length of advance notice required before a decision is taken.

These powers could be strengthened by including provision in the Bill for introduction addressing related matters, such as how a Local Authority should respond if a community body showed an interest in a particular asset, what assets (if any) might be exempt, how urgent situations should be dealt with, and so on. The financial implications and the duties on Authorities to deliver

value for money would need to be taken into account as part of these considerations. We would welcome your views.

**Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?**

Assets of Community Value

The consultation responses showed strong support for a register of (private) assets of community value (86% for, 7% against). The matter has been subject to further consultation by the Minister for Communities and Tackling Poverty in *Protecting Community Assets*. There is no provision relating to assets of community value in the Draft Bill, but the Minister for Communities and Tackling Poverty will consider what action needs to be taken in due course, including the need for legislation.

## **Part 5: County Councils: Improvement of Governance**

Part 5 of the Draft Bill sets out arrangements for a new improvement regime. Chapter 1 puts a general duty on Local Authorities to make and comply with governance arrangements. Chapter 2 requires Local Authorities to have a corporate plan, to consult on it, to keep it under review and report on progress made. Chapter 3 sets out how Local Authorities are to assess the quality of their governance through self assessment, peer assessment and combined assessment. Chapter 4 gives the Welsh Ministers a power to arrange a review of a Local Authority's governance arrangements and gives them a power to intervene when a Local Authority's governance arrangements are inadequate. Chapter 5 provides for better co-ordination between the regulators and Chapter 6 makes miscellaneous provision relating to the previous chapters. Chapter 7 sets out new functions and revised membership of Corporate Governance and Audit Committees (previously called Audit Committees).

It is our intention to commence the majority of these provisions when the Bill is enacted, in order that the transition to the new regime can start immediately and support the process of mergers.

<p><b>Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?</b></p>
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We also welcome your views on the following matters.

### **Chapter 1: Duty to make arrangements to secure good governance etc.**

At present, County Councils are subject to a 'general duty in relation to improvement' and the associated improvement assessment and intervention regime provided for in Part 1 of the 2009 Local Government (Wales) Measure ("the 2009 regime"). The 2009 regime will be repealed in relation to County Councils by section 147 of the Draft Bill. The provisions in Part 5 replace the 2009 regime with a regime focused on the quality of governance in County Councils, with much greater local determination and accountability.

This chapter requires a County Council to make, implement and comply with arrangements in order to ensure good governance, accountability, and economy, efficiency and effectiveness in the use of the Council's resources. The Council's compliance with its own governance arrangements is assessed by way of self, peer and combined assessments, as set out below.

A County Council's governance arrangements must comply with the principles, processes and practices set out in regulations by the Welsh Ministers. The Welsh Ministers may prescribe in regulations a code of practice or guidance. An example of such a code of practice is the *Delivering Good Governance in Local Government: Framework* published jointly by the

Chartered Institute of Public Finance and Accountancy and the Society of Local Authority Chief Executives.

**Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?**

## **Chapter 2: Corporate Plans**

Consultation responses were largely supportive of the proposals that Local Authorities should be required to produce a corporate plan. However, respondents generally did not agree that the corporate plan should be the preserve of the Chief Executive, but rather it should be approved by the Council. The Welsh Government accepts the arguments and the Draft Bill reflects changes we have made in response to these concerns.

## **Chapter 3: Assessments of Governance Arrangements**

The Draft Bill imposes a new duty on Local Authorities to make and implement governance arrangements (see above). Compliance with this duty will be the subject of the proposed self assessments, peer assessments and combined assessments.

### Self Assessment and Peer Assessment

The responses to the White Paper consultation with regards to self assessment and peer assessment were supportive. Local Authorities and the WLGA emphasised the benefits of peer assessment being sector-led. Concerns were raised about the burden of the proposed biennial peer assessment. The Draft Bill reflects changes we have made in response to these concerns, so that each Local Authority will only be required to undertake a peer assessment at least once per election cycle.

Annex A sets out how we would expect a peer assessment to be developed. This will form the basis of Welsh Government guidance. We would welcome your views on whether this model approach is reasonable and whether it could be strengthened in any way.

**Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?**

### Combined Assessment

Online responses to the White Paper proposals regarding an external assessment of individual Local Authorities' governance arrangements were broadly supportive. There was limited discussion regarding these proposals in free-form responses. The WLGA and those Local Authorities that did respond had concerns about the burden of a biennial 'health check'. Following further discussions with the relevant regulators (the Auditor General for Wales, CSSIW and Estyn), the Welsh Government accepts this argument and the Draft Bill provides for a less prescriptive regime of combined assessments.

## Chapter 6: Miscellaneous Provision

### Amendment of Local Government (Wales) Measure 2009

The Draft Bill removes County and County Borough Councils from the definition of a 'Welsh improvement authority' in the 2009 Measure. This means the improvement regime in Part 1 of the Measure will no longer apply to Principal Councils. It is our intention that this provision should come into force at the same time as the duty in Part 5, Chapter 1 of the Draft Bill (*Duty to make arrangements to secure good governance etc.*) comes into force. For the purposes of consultation on the Draft Bill, Part 1 of the 2009 Measure will continue to apply to National Park Authorities and Fire and Rescue Authorities in Wales. The Welsh Government will consult fully on future arrangements for National Park Authorities and Fire and Rescue Authorities in Wales regarding performance management and governance mechanisms in due course.

## Chapter 7: Role of the Corporate Governance and Audit Committee

It is proposed that the onus should be on the Corporate Governance and Audit Committee to hold the Local Authority to account for taking action in response to a self assessment, peer assessment, combined assessment and independent governance review. The Draft Bill requires the Corporate Governance and Audit Committee to review the Authority's response to reports and recommendations made under these assessments and, if appropriate, make recommendations to the Authority.

**Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self assessment, peer assessment, combined assessment and governance review?**

## Other Matters

### Strengthening Internal and External Scrutiny

Consultation responses to the proposal in the White Paper to strengthen the links between internal scrutiny and external scrutiny ("the relevant regulators") were broadly positive. Provisions for this are not included in the Draft Bill, but will be included in the Bill for introduction.

It is our intention to require the regulators to submit their reports to the relevant Overview and Scrutiny Committee at the same time final reports are issued to the Local Authority. The Local Authority would be required to involve the relevant Overview and Scrutiny Committee in the development of their response to regulators' reports. For example:

- a draft report/action plan in response to an audit or inspection would be prepared by the Local Authority;
- the relevant Overview and Scrutiny Committee would consider the draft report and provide proposals for change;

- the Local Authority, in finalising their response to a report, must have regard to any such proposals from the Committee.

The regulators would be required to present their findings to the relevant overview and scrutiny committee, when requested to do so, to aid them in their consideration of the Local Authority's response to reports.

#### Report on the 'State of Local Government'

Whilst the proposal for the relevant regulators to make a 'State of Local Government' report was generally supported by online respondents, there was limited feedback on the specifics of the proposal. The Local Authorities, in their free form responses, did not identify any specific issues, concerns or benefits for this proposal other than a general point about adding unnecessary burdens to Local Authorities.

Since consulting, the Well-being of Future Generations (Wales) Act 2015 has received Royal Assent and is coming into force. This Act will give rise to a number of reports. We will consider the proposal for a 'State of Local Government' report by the relevant regulators further, as implementation of the 2015 Act progresses.

#### Single Information Portal

Respondents to the consultation were supportive of more streamlined, transparent and accessible performance data. Online respondents supported a consistent approach to allow comparisons of performance between Local Authorities.

Whilst provisions relating to a single information portal do not feature in the Draft Bill, it is our intention that the Bill for introduction will include provisions requiring Local Authorities to publish key data and documents through an online portal. The provisions will enable the Welsh Government to specify the information that must be published.

#### Complaints

The White Paper set out our proposals that Local Authorities should establish a statutory complaints handling process, primarily online, and be required to record information, analyse and report on complaints received and how they have been handled. This would be based on the Model Concerns and Complaints Policy and sit alongside the existing requirement for Local Authorities to have a process in place to enable them to deal with complaints and representations about their social services functions. We recognise the National Assembly for Wales' Finance Committee has recently published the Draft Public Services Ombudsman (Wales) Bill for consultation and will reflect further on our proposals as this legislation develops.

#### Local Public Accounts Committees

The White Paper sought views on whether there was merit in establishing a system of local Public Accounts Committees (PACs) in Wales. Few responded directly on this point and many considered there was not enough information in the White Paper to form a view.

There have been a number of attempts in the past by Local Authorities, Local Health Boards and others to understand the combined impact of public spending on outcomes in a local area. The aim has generally been to identify and avoid duplication of spending, prevent cost-shunting and find smarter ways of doing things.

There are inherent difficulties in designing a local system where the PAC would need to report to a number of separate organisations rather than to a single body. The Centre for Public Scrutiny has put forward a system, suited to the kind of devolution arrangements emerging in England, such as combined authorities, which would establish local PACs as separate bodies with their own resources. This model would be a significant addition to the cost and complexity of public services in Wales, and is unlikely to add sufficient value to be justifiable.

In addition, PACs look retrospectively at what has been done and how money has been spent, rather than critically examining future policy choices which might lead to more cost effective outcomes. An alternative approach might build on the joint local public service leadership model which Public Services Boards (PSBs) establish. Within the framework of the Well-being of Future Generations (Wales) Act 2015, PSBs will have a strong interest in examining how the policy choices and resource decisions facing public services could be used to improve outcomes in an area more cost effectively. PSB members could jointly agree a programme of work and contribute to its resourcing, providing them with powerful evidence to take back into their organisations to inform corporate decisions.

In terms of the scrutiny of the work of PSBs, we believe the existing and proposed legislative provision is sufficient. There is a requirement in the Well-being of Future Generations (Wales) Act 2015 that the decisions, actions and governance arrangements of PSBs are scrutinised by a Local Authority Overview and Scrutiny Committee. Provisions in Part 4, Chapter 7 of this Draft Bill will enable the Local Authority to grant voting rights to co-opted members of overview and scrutiny committees. This would apply equally to committees scrutinising the work of PSBs. In addition, section 108 of the Draft Bill enables the Welsh Ministers to prescribe in regulations the circumstances in which two or more Local Authorities must establish a joint scrutiny committee.

We welcome your views on whether we are right to reject the idea of local PACs in Wales, whether PSBs are the right bodies to examine the prospective policy choices facing local public services, and if so, whether they would benefit from additional legal powers, for example, to call officials to give evidence and provide information, and to commission external expertise to inform their investigations.

**Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?**

**Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?**



## Question 5.7: If so, would they benefit from additional legal powers?

### The Role of Co-operatives and Mutuals in Public Services

We advocate co-operative and mutual models of delivery and other alternative delivery models only as an alternative to ceasing or privatising services, as a 'least worst' option.

There are three important pre-conditions for ongoing work to develop a stronger framework for change and better support which are:

- accountability to Local Government;
- protection of employee terms and conditions;
- continuation of trades union recognition.

We are consulting separately on the development of a national framework to support decisions being made locally on the appropriateness of alternative delivery models for public services.<sup>13</sup> This consultation will explore the practical support which should be made available to public service organisations, their workforce, citizens and communities in making decisions about how services should be designed and delivered.

The purpose of developing the framework and making support available is to ensure that:

- the wider environment within which proposals for new models are considered, and then established, is conducive for ongoing sustainability and success;
- new models are properly tested before being adopted; and
- the interests of citizens, communities and the workforce are properly considered and protected throughout.

The White Paper recognised that mutualism, co-operation and shared ownership with communities should be at the heart of the transformation of public services. This reflected the opportunities identified by the Welsh Co-operative and Mutuals Commission<sup>14</sup> and in the subsequent report for the Minister for Public Services and the Minister for Economy Science and Transport, *Is the Feeling Mutual? New Ways of Designing and Delivering Public Services in Wales*.<sup>15</sup>

In response to these challenges, the Welsh Government proposes granting Local Authorities a general power of competence in the Draft Bill. Local Authorities will be able to utilise this power as a basis for developing alternative delivery models. The Welsh Government has also reviewed the powers of Local Authorities to delegate functions under the Deregulation and

<sup>13</sup> <http://gov.wales/consultations/improving/alternative-delivery-models-public-service-delivery/?status=open&lang=en>

<sup>14</sup> <http://gov.wales/topics/businessandconomy/business/welsh-coop-mutuals-commission/?lang=en>

<sup>15</sup> <http://gov.wales/topics/improvingservices/publications/is-the-feeling-mutual-report/?lang=en>

Contracting Out Act 1994, and is proposing that they should be repealed and replaced with a new regime that will allow for the delegation of Local Authority functions to third parties by regulations made by the Welsh Ministers. The Draft Bill also includes provisions to empower community bodies to take the initiative in relation to improvement requests and it is our intention to use existing legislation and, if necessary, include additional provision in the Bill for introduction relating to the disposal of assets by Local Authorities (see Transfer of Local Authority assets and Question 4.9 above).

### Shared Services

The Report of the Commission on Public Service Governance and Delivery included consideration of the potential improvements in cost effectiveness through the adoption of shared services. It commended the NHS Wales Shared Services Partnership (NWSSP) and suggested it as a model for public sector-wide shared services.

For NWSSP to have the opportunity to take this wider role, the legislative framework would need to change, as hosting within an NHS Trust is constrained by the current legislation 'to provide goods and services for the purposes of the health service'.

Local Authority mergers will create larger service units within the new County Councils but there is also evidence, from the KPMG report into administrative and support functions, that cost savings and the opportunity for better service could be obtained through shared services at a larger scale. There is evidence elsewhere that the ability of Local Government to participate in joint ventures and similar arrangements with the public sector and other partners may open up opportunities for innovation and best practice. We wish to consider whether current legislation and regulations for Local Authorities provides the appropriate framework to support these opportunities. We would welcome your views.

<p><b>Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?</b></p>
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## Part 6: Community Councils

The provisions in Part 6 of the Draft Bill relate to Community and Town Councils. Chapter 1 requires the Local Democracy and Boundary Commission for Wales to undertake a review of Community Council arrangements. Chapter 2 requires Community Councillors to complete training on matters specified by the Principal Council. Chapter 3 extends the terms of Community Councillors elected in 2017 to six years and provides that Community Council terms will be fixed at five years from 2023.

<b>Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?</b>
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We also welcome your views on the following matters.

*Note: the term Local Authority generally means both Principal Councils (County and County Borough Councils) and Community Councils. In order to distinguish between them, in this section we use the terms Principal Council / County Council and Community Council, rather than Local Authority.*

### Chapter 1: Review of Community Council Arrangements

The White Paper set out our intention to strengthen the Community Council sector so that it has greater capacity and capability to take on responsibility for local facilities and services. The proposal was that Principal Councils would undertake a review of Community Council arrangements in their area, with the intention of grouping smaller communities under a Common Council.

Consultation responses from Principal Councils and the Welsh Local Government Association (WLGA) argued that while this approach was reasonable in principle, it would be difficult for Principal Councils to complete such a review by 2023, given the wider context of mergers and reform. The Welsh Government agrees and has previously announced that the review will now be conducted by the Local Democracy and Boundary Commission for Wales (LDBCW).

The provisions in the Draft Bill require the LDBCW to submit their draft reports to the new County Councils on or after 1 April 2020, which is the day they assume the full responsibilities and functions of Local Government. There is a case to bring this date forward to May 2019 when the Shadow Authorities come into existence, in order that the Commission may undertake the review, publish draft reports and consult in a more timely fashion. We would welcome your views.

The provisions require the LDBCW's recommendations to be implemented by the County Councils by order. Alternatively, this is a task the Commission could undertake. This would enable it to undertake and implement the reviews in a single smooth process. We would welcome your views.

**Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?**

**Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?**

## **Chapter 2: Members of Community Councils to Complete Training**

Community Councils and Principal Councils have formal relations on a number of matters. For example, Standards Committees of Principal Councils have oversight of code of conduct matters relating to Community Councillors, Community Councils are consultees on planning matters in their area, and Principal Councils may delegate functions to Community Councils. It is in the interest of both parties that Community Councillors are equipped with the knowledge and skills necessary to undertake their role effectively. Therefore, the Draft Bill includes provisions which require Principal Councils to consider if there are matters on which it should be compulsory for Community Councillors to complete appropriate training.

If the clerk to the Community Council receives a complaint that a Community Councillor has not completed compulsory training, the Draft Bill puts a duty on the clerk to look into the matter. If, having consulted the chair of the Community Council and considered any representations the Community Councillor makes about his or her failure to complete the training, the clerk's view is the Community Councillor does not have a good reason for not completing the training, the clerk must notify the Community Council at a public meeting. As the clerk is an employee of the Council, this has the potential to strain the good relations between the clerk and the Council. We welcome your views on whether this is the right approach to ensuring Community Councillors complete compulsory training or whether an alternative approach should be considered.

**Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?**

## **Chapter 3: Community Council Election Dates**

The Draft Bill provides that elections to all Community Councils, including those in Powys, will be held in May 2017 and May 2023, in both cases coinciding with elections to Principal Councils. The terms of Community Councillors elected in 2017 would need to be extended so they serve a six-year term. From 2023 Community Council elections will be held every five years, in line with the new cycle of elections to Principal Councils.

**Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?**

## **Other matters**

### Capping the Community Council Precept

Further consideration has been given to the proposal in the White Paper to cap the amount by which non-competent Community Councils can raise their Council Tax precept. This issue will now be considered on a longer term basis following the review of Community Councils and alongside the wider financial reforms.

### Annual Reports

The White Paper set out our intention to consider whether other aspects of the governance of Community Councils should be strengthened. It is our intention to require every Community Council to publish an annual report so that local people can understand what the Council has achieved during the previous year. Many already do so. Although we have not included provision in the Draft Bill, it is our intention to include provision to this effect in the Bill for introduction.

### Training

Given the extra responsibilities larger Community Councils may take on, including the significant legal and financial responsibilities which may accrue from exercising the general power of competence, we believe it is right that Community Councils should consider their own training needs (both Councillors and employees) and, where appropriate, make that training compulsory. We have not previously consulted on this proposal and no provision is included in the Draft Bill, however, it is our intention to include provision to this effect in the Bill for introduction.

**Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?**

### Performance Management

In the White Paper we consulted on a proposal that the chair of a Community Council should set objectives for, or otherwise manage the performance of, the clerk. The clerk is an employee of the Council and as a matter of good employment practice, they should have both a clear job description and be set annual objectives so they know what they are required to do. For very small Community Councils, this approach may be seen as too much of a burden. However, as Community Councils with bigger budgets take on more responsibilities, which is our intention through the review of Community Council arrangements, good employment practice will become more important. We would welcome further views on this proposal and, in particular, whether the duty should rest on the Council as a whole or its chair, and whether such a duty should apply to all Community Councils or only some.

**Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?**

## Community Polls

In the White Paper we said ‘we will also clarify the legislative framework governing community polls’. There were insufficient responses to draw any useful conclusions. We set out here our further thinking on community polls.

Community polls are governed by section 99 and Schedule 12 of the Local Government Act 1972, as amended by the Local Government (Wales) Measure 2011. A community poll may be called in respect of any matter raised at a community meeting, subject to the support of a sufficient number of electors. Community polls provide an indication of community feeling about the subject of the poll. However, they are non-binding and a Principal Council or Community Council does not have to act on the results of the poll, although they do have to bear the cost.

Community polls often relate to matters outside of the control of Local Government. For example, in recent years, community polls have been held about the future of Ffestiniog Memorial Hospital and Flint Community Hospital, but these are matters in which Local Government has no say. Community polls are costly and turn-out is generally low. Four recent polls in Cardiff cost in excess of £20,000 and in recent polls, turn out of those entitled to vote has ranged from 37% down to 9% in a 2012 poll relating to the closure of the paddling pool in Ynysangharad Park in Pontypridd.

The Welsh Government considers a modernising reform which strengthens community voice and progresses the digital agenda of Local Government should be considered, through the use of electronic petitions. Petitions are an established feature of Government at all levels in the UK and in recent years, there has been a significant increase in the use of e-petitions as a means of giving the public a greater say in decisions which affect them, by the National Assembly, the UK Government, the Scottish Parliament, and Local Government in England and Scotland. Most Councils in Wales have procedures for dealing with written petitions, but none is known to operate e-petitions.

We are, therefore, proposing that in the Bill for introduction the existing legislation which provides for community polls should be repealed in respect of Wales, and be replaced by an alternative approach which would require Principal Councils to establish a petitions scheme and an e-petitions facility. This would enable communities (of place or interest) to express their views on matters which concern them, without the restrictions and costs which currently apply to community polls, and there would be a requirement for Councils to set out how they would respond. We would welcome your views.

It is, therefore, our intention to put on hold the implementation of any changes to the existing Community Polls rules, following the consultation on a proposed amendment of the rules<sup>16</sup> which concluded in February 2014. With regard to polls conducted for the purpose of forming or dissolving a

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<sup>16</sup> [Welsh Government | Community Polls](#)

Community Council, it is our intention to review the existing legislation, as set out in the following section.

**Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?**

#### Review of Community Council Legislation

The legislation governing the creation, grouping, merging and dissolution of Community Councils and the holding of community meetings etc. is found in the 1972 Local Government Act, as amended.

It is our intention to suspend the majority of the 1972 provisions about community applications for the duration of the LDBCW's review of Community Council arrangements and for a period afterwards. This is to ensure the Commission is able to undertake its review without Council arrangements changing during the course of the review. There is a question about whether to revert to the provisions in the 1972 Act from 2025 onwards. We intend to use the intervening period to consult further with the sector and consider a legislative framework for Community Councils which is appropriate for the mid 21<sup>st</sup> century.

## Part 7: Workforce Matters

Part 7 of the Draft Bill deals with workforce matters. Chapter 1 enables the Welsh Ministers to publish guidance to public bodies on workforce matters. Chapter 2 provides for the establishment of a Public Services Staff Commission. We recognise our vision for reform, and our ambition for world class public services, can only be realised through a world class public service workforce with the right skills and support to deliver them. The dedication and excellence of the public service workforce is instrumental to transformation. Our non-statutory Public Services Staff Commission has been operating since September using the Workforce Partnership Council as its primary reference point. We are committed to continuing our strong model of social partnership through the Workforce Partnership Council as we take forward our programme of reform.

**Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?**

We also welcome your views on the following matters.

### Chapter 2: Public Services Staff Commission

Following consultation in late 2014 on the White Paper, *Devolution, Democracy and Delivery: Public Services Staff Commission*, the Minister for Public Services established a non-statutory Public Services Staff Commission in September 2015. The overwhelming majority of consultation responses were in favour of putting the Commission on a statutory footing and the Draft Bill includes such provision.

However, it may be the case that a statutory Commission would be more constrained in the matters on which it can offer workforce guidance in comparison with the non-statutory Commission. Whether this is the case or not will depend on the content of the UK government's proposed Wales Bill which will make changes to the devolution settlement in Wales.

The content of the Wales Bill and its implications in relation to the proposed statutory Public Services Staff Commission will not be fully known until the Bill is passed. This will not happen during the course of this consultation and the passage of the Wales Bill is not in the control of the Welsh Ministers. Nevertheless, the Welsh Government would welcome views at this stage on the best way forward if it turned out that a statutory Commission would be more constrained in the matters on which it can offer workforce guidance in comparison with the non-statutory Commission.

**Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?**



## Part 8: General and Schedules

Part 8 of the Draft Bill sets out the meaning of terms and of references to existing legislation in the Draft Bill, sets out how the provisions will apply to Local Authorities before 1 April 2020, gives the Welsh Ministers powers to make consequential and transitional provision, makes provision for orders and regulations, sets out when the different parts of the Draft Bill will come into force, and the short name by which the Draft Bill will be known when it is enacted.

### Schedules

In addition, there are a number of Schedules to the Draft Bill.

**Schedule 1** sets out the areas of the new Counties in Wales. Two alternative tables are provided (see Part 2, Chapter 1 for an extensive discussion).

**Schedule 2** sets out the arrangements for holding the first ordinary elections and first meetings of the new Councils.

**Schedule 3** sets out provisions relating to the finance of the new Councils.

**Schedule 4** makes various transitional arrangements and provides for staff, property, rights and liabilities to be transferred from the existing County and County Borough Councils to the new County Councils.

**Schedule 5** makes amendments to the Local Government Act 1972.

**Schedule 6** makes amendments to existing legislation in relation to assistants to Local Authority executives which are provided for in Chapter 5 of Part 4 of the Draft Bill.

**Schedule 7** makes consequential amendments to existing legislation in relation to Chief Executives of the new Councils.

**Schedule 8** makes various amendments and repeals to existing legislation in relation to community area committees established by provisions in Chapter 3 of Part 3 of the Draft Bill.

**Schedule 9** makes various amendments in respect of the renaming of County Council Audit Committees.

Further explanation of the content of the Schedules is provided in the Explanatory Memorandum and the Explanatory Notes.

<p><b>Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?</b></p>
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## Annex A: Peer assessment

### Governance Themes

The focus of peer assessment under the Draft Bill is a Local Authority's compliance with its good governance duty. In essence, the assessment will look at the corporate capability and capacity of a Local Authority, within a framework of 'good governance themes', such as that set out in *Delivering Good Governance in Local Government: Framework* (CIPFA/SOLACE).<sup>17</sup>

### Reviewers

To add maximum value, members of the peer assessment panel should not just be external to the Local Authority, but experienced and credible. This way the Local Authority knows that their findings can be trusted and will give them confidence that the changes proposed are necessary.

Peer assessment panels should be made up of a cross section of individuals (Elected Members, officers and those from other sectors) whose skills and expertise cover the breadth of the core themes and any additional areas that the Local Authority wishes to cover. Whilst it is important that a proportion of the assessment team have a good understanding of the complexity of working in a political environment and the impact which local politics can have on a Local Authority's organisational culture and priorities, those with experience of other sectors can also offer a valuable insight. We would expect a peer assessment panel to be made up of both those with direct experience of working in and with Local Government.

As a guide/ minimum, we would expect peer assessment panels to be made up of:

- A chair who will lead the peer assessment
- At least 1 Elected Member from a Welsh Local Authority that does not have a border with the host Authority
- At least 1 senior officer from a Welsh Local Authority that does not have a border with the host Authority
- At least 1 Elected Member or officer from another Local Government administrative area (e.g. England, Scotland, Northern Ireland, Ireland, or further afield)
- At least 1 individual with relevant expertise or knowledge from beyond Local Government (e.g. the Private or Third sector)

Local Authorities could also consider whether it would be appropriate to invite others to be members of the assessment panel, for example:

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<sup>17</sup> <http://www.cipfa.org/Policy-and-Guidance/Publications/D/Delivering-Good-Governance-in-Local-Government-Framework>

- A representative from the WLGA (or LGA)
- A representative from an Audit, Inspection and Regulation body

## **Example Process**

Typically a peer assessment process will take a number of months, from start to finish and it is suggested that there may well be an ongoing relationship with the chair or the panel in a mentoring capacity in the longer term. The information below is a suggested example, recognising that there will need to be flexibility around the process, but the principle of peer assessment is that it is a 'short and sharp' process ensuring that any findings remain relevant, and allow the Local Authority to respond in a timely manner.

### Pre-assessment

The pre-assessment process would typically take around 8 weeks. During this period the Local Authority, working with partners or an organisation paid to coordinate this activity, will scope the requirements of their peer assessment, identifying any particular challenges that have been highlighted in their self-assessment, or in recent reports of the relevant regulators, including a combined assessment. This will also help to identify the skills and expertise required to maximise the impact of the review.

Once scoped, the Local Authority, working with partners or an organisation paid to coordinate this activity, will be able to identify an appropriate assessment panel to undertake the assessment.

Once appointed, the chair (or lead assessor) will have the opportunity to meet with the Leader and Chief Executive of the host Local Authority to discuss the scope of the assessment in detail and amend the scope of the assessment as necessary. This is also an opportunity to discuss expectations and the approach to the assessment.

During this time the Local Authority will be able to gather information to share with peer assessment panel that is relevant to set the context for and inform the assessment. This information should rarely be required to be produced specifically for the assessment as, typically, the documents should be in existence. However, it might be useful for the host Authority to produce an overview document.

### Assessment

The assessment itself will typically take place over a period of about 4 weeks. The initial period of the assessment is desk based for the assessment panel. The assessment panel will have time to consider the information provided to them, and have the opportunity to request any additional information that they believe would be pertinent to the assessment. This desk based review will allow them to develop areas for consideration for them to focus on during their site visit.

The site visit would normally last around 4 days over no more than a two week period, and ideally in a single week. The site visit is an opportunity for the assessment panel to question and discuss areas within the scope of the assessment with Elected Members, officers and other stakeholders of the host Authority.

At the end of each day, the panel members would come together to discuss their findings and consider if there are any other issues that should be considered or individuals or stakeholders that it would be useful to meet.

At the end of the site visit the assessment panel will present its findings to the Leaders and Chief Executive. The Local Authority may wish to consider if others should be invited to hear the assessment findings (for example, the whole Executive, senior management team, full Cabinet). This presentation is an opportunity for the peer assessment panel to set out their main findings and areas which they believe the Authority would benefit most from focusing in on. It is also an opportunity for the host Authority to clarify its understanding of the issues raised.

#### Post assessment

Following the site visit and presentation the assessment panel will produce a more detailed report for the Authority to consider in more detail. This report is not meant to be all encompassing, but it should give sufficient detail that it can be read and understood as a stand alone document, as the report will eventually be published on the Local Authority's website. We would expect that the Local Authority should receive the report within 2 weeks of the site visit. This ensures that the issues identified during the assessment and any recommendations remain relevant. As part of the report we would expect the assessment panel to recommend when the next peer assessment should be undertaken. Peer assessments must be undertaken at least once in every election cycle (i.e. 5 years from 2023) but it may be advisable to conduct them more frequently, for example, during periods of significant organisational change.

The Local Authority will be required to respond to the findings from the assessment. Whilst some Local Authorities may choose to produce an action plan as a result of the assessment, others will feed in the action they intend to take as a result of the assessment findings into other documents, for example, recruitment and retention strategies or the corporate plan. The Local Authority's response should be made within 4 weeks of the report being produced to ensure that early action can be taken.

The Local Authority will need to be clear what action it is taking as a result of the peer assessment and there will be a requirement that the proposed actions are considered by the Corporate Governance and Audit Committee. We would encourage the lead assessor to return to the host Authority within 3-6 months following the review to support the Authority to develop their improvement planning.

The Local Authority may choose to approach members of the peer assessment panel, or the lead assessor to establish a longer term 'mentoring' relationship to provide ongoing peer support to the host Authority.

Timeline

Activity	Scoping of assessment as well as identification of the assessment panel	Review		Report write up	Report Published	Response to findings developed by Local Authority
		Desk based review and research by assessment panel	Site Visit			
Time scales	8 weeks	3 weeks	1 week	2 weeks		4 weeks

## **Annex B: Consultation Questions**

The Welsh Government would like to hear your views on the Draft Bill, Draft Explanatory Memorandum, Draft Regulatory Impact Assessment and the matters raised in this Consultation Paper. We would like your views on the practical application of the provisions contained within the Draft Bill.

The intention would be to introduce the Bill into the National Assembly for Wales following the Assembly elections in 2016, and we want to ensure we have addressed as many issues as possible before doing so. Your responses will help inform the Bill for introduction.

Please let us have your responses and comments on the questions set out in this Annex, based on the suite of documents that comprise this consultation.

### **PART 1**

Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?

Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?

Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?

Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?

Question 1.5: What are your views on the procedure for naming the new Counties?

Question 1.6: What are your views on the proposed changes to the Local Government election timetable?

Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?

Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?

Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?

Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?

Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the Counties in existence after 1 April 2020?

Question 1.12: Are there other matters of a technical nature which should also be considered?

## **PART 2**

Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?

Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?

## **PART 3**

Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?

Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?

Question 3.3: How should community representatives to sit on community area committees be sought and selected?

Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?

Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?

Question 3.6: Do you have any comments on the revised provisions for 'improvement requests' or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?

Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?

Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?

## **PART 4**

Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?

Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?

Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?

Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?

Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?

Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?

Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?

Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?

Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?

## **PART 5**

Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?

Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?

Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?

Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self assessment, peer assessment, combined assessment and governance review?



Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?

Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?

Question 5.7: If so, would they benefit from additional legal powers?

Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?

## **PART 6**

Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?

Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?

Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?

Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?

Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?

Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?

Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?

Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?

## **PART 7**

Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?

Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?

## **PART 8**

Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?

## **ADDITIONAL QUESTIONS**

Question 9.1: Are you aware of any consequential amendments to legislation that will need to be made?

Question 9.2: Please provide feedback you think would be useful in relation to the supporting documents published alongside the Draft Bill i.e. Draft Explanatory Memorandum (including the Regulatory Impact Assessment) and specific Impact Assessments.

Question 9.3: We have asked a number of specific questions. If you have any related issues which we have not specifically addresses, please use this space to comment.

## **Draft Local Government (Wales) Bill Consultation Response**

### **PART 1**

#### **Question 1.1: Do you have any comments on any of the provisions in Part 1 of the Draft Bill?**

The Council's comments on Part 1 are set out in the responses below.

#### **Question 1.2: What are your views on the options for 2 or 3 Counties in North Wales, as set out in Schedule 1 to the Draft Bill?**

If mergers of local authorities are to proceed then the Council's view is that Denbighshire County Council should merge with Conwy County Borough Council. The Council had prepared a joint submission with Conwy in 2014, which set out the argument for a voluntary merger in detail. As far as we are aware no other pair or group of authorities, consistent with the proposed maps, have produced the detailed argument for merger that our two authorities have. The Council's position on this hasn't changed and we present no further arguments.

#### **Question 1.3: What are your views on the proposed configuration of Local Government areas in Wales?**

The Council's position regarding its preferred option for North Wales is set out in the response to 1.2 above. The Council does not have a strong view about the rest of Wales, other than an argument about proportionality: the six councils in North Wales is currently between a third and a quarter of all councils. The Council would not support a model that worsened the current ratio.

#### **Question 1.4: Do the Welsh Ministers need to seek any further powers to support the integration of Powys Teaching Health Board and Powys County Council?**

The Council has no comment to make on this point.

#### **Question 1.5: What are your views on the procedure for naming the new Counties?**

It would appear appropriate that the Shadow Authorities determine the names of the new authorities

#### **Question 1.6: What are your views on the proposed changes to the Local Government election timetable?**

The proposed changes to the election timetable appear to be sensible.

#### **Question 1.7: Do you have any general comments on the provisions in section 16 and Schedule 3 of the Draft Bill relating to Local Government finance?**

The Council has no comment to make.

**Question 1.8: How could the Welsh Government measure the current level of avoidance of Non-Domestic Rates?**

Avoidance is notoriously difficult to quantify. The values attached to such things are by definition hypothetical and will be based on a study in one area and results extrapolated. In other areas such as Housing Benefit fraud when actual instances were compared to studies, the results were much lower. The Council would be wary of introducing an overly bureaucratic and therefore costly administration process to address a problem that may or may not be significant. At the very least it considers that a Welsh (urban and rural) study or research project be commissioned to inform whether this may be an issue.

**Question 1.9: Do you have any comments or suggestions on how future legislation could help to reduce instances of avoidance of Non-Domestic Rates?**

The Council has no additional comment to make.

**Question 1.10: In what other ways could the Welsh Government enable Local Government to reduce the level of avoidance and fraud within the Non-Domestic Rates system?**

It could be that something as simple as designing forms to make positive responses mandatory (the example of having 'zero' as a response rather than leaving a box blank on returns etc.) would limit potential avoidance.

**Question 1.11: Do you agree that the preserved counties be abolished and that consequential amendments are made so that the appointments of Lord-Lieutenants and High Sheriffs are made in respect of the Counties in existence after 1 April 2020?**

This would appear to be a sensible proposal ensuring a consistent geographical area for all civic and administrative purposes.

**Question 1.12: Are there other matters of a technical nature which should also be considered?**

The Council has no comment to make.

**PART 2**

**Question 2.1: Do you have any comments on any of the provisions in Part 2 of the Draft Bill?**

The Council welcomes the introduction of the general power of competence. This power should not, however, be regarded as a panacea. The Draft Bill places constraints on the use of this power in that it will not allow Local Authorities to do

anything which they are currently prohibited from doing by existing or future legislation. There are already many such prohibitions and restrictions. Local Authorities will also be constrained by the public law principles which apply to the exercise of any of their functions. The Council does not see the need for any further constraint and encourages Welsh Ministers to use their powers to make regulations in respect of the exercise of the general power in such a way that they reduce rather than increase the barriers to its use.

**Question 2.2: Do you have any comments on our proposals relating to Community Councils with competence?**

The Council welcomes the removal of the requirement for County Councils to monitor the competence of Community Councils and the £200k turnover test.

The test of competence set out in the Draft Bill would appear relatively meaningless for the following reasons.

The Community Council only has to meet the requirement at a given snapshot in time. It may then continue to exercise the power in respect of new activity, even though it is no longer “competent”, for up to five years.

In respect of activity undertaken whilst it was “competent”, (which includes any period within the five years that it did not meet the competency requirement) a Community Council may continue to exercise the power for what appears to be an indefinite period.

The Council’s comments are similar to those made in response to the White Paper. It would seem sensible to create Community Councils of an appropriate size, impose minimum governance standards and then grant the same powers and responsibilities to them all.

The Council previously commented that the requirement to have a Clerk with a relevant professional qualification could impose a significant financial burden on some Community Councils given the level of salary that may be needed to attract and retain such staff. In the absence of any detail as to the exact nature of the required qualification it is difficult to comment further. One question that arises is what will be the position of existing Clerks who do not meet this requirement? If this is to be introduced then it would seem sensible that it be implemented after the review of Community Councils has taken place.

**PART 3**

**Question 3.1: Do you have any comments on any of the provisions in Part 3 of the Draft Bill?**

The Council is very concerned about the bureaucratic burden that will be imposed on Councils by the establishment of Community Area Committees as proposed in the Draft Bill. In particular the requirement that these be full public committees under the terms of the Local Government Act 1972 with all of the consequential costs of

servicing and support that this entails. If these committees are to be truly connected to their local areas it is assumed that their meetings will take place in those areas. If they are also to be subject to the requirement to be broadcast live then there will be additional capital costs of installing the necessary equipment in additional buildings as well as the revenue costs of additional capacity, as suppliers price webcasting services on the amount of hours broadcast.

The potential for these committees to appoint sub-committees and the requirement for various consultation exercises on behalf of each committee will only increase the burden of support placed on Councils.

The prescriptive nature of proposals for these committees seems to be a departure from the intention stated in the White Paper that Councils would be able to design their own system of community led governance.

There is also concern that unelected representatives will have the ability to vote on what may include functions of the county council that have been delegated to them.

The Council agrees that a constitution guide be produced as proposed.

The Council already publishes on its website contact details including electronic and postal addresses for its elected members and agrees that an official address be provided as proposed.

**Question 3.2: Do you have any comments on the proposed public participation duty and the requirement to consult on the annual budget?**

The Council is in favour of increasing awareness and public participation in the work of the Council as proposed. The Council is concerned that the arrangements for the preparation of a strategy and any guidance issued by the Welsh Ministers are not too prescriptive and retain flexibility for Councils to make arrangements appropriate to their individual areas and circumstances.

The Council would make similar comments on the proposal to require consultation in respect of the budget.

The Council does not see why Councils should bear the burden of creating strategies for the increased participation of local people in the processes of other public bodies which have their own resources.

**Question 3.3: How should community representatives to sit on community area committees be sought and selected?**

It would seem appropriate that if councils have to publish a policy statement setting out how it proposes to exercise its functions in this regard that local discretion is maintained. It would seem sensible that the process of appointment should be similar to the arrangements that are in place for appointing independent members of the Standards Committee, involving some form of notice or advertisement to relevant bodies and the appointment of a panel to implement a selection process.

**Question 3.4: Do you agree County Councils should be able to delegate functions to a community area committee? If yes, are there any functions that should or should not be capable of being delegated?**

Whether or not a function should be delegated must be the decision of each Council. It is noted with concern that s57 grants Welsh Ministers the power to make regulations to require or restrict the delegation of functions.

It is also noted that the Draft Bill proposes that executive functions be delegated under s14 or 15 of the Local Government Act 2000. These provisions allow the allocation of executive functions to the executive, members of the executive, a committee of the executive or an officer of the authority. Are area committees to be committees of the executive? If so, they can only consist of members of the executive. How does this allow all members for wards within the area and representatives of community bodies to be members of the committee?

Who will scrutinise the exercise of delegated functions by these committees?

**Question 3.5: Do you have any views on whether transitional arrangements need to be put in place for existing area committees, or is a good lead-in time sufficient?**

The Council's view is that this is a provision which should come into force for the new councils envisaged by Part 1 of the Draft Bill and not for existing Councils. The capacity required following the elections in 2017 to run the existing authorities whilst also supporting transition to the new Shadow Authorities in 2019 will not allow sufficient capacity to set up these area committees and support them properly. The new councils will be able to set up these committees.

**Question 3.6: Do you have any comments on the revised provisions for 'improvement requests' or on the interaction between these provisions and those relating to the public participation duty (Part 3, Chapter 2) and community area committees (Part 3, Chapter 3)?**

In its response to the White Paper, the Council stated that it would be pleased to receive serious requests from serious bodies in respect of the development and delivery of services. The proposals as drafted appear to include safeguards against repeated vexatious and frivolous requests. The requirement to publish reports of the outcome of discussions, the creation and publication of annual reports and a specific complaints system appear to be overly onerous.

As a general point it does appear that this Part of the Draft Bill is a little "crowded" and creates a large resource implication for Councils as set out above.

It may also be confusing to the public to the extent that they are put off from participating because there are a number of competing demands on their attention that could cause consultation fatigue.

**Question 3.7: Do you have any comments on any of our further proposals relating to access to meetings?**

The Council would expect that it should be able to make provision in its standing orders for the manner in which meetings conducted for the purpose of the Leader answering questions from the public be regulated.

The Council is unaware of any corresponding statutory requirement for Welsh Ministers.

This Council already broadcasts meetings of Council and Planning Committee both of which meetings take place in the same location where appropriate equipment is installed. The Council does hold other meetings such as scrutiny in other areas of the authority from time to time, depending on the subject matter being discussed, in order to make it easier for local people to attend. The Council is concerned that a requirement to broadcast all of its public meetings will either incur significant extra capital cost for equipment to be installed in several buildings, or that some of its meetings will be more remote from local people, who may wish to attend in person, than would otherwise be the case. This is especially the case when considering Community Area Committees. There is also an additional revenue cost of broadcasting additional hours of content.

The Council does not see why the Welsh Ministers may wish to make provision for members of the public to film meetings when they are already being broadcast by the Council. The Council is also concerned as to the extent of the facilities that it may be obliged to provide to persons wishing to do this, and is unclear as to the provision relating to live oral commentary.

Allowing the public a right to speak on all matters being discussed at meetings of Community Councils may be problematic for some Community Councils who may not have the resources to manage this. There are some Community Councils where individuals within the community would monopolise and cause difficulties at such meetings.

With regards to the additional matters upon which views are sought under this part of the consultation document, the Council agrees that County Councils should have a website. The Council notes that these are already in place. It is difficult to imagine the circumstances in which a County Council would not have a website and it seems that this is legislation that is being introduced to solve a problem that does not exist.

The Council agrees with the suggestion that Councils should be able to send out notices of meetings by electronic means alone.

It is agreed that it is sensible to repeal legislation prohibiting Community Councils from meeting in licensed premises as explained in the consultation document. It seems somewhat patronising to require Community Councils to adopt standing orders prohibiting the consumption of alcohol during meetings. There is no similar provision for County Councils or the National Assembly.



**Question 3.8: Do you have any comments on our proposals to enhance participation by children and young people through the public participation duty?**

The Council agrees that the proposal for Youth Councils should not be included in the Draft Bill and that participation by young people and children should be incorporated under the public participation duty.

**PART 4**

**Question 4.1: Do you have any comments on any of the provisions in Part 4 of the Draft Bill?**

The Council wishes to comment on a number of matters included in this Part.

**Chapters 2, 3 and 4 - Performance duties and the breach thereof**

In its response to the White Paper, the Council confirmed that Members have previously expressed frustration at the lack of a statutory requirement to attend committees more frequently than the statutory minimum threshold for disqualification contained within the Local Government Act 1972, and notes that there is no proposal for this to be changed.

Members support an increased focus on attendance although there is no definition of what a good reason for non-attendance might be.

Members of this Council have agreed a programme of compulsory training, however, they did not agree any sanction for failure to attend. The Council welcomes the fact that Councils will determine what training is compulsory. Again there is no definition or suggestion given as to what would amount to a good reason. There is a potential resource implication depending on the frequency with which training must be repeated in order to give Members an opportunity to avoid non-attendance due to other commitments.

Members do not agree with the requirement to hold surgeries or to complete annual reports. Members believe that it is up to them to communicate with their constituents in the manner that they and their constituents consider best and not to have any particular method dictated to them.

The proposals that any person may complain about a breach of these duties and that these complaints be investigated by the Monitoring Officer has the potential to substantially increase the workload of Monitoring Officers and Standards Committees and lead to a large number of vexatious, frivolous and politically motivated complaints particularly in the run up to election periods.

On a more general point, it is of concern that the Draft Bill appears to be creating a separate standards regime outside of the provisions of the Code of Conduct. The provisions in the Draft Bill give Standards Committees the same powers of sanction that currently exist for breaches of the Code of Conduct. The Draft Bill provides for

regulations to be made about the procedure for investigations and hearings in respect of complaints. Regulations already exist in respect of complaints under the Code of Conduct. Is there to be a duplicate process?

There is the potential for duplication of effort in investigation and reporting to Standards Committees. If a complaint is made to the Monitoring Officer or to the Ombudsman about a Member, which contains an allegation that refers to a potential breach of the duties in the Draft Bill and a breach of the Code of Conduct, are there to be two investigations and reports to the Standards Committee? If not, who is to conduct the investigation and make the report?

Would it not be more sensible to amend the current model Code of Conduct to contain the duties that the Draft Bill proposes rather than create an additional system of complaint, investigation and hearing?

## Chapter 5

### Objectives to be met by Council Executive

The Council agrees that the Leader should set objectives for Cabinet Members. This is the practice in this Council.

### Manifestos: Election of Leader

In its response to the White Paper the Council agreed that candidates for the position of Leader should set out their values and priorities and present this to Council before their election. The Council also confirmed that it currently follows this practice.

### Assistants to the Executive

In its response to the White Paper the Council agreed that there should be an opportunity for Councillors who wished to gain experience to assist them in becoming Cabinet or Executive members in their own right. The proposals in the Draft Bill, rightly prevent such Members from being members of Scrutiny Committees, and restrict their appointment to Democratic Services Committee and Corporate Governance Committee. In order for this system to work, there have to be sufficient numbers of Members left available to perform the important task of scrutinising and holding the Cabinet/Executive to account. For smaller existing authorities this would be impractical and it is suggested that this proposal's implementation be deferred until the new authorities come into existence.

## Chapter 6

### Appointment etc. of certain Chief Officers

The Council agrees that there should be generic duties for all Chief Executives and that these should include the functions of the Head of Paid Service.

The Council agrees with the setting of objectives for Chief Executives, but believes, as stated in its White Paper response, that the setting of objectives and performance

appraisal of the Chief Executive is conducted by a politically balanced panel of Members and is not the preserve of the Leader. This is the practice in this Council as the Chief Executive is accountable to the whole Council and not just the Leader.

There are certain employment law and personal data safeguards to be considered before deciding to make what is effectively a performance appraisal of the Chief Executive public.

The Council agrees that the Head of Democratic Services should be a Chief Officer and that the bar on the Monitoring Officer being designated as such be removed.

## Chapter 7

The Council agrees that the question of whether or not the right to vote is extended to those co-opted members of scrutiny who do not currently have it should be determined locally by each Council. The Council considers that regulations to set minimum and maximum numbers of co-opted members is overly prescriptive and that such questions should be determined locally by each Council.

The Council also considers that a power for Welsh Ministers to make regulations setting out circumstances in which Councils must have joint scrutiny committees is overly prescriptive.

The Council agrees that Standards Committees should make an annual report to Council. The Standards Committee of this Council does so.

### **Question 4.2: Do you have any comments on the proposed duty on leaders of political groups or the monitoring and reporting roles of the Standards Committee?**

The Council agrees with a general duty for Group Leaders to take reasonable steps to promote good conduct amongst members of their group and co-operate with the Standards Committee. It should be noted that all Members are individually responsible under the Code of Conduct for their own actions and that a Group Leader can do no more than take reasonable steps to promote good conduct.

s98(3) suggests that Welsh Ministers will make regulations about the circumstances in which Members are to be treated as constituting a political group and in which a Member is treated as being a Group Leader. Regulations already exist in the form of the Local Authorities (Committees and Political Groups) Regulations 1990. Are these to be repealed, and, if so, what are the proposals for the new arrangements?

### **Question 4.3: Do you have any comments on our proposals in relation to the delegation of functions by Local Authorities?**

The Council agrees with the proposal that Part 2 Deregulation and Contracting Out Act 1994 be repealed and replaced with a regime that will allow for the delegation of Council functions to third parties.

**Question 4.4: Do you have any comments on our proposal to give the Welsh Ministers a power to direct the IRPW to have regard to guidance when reviewing the remuneration framework for Councillors?**

The Council is concerned that the Independent Remuneration Panel for Wales which was set up to provide an independent and objective approach to the question of member remuneration is increasingly perceived as losing its independence and objectivity given the recent draft report which appeared to make findings inconsistent with previous reports and to have made recommendations in response to a ministerial letter. If the Panel is to retain its independence and objectivity it is suggested that it makes evidence based recommendations and is free from interference by Ministers and Councillors alike. If a more diverse pool of councillors is to be attracted to stand for election, particularly those of working age and from all socio-economic groups, it would appear sensible that they have confidence that questions of remuneration will be determined objectively on an evidence based approach. The panel should be restricted to questions of remuneration levels and should not make recommendations which have structural consequences.

**Question 4.5: Do you agree the provisions relating to remote attendance in the 2011 Measure should be made more flexible?**

It is very hard to provide an intelligent and considered response to such a vague question and in the absence of any information as to what the proposal will be. The Council's previously determined view is that it is not against remote attendance per se, however, the advice it has previously received is that there is not yet a technical solution that is sufficiently robust or reliable to facilitate remote attendance as prescribed in the 2011 Measure.

**Question 4.6: Do you have any comments on our proposal that Shadow Authorities should be required to appoint interim Returning Officers?**

The Council agrees that allowing shadow authorities to appoint Returning officers is a practical solution in respect of the 2020 General Election, however, it does not understand this to be a devolved matter.

**Question 4.7: Do you have any comments on the desirability of giving Councils the power to dismiss the Chief Executive, the Chief Finance Officer, the Monitoring Officer and the Head of Democratic Services through a vote?**

The officers described above have a measure of protection due to the nature of the advice that they may have to give to a Council in accordance with their statutory duties. This was designed to prevent them being summarily dismissed as a result of giving inconvenient advice in accordance with those duties. The protection amounts to a requirement that an independent person investigates any allegation brought against the officer and concludes that disciplinary action including dismissal is justified. The proposal is that the requirement for an investigation be dispensed with and a vote at full council be sufficient to dismiss. This raises the prospect of unfair dismissal and other potential legal claims. It seems inconsistent with the provisions of a Draft Bill that is concerned with, amongst other things, good governance, to suggest such a measure.

**Question 4.8: Do you have any comments on our proposal to change the framework within which Councils and their Executive determine how their functions are to be allocated?**

The Council agrees with the proposal that the current complicated regime of determining allocation of functions between the Council and Executive be amended and that there be a more liberal approach subject to clear guiding principles. There will need to be some form of consistency amongst Councils particularly where they may wish to collaborate or operate joint committee arrangements in the discharge of their functions.

**Question 4.9: Do you have any comments on our proposals in relation to the disposal and transfer of Local Authority assets?**

The Council welcomes a less rigid approach than that proposed in the White paper. The Council does not object to notice of intended disposal being given, but, in the absence of detailed proposals for how these arrangements would work, the Council would reiterate the point made in response to the White Paper that Councils must be able to retain the right to make the final decision over whether or not to transfer an asset. Care will need to be taken when determining the values above which details of assets are to be published, particularly where the value of assets may be close to the threshold, in order that the commercial interests of the local authority are not prejudiced.

**PART 5**

**Question 5.1: Do you have any comments on any of the provisions in Part 5 of the Draft Bill?**

Whilst the intention is clearly to link corporate planning with the new Wellbeing plans required under the Well-Being of Future Generations (Wales) Act, the read across could be better, for example in reporting schedules, or in the identification of stakeholder groups. They could refer directly to each other or even be integrated.

The strategic equality planning should also be included in the integrated reporting proposed, but it is not mentioned. This will be done in practice.

The 3 months given to publish a corporate plan after an election is too short. Councils will need time to work with the new administration and then consult on the plan before publishing it. They will also need to ensure that the plan aligns with the Public Service Board's Wellbeing Plan. If all this is to be meaningful then at least 6 months will be required not 3.

The Bill does not seem to address the question of proliferating indicator sets. There could be better read across with the Well-Being of Future Generations Act, Programme for Government, Social Services Act etc.

There is the danger of significant overlap and duplication of reporting and other requirements between the Draft Bill and these other pieces of legislation.

Whilst the intervention powers for Welsh Ministers are similar to those already in existence, they do not appear to be linked to any evidence based threshold or criteria.

The requirement for at least one third of the Corporate Governance and Audit Committee to be made up of independent lay members appears to be overly prescriptive and contrary to local democracy. In its White Paper response the Council agreed that independent members can bring a fresh perspective but their number should be a matter for local determination. The Council also believes that the Committee should select its Chair and that there should be no prescription in respect of this, either in favour of, or against, independent members.

The Council agrees that regulators should be required to co-ordinate their activities.

There are other matters to which the consultation document refers but which are not included in the Draft Bill even though it is intended that they be introduced into the final Bill. The Council agrees with the proposal that regulators be required to share their reports with scrutiny and attend to present them when invited.

There is insufficient detail in respect of an online information portal to enable meaningful consultation. Clearly, Councils would be concerned if the number and complexity of the information sets required to be published were unduly onerous or a duplication of other reporting requirements.

**Question 5.2: Do you have any comments on our proposal to subject Local Authorities to a governance arrangements duty?**

The Council agrees with the suggestion that County Councils should be under a duty to make, implement and comply with arrangements for good governance, accountability, economy, efficiency and effectiveness of its use of resources. The Council does however note that there are several proposals contained in the Draft Bill which will significantly increase the bureaucratic resource required to support them.

The Council is concerned that there are reserved to Welsh Ministers powers to make regulations that have the potential to be extremely prescriptive in nature which appears to be inconsistent with the intention expressed in the White Paper that local authorities should become more responsible and accountable for their activities.

Councils should be required to have good governance arrangements but a one size fits all approach should not be imposed upon them.

**Question 5.3: Do you have any comments on the model approach to peer assessment set out in Annex A?**

The Council would be concerned if the proposals for Peer Assessment were to be too prescriptive.

**Question 5.4: Do you have any comments on the proposed role for the Corporate Governance and Audit Committee in relation to the Local Authority's response to the self-assessment, peer assessment, combined assessment and governance review?**

The Council welcomed the introduction of self and peer assessment and combined assessments by regulators in the White Paper. The Council already operates a system of self-assessment by means of its service challenge process.

The Council agrees that the Corporate Governance and Audit Committee should have the role described in the Draft Bill in respect of such assessments.

**Question 5.5: Do you have any comments on our proposal to reject local public accounts committees?**

The Council agrees with the proposal to reject public accounts committees which it considers would have been an unnecessary potential duplication of Councils' own audit and financial management processes.

**Question 5.6: Are Public Services Boards the right bodies to examine the policy choices facing local public services?**

It is not clear what role is being suggested. Are the Public Services Boards being asked to scrutinise decisions made by councils? Under the Well-Being of Future Generations (Wales) Act 2015 local authorities are to scrutinise the Boards.

There is in the governance duty a requirement of a Council to make, implement and comply with arrangements for economy, efficiency and effectiveness of its use of resources. There is a system of self and peer assessment and combined assessment by regulators. There is a system of internal scrutiny and challenge through Scrutiny Committees.

What would an additional function for Public Services Boards add?

**Question 5.7: If so, would they benefit from additional legal powers?**

The Council does not believe that additional powers are necessary

**Question 5.8: What legislative measures could be considered to enable Local Government to take a public sector-wide shared services role?**

Local Government finance officers have previously commented on the limitations of the KPMG study and noted that its conclusions are overly simplistic and the cost-benefit conclusion is flawed.

At a time of huge change and potential reorganisation of local authorities it seems a very high risk approach to try and create an all Wales shared support service just when local authorities will need to rely on responsive, stable support services. Larger units of support will be created by virtue of the merger of Councils. It would seem more sensible to establish the new councils before considering further major changes in the provision of support.





## **PART 6**

### **Question 6.1: Do you have any comments on any of the provisions in Part 6 of the Draft Bill?**

The Council's comments are contained in the responses set out below.

### **Question 6.2: Should the Boundary Commission be required to submit their draft reports to Shadow Authorities from May 2019?**

The Council welcomes the fact that it is no longer proposed that Councils conduct these reviews. Whilst it appears sensible to enable these reports to be submitted in a timely fashion, it is the Council's view that the Shadow Authorities will have more than enough to do in establishing the governance and other arrangements for the new councils and will not have the resource or capacity to undertake the work required of it by s153 of the Draft Bill.

### **Question 6.3: Should the new County Councils implement the Boundary Commission's recommendations or should this be a responsibility of the Boundary Commission itself?**

It would appear that the new County Councils will have a significant workload in establishing themselves and the efficient delivery of their services and may not have the resource or capacity to implement these reviews. Allowing the Commission to implement the reviews may assist Councils in this respect.

### **Question 6.4: Do you have any comments on our proposals relating to compulsory training for Community Councillors?**

It is not clear why County Councils should be responsible for identifying and securing the provision of compulsory training to Community Councillors who have been elected in their own right to public authorities that are independent of County Councils. This is an additional burden for County Councils.

### **Question 6.5: Do you have any comments on our proposal to extend the term of Community Councillors elected in 2017 to six years?**

It would appear sensible to ensure that election dates for Community Councils are consistent with those for County Councils.

### **Question 6.6: Do you have any comments on our proposal that Community Councils should be required to consider and plan for the training needs of their own members and employees?**

This appears to be more sensible than, but contradictory to, the proposal that County Councils identify and provide compulsory training for Community Councillors.

**Question 6.7: Do you have any comments in relation to the setting of objectives for a Community Council clerk?**

If Community Councils are to become bigger, it seems appropriate and in accordance with good practice that the Clerk have objectives set. The Council considers that this should be done by the Council rather than the Chair, as the Clerk owes a duty to the Council as a whole, and since the Chair changes annually it will provide some consistency of approach. The Council considers that the same approach should be taken for all Community Councils.

**Question 6.8: Do you have any comments on our proposal to repeal the legislation relating to community polls and to require instead that Local Authorities should implement a system of e-petitions?**

The legislation for community polls is cumbersome and outdated. There will need to be safeguards against frivolous or vexatious petitions and the thresholds to be crossed before Councils are required to respond.

**PART 7**

**Question 7.1: Do you have any comments on any of the provisions in Part 7 of the Draft Bill?**

Any guidance issued on workforce matters by Welsh Ministers should not be so prescriptive that it hinders local authorities' ability to shape service delivery in accordance with local requirements. Councils will have a duty to operate governance arrangements that delivery economy, efficiency and effectiveness of the use of resources including their workforce. Their ability to do this should not be unnecessarily hindered.

**Question 7.2: Do you have any views on whether it would still be desirable to establish a statutory Public Services Staff Commission if it would be more constrained in the matters on which it could issue guidance than a non-statutory Commission?**

What purpose would there be in establishing a statutory commission in such circumstances?

**PART 8**

**Question 8.1: Do you have any comments on any of the provisions in Part 8 of the Draft Bill or on any of the Schedules?**

Part 8 refers to the fact that the term "county council" is to be read as a reference to an existing authority until April 2020. The Government should make it clear which provisions of the Draft Bill will be implemented before the creation of the new councils. Given the nature and extent of change that is envisaged in the structures

of councils in this Draft Bill, it would appear sensible to defer the implementation of major changes to the way in which councils are structured until after April 2020. Councils will have little capacity to manage and implement these changes whilst also supporting transition committees and shadow authorities. It would appear wasteful to commit significant resources to changes to committee and other structures which may themselves be changed by shadow authorities and new councils.

### **ADDITIONAL QUESTIONS**

#### **Question 9.1: Are you aware of any consequential amendments to legislation that will need to be made?**

The proposals for the delegation of executive functions to Community Area Committees under s15 Local Government Act 2000 would appear to require changes to s15 to allow this.

#### **Question 9.2: Please provide feedback you think would be useful in relation to the supporting documents published alongside the Draft Bill i.e. Draft Explanatory Memorandum (including the Regulatory Impact Assessment) and specific Impact Assessments.**

#### **Question 9.3: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to comment.**

The Council has no additional comment to make.

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## ACCOMPANYING DOCUMENTS

Explanatory Notes and an Explanatory Memorandum are printed separately.

# Local Government (Wales) Bill

## DRAFT FOR CONSULTATION

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Schedule 9 – Renaming of county council audit committees

# Local Government (Wales) Bill

## DRAFT FOR CONSULTATION

An Act of the National Assembly for Wales to make provision about local government.

**Having been passed by the National Assembly for Wales and having received the assent of Her Majesty, it is enacted as follows:**

### PART 1

#### LOCAL GOVERNMENT AREAS AND COUNTY COUNCILS

##### CHAPTER 1

##### LOCAL GOVERNMENT AREAS

#### **1 The local government areas**

- (1) For the administration of local government on and after 1 April 2020 the local government areas in Wales are –
- (a) the counties set out in the table in Schedule 1, and
  - (b) the communities established under section 20 of the 1972 Act as originally enacted (subject to any changes to those communities which have occurred since that section came into force or which may occur after this section comes into force).
- (2) Each of the counties has the name given to it in the first column of the table in Schedule 1.
- (3) The areas of the counties are set out in the second column of the table in Part 1 of Schedule 1, and are determined by reference to the counties and county boroughs which, immediately before 1 April 2020, were local government areas under the 1972 Act.
- (4) The counties and county boroughs established by the 1972 Act (as amended by the Local Government (Wales) Act 1994 (c.19)) as counties and county boroughs in Wales, other than the county of Powys, cease to exist on 1 April 2020.
- (5) The councils of the counties and county boroughs abolished by subsection (4) also cease to exist on 1 April 2020.
- (6) Nothing in this Act, or done under this Act, affects the establishment or continued existence of the county of Powys, or its council.

##### CHAPTER 2

##### COUNTY COUNCILS

#### **2 Constitution of county councils**

- (1) Each of the counties has a council consisting of –
- (a) a chair and councillors, or

(b) where a council is operating executive arrangements which involve a mayor and cabinet executive, an elected mayor, a chair, and councillors.

- (2) In this Act, “county council” means a council for a county set out in Schedule 1.
- (3) Each county council is a body corporate and has the functions given to it by this Act, the 1972 Act, or otherwise.
- (4) Each county council has the name of the county with the addition of the words “County Council” or, if the council decides, the word “Council”.

### 3 The chair of a county council

- (1) The chair of a county council must be elected annually by the council from among the councillors.
- (2) A member of the executive of a county council, or an assistant to the executive, may not be elected as the chair of the council.
- (3) The chair, unless the chair resigns or becomes disqualified, continues in office until a successor becomes entitled to act as chair.
- (4) During the chair’s term of office the chair continues to be a member of the council, despite the provisions of this Act and the 1972 Act relating to the retirement of councillors.
- (5) The chair of a county council has precedence in the area of that council, but not so as to affect Her Majesty's prerogative prejudicially.
- (6) Subsection (5) has effect in relation to a county council which is operating executive arrangements which involve a mayor and cabinet executive as if it provided for the elected mayor of the council to have precedence in the area of that council.
- (7) Subsection (6) does not apply if the executive arrangements of the county council provide for it not to apply.

### 4 Election of the chair

- (1) The election of the chair must be the first business transacted at the annual meeting of a county council.
- (2) If, apart from section 3(4) or section 5(3), the person presiding at the meeting would have ceased to be a member of the council, that person is not entitled to vote in the election except in accordance with subsection (3).
- (3) In the case of an equality of votes the person presiding at the meeting must give a casting vote in addition to any other vote that person may have.

### 5 The vice-chair of a county council

- (1) A county council must appoint a member of the council to be vice-chair of the council.
- (2) A member of the executive of a county council, or an assistant to the executive, may not be appointed as the vice-chair of the council.
- (3) A vice-chair, unless the vice-chair resigns or becomes disqualified, holds office until immediately after the election of a chair at the first annual meeting of the council following the annual meeting at which the vice-chair was appointed; and until the vice-



chair ceases to hold office, the vice-chair continues to be a member of the council despite the provisions of this Act and the 1972 Act relating to the retirement of councillors.

- (4) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chair may be done by, to or before the vice-chair.

5 **6 Chair entitled to title of “mayor”**

- (1) A county council may determine that its chair is to have the title of “mayor”.  
(2) If a county council makes such a determination, its vice-chair has the title of “deputy mayor”.  
(3) This section does not apply where a county council is operating executive arrangements which involve a mayor and cabinet executive.

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7 **Presiding member**

- (1) A county council may determine to have a presiding member.  
(2) A presiding member is elected by the county council from among the councillors.  
(3) A member of the executive of a county council, or an assistant to the executive, may not be elected as its presiding member.  
(4) The county council may determine –  
    (a) the functions of the presiding member, and  
    (b) the term of office of the member (subject to the limits in subsection (6)).  
(5) The functions of the presiding member may, in particular, include any function of the chair of the county council in relation to its meetings and proceedings.  
(6) A presiding member continues in office until –  
    (a) the presiding member's resignation or disqualification,  
    (b) a successor becomes entitled to act as presiding member,  
    (c) the county council determines not to have an office of presiding member, or  
    (d) an ordinary council election under section 10.

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8 **Deputy presiding member**

- (1) This section applies where a county council has determined to have a presiding member.  
(2) The county council must appoint a member of the council to act as deputy to the presiding member (“the deputy presiding member”).  
(3) A member of the executive of a county council, or an assistant to the executive, may not be appointed as the deputy presiding member.  
(4) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the presiding member may be done by, to or before the deputy presiding member.  
(5) A deputy presiding member continues in office until –  
    (a) the deputy presiding member's resignation or disqualification,  
    (b) a successor becomes entitled to act as deputy presiding member,

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- (c) the council determines not to have an office of presiding member, or
- (d) an ordinary council election under section 10.

## 9 Title of chair etc. where council has determined to have a presiding member

- 5 (1) This section applies where a county council has determined under section 7 to have a presiding member.
- (2) The chair of the council must have –
- (a) the title of “mayor” (if the chair does not already have that title), or
  - (b) the title of “civic chair”.
- (3) The vice-chair of the council must have –
- 10 (a) the title of “deputy mayor” (if the vice-chair does not already have that title), or
- (b) the title of “civic vice-chair”.
- (4) Subsections (2)(a) and (3)(a) do not apply where the county council is operating executive arrangements which involve a mayor and cabinet executive.

## 10 Ordinary elections of councillors and term of office

- 15 (1) Councillors of a council of a county are to be elected by the local government electors for the county in accordance with this Act, the 1972 Act and Part 1 of the Representation of the People Act 1983 (c.2).
- (2) The ordinary elections of councillors of county councils take place in 2023 and in every fifth year after 2023.
- 20 (3) The term of office of every such councillor is five years.
- (4) On the fourth day after an ordinary election of councillors of a county council –
- (a) the persons who were councillors immediately before the election retire, and
  - (b) the newly elected councillors assume office.
- 25 (5) In this section “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.

## 11 Electoral wards

- (1) An “electoral ward” is an area in a county for which members are elected to the county council.
- 30 (2) Each electoral ward returns such number of councillors as is provided for under or by virtue of Part 3 of the Local Government (Democracy) (Wales) Act 2013 (anaw 4), section 22 or 23 of the Local Government (Wales) Act 2015 or Part 4 of the 1972 Act.
- (3) There must be a separate election for each electoral ward.

## 12 Change of county name by county council

- 35 (1) A county council may by passing a resolution change the name of the county for which it is the council.
- (2) A resolution under subsection (1) must be passed by not less than two-thirds of the

members of the council voting on the change of name at a meeting of the council specially convened for that purpose, with notice given to the members of the purpose of the meeting.

- (3) Notice of any change of name made by virtue of this section –
- 5 (a) must be sent by the county council to –
- (i) the Welsh Ministers,
  - (ii) the Director General of the Ordnance Survey,
  - (iii) the Registrar General for England and Wales, and
  - (iv) the Local Democracy and Boundary Commission for Wales, and
- 10 (b) must be published by the council in such manner as the Welsh Ministers may direct.
- (4) A change of name made by virtue of this section does not affect any rights or obligations of any county council, authority or other person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had
- 15 been no change of name.

### CHAPTER 3

#### ESTABLISHING THE COUNCILS FOR THE NEW COUNTIES

##### *Interpretation*

#### 13 New counties and new councils

20 In this Part –

“new council” (*“cyngor newydd”*) means the council for a new county;

“new county” (*“sir newydd”*) means a county set out in the table in Schedule 1, other than the county of Powys.

##### *First ordinary elections of councillors*

#### 25 14 First ordinary elections of councillors of the new councils

- (1) The first ordinary elections of councillors of the new councils are to be held on 2 May 2019.
- (2) Schedule 2 makes further provision about the first ordinary elections of councillors of the new councils.

##### *Functions of new councils*

#### 30 15 New councils: shadow authorities

- (1) After the first ordinary elections of councillors of the new councils, each new council is a shadow authority in relation to the county for which it will be the council from 1 April 2020.
- 35 (2) A new council is a shadow authority in relation to a new county until 1 April 2020 (after which, the new council will assume all of the functions of a county council).

- (3) Shadow authorities have such functions, and are subject to such arrangements as to funding, as are specified in regulations made by the Welsh Ministers (and section 2(3) is to be read accordingly).
- (4) Subsection (3) does not limit the power of the Welsh Ministers to make regulations under section 19 (consequential, incidental, transitional etc. provision) as regards shadow authorities, or any other authority or other person.
- (5) The Welsh Ministers may issue guidance in relation to the exercise of functions by shadow authorities; and shadow authorities must have regard to guidance issued under this subsection in the exercise of their functions.
- (6) The Local Government (Wales) Act 2015 contains further provision in relation to shadow authorities (see sections 13, 25 to 30 and 38 of that Act).

## 16 New councils: finance

Schedule 3 makes provision in relation to the new councils about –

- (a) council tax and non-domestic rating,
- (b) valuation lists,
- (c) local non-domestic rating lists, and
- (d) council funds.

## 17 Transfer of functions: application of other legislation in relation to new councils

- (1) This section has effect for the purpose of modifying relevant legislative provisions; in particular for the purpose of providing for the functions conferred by relevant legislative provisions to be exercisable by, and in relation to, the new councils.
- (2) For the purposes of this section, “relevant legislative provision” means –
- (a) a provision of any primary legislation which received Royal Assent or Royal Approval on or before the day on which this Act received Royal Assent;
  - (b) an instrument which –
    - (i) was made under primary legislation on or before the day on which this Act received Royal Assent, and
    - (ii) is of a legislative character but is not in the nature of a local enactment.
- (3) This section is subject to the other provisions of this Part, and to any provision contained in regulations made under this Part.
- (4) In any relevant legislative provision –
- (a) any reference to an area which is the area of a county council or the area of a county borough council, and
  - (b) any reference which is to be construed as a reference to such an area,
- is on and after 1 April 2020 to be read as a reference to the area of a new council.
- (5) In any relevant legislative provision –
- (a) any reference to a council of a county or county borough, and
  - (b) any reference which is to be construed as a reference to such a council,

is on and after 1 April 2020 to be read as a reference to a new council.

- (6) In this section “primary legislation” means –
- (a) an Act of Parliament;
  - (b) an Act or Measure of the National Assembly for Wales.

5

*Transitional provision*

**18 Transfer of staff, property and liabilities, and other transitional provision**

Schedule 4 –

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- (a) makes miscellaneous transitional etc. provision in relation to the new councils and abolished councils, and
- (b) provides for the transfer of staff, property, liabilities etc. from abolished councils.

**CHAPTER 4**

MISCELLANEOUS PROVISION

**19 Welsh Ministers’ power to make consequential, supplementary etc. provision**

15

- (1) The Welsh Ministers may by regulations make supplementary, incidental, consequential, transitional or saving provision for the general purposes, or any particular purpose, of this Part or in consequence of any of its provisions or for giving full effect to it.

- (2) Regulations under subsection (1) may, in particular, make provision –

20

- (a) for enabling any person to take any steps which are necessary as a preliminary to the exercise of any powers which the person will be able to exercise by virtue of any provision made by or under this Act;

- (b) for arrangements to be made before any date specified by or under this Act for securing the satisfactory operation from that date of any provision made by or under this Act;

25

- (c) about which person or persons is or are to bear the cost of any arrangements (whether or not made by virtue of this section) for securing the satisfactory operation of any provision made by or under this Act;

- (d) for or in connection with the transfer of functions and property, rights and liabilities (including criminal liabilities) from an abolished council to a new council or other public body;

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- (e) for or in connection with the transfer of staff, for compensation for loss of office, and with respect to pensions and other staffing matters;

- (f) with respect to the management or custody of transferred property (whether real or personal) transferred to a new council;

- (g) in respect of charter trustees;

35

- (h) in respect of port health districts and port health authorities;

- (i) in relation to preserved counties (within the meaning given by section 270(1) of the 1972 Act).

- (3) Regulations under subsection (1) may make provision with respect to—
- (a) the establishment or membership of public bodies and the election or appointment of members of the public bodies;
  - (b) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body.
- (4) Regulations under subsection (1) may also make provision—
- (a) applying (with or without modification), amending, repealing or revoking (with or without savings) any enactment;
  - (b) for making savings from the effect of any repeal or revocation made under this Act.
- (5) In subsection (4)(a) “enactment” includes a charter, whenever granted.
- (6) Provision under subsection (2)(d) may, among other things, make provision disapplying paragraph 6 or 7 of Schedule 4 in relation to a transfer specified in regulations made under this section.
- (7) Provision under subsection (2)(e) may, among other things—
- (a) disapply paragraph 5 of Schedule 4 in relation to a transfer specified in regulations made under this section;
  - (b) provide that members of staff of an abolished council are to be transferred to the employment of a new council other than the new council for the area which contains the area of the abolished council.

## 20 Amendments of dates specified in certain Acts

- (1) The Welsh Ministers may by regulations amend—
- (a) any provision of this Part or Chapter 1 of Part 6 (community council reviews) which specifies a date, and
  - (b) sections 2(8) and 39(2) of the Local Government (Wales) Act 2015,
- by substituting a later date for the date for the time being specified in that provision.
- (2) Regulations under subsection (1) may make consequential amendments to other provisions of this Part.

## 21 Application of 1972 Act to the county councils in Schedule 1

- (1) In section 270(1) of the 1972 Act (definitions)—
- (a) in the definition of “county”—
    - (i) after “means” insert “—
    - (a)”, and
    - (ii) after “non-metropolitan county only” insert “, and—
  - (b) in relation to Wales, a county set out in Schedule 1 to the Local Government (Wales) Act 2017”;
    - (b) in the definition of “local authority”, omit “, county borough council”;
    - (c) in the definition of “local government area”, in paragraph (b) omit “, county

borough”;

(d) in the definition of “new” after “the Local Government (Wales) Act 1994” insert “or the Local Government (Wales) Act 2017”;

(e) in the definition of “principal area”, omit “or county borough”.

5 (2) In Schedule 5 to this Act—

(a) Part 1 contains further amendments to the 1972 Act, and

(b) Part 2 makes transitional provision relating to the repeal of section 26 of that Act (timing of elections and terms of office), including provision for an ordinary election of councillors of the council for the county of Powys in 2020.

## 10 22 Interpretation of Part

In this Part—

“abolished council” (“*cyngor a ddiddymir*”) means a council of a county or county borough which is abolished under this Act;

15 “assistant to the executive” (“*cynorthwydd i’r weithrediaeth*”) has the same meaning as in Schedule 1 to the Local Government Act 2000 (c.22) (see paragraph 3A of that Schedule);

“local government area” (“*ardal llywodraeth leol*”) means a county or community;

“member” (“*aelod*”), in relation to a county council which is operating executive arrangements which involve a mayor and cabinet executive, means—

20 (a) the elected mayor of the council;

(b) the chair of the council;

(c) a councillor of the council;

“new council” (“*cyngor newydd*”) and “new county” (“*sir newydd*”) have the meanings given in section 13.

## 25 PART 2

### GENERAL POWER OF COMPETENCE

#### CHAPTER 1

#### THE GENERAL POWER

### 23 Local authority’s general power of competence

30 (1) A qualifying local authority has power to do anything that individuals generally may do, even if that thing is, in nature or extent or otherwise—

(a) unlike anything a qualifying local authority may do apart from this section;

(b) unlike anything that other public bodies may do.

35 (2) Where subsection (1) confers power on an authority to do something, it confers power to do it in any way whatsoever, including—

- (a) power to do it anywhere in Wales or elsewhere;
- (b) power to do it for a commercial purpose or otherwise for a charge, or without charge;
- (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.

(3) The generality of the power conferred by subsection (1) on a qualifying local authority is not limited by the existence of any other power of the authority; and any other power of the authority is not limited by the existence of the general power.

(4) For the purposes of this Chapter, each of the following is a qualifying local authority –

- (a) a county council;
- (b) a community council with competence (for which see Chapter 2).

(5) In this section, “individual” means an individual with full capacity.

(6) References in this Part to the general power are to the power conferred by subsection (1).

(7) This section is subject to sections 24 to 26 and to any provision made under section 27(3) or (4).

## **24 Boundaries of the general power**

(1) The general power does not enable a qualifying local authority to do anything that the authority is unable to do by virtue of a pre-commencement limitation.

(2) Nor does the general power enable a qualifying local authority to do anything that the authority is unable to do by virtue of a post-commencement limitation that is expressed to apply –

- (a) to the general power,
- (b) to all of the authority’s powers, or
- (c) to all of the authority’s powers but with exceptions that do not include the general power.

(3) The general power does not confer power to make or alter –

- (a) arrangements of a kind that are made, or may be made, by or under Part 6 of the 1972 Act (discharge of functions by local authorities);
- (b) arrangements of a kind that are made, or may be made, by or under Part 2 of the 2000 Act (arrangements with respect to executives etc.);
- (c) contracting out arrangements, or any other arrangements that are not arrangements within paragraph (a) or (b), that authorise a person to exercise a function of a qualifying local authority.

(4) In this section –

“post-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by any statutory provision coming into force after the Assembly year in which this Act was passed;

“pre-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by any statutory provision coming into force before



or in the same Assembly year as the Assembly year in which this Act was passed.

- (5) For the purposes of subsection (1), section 111(3) of the 1972 Act (subsidiary powers of local authorities not to include power to raise money) is to be disregarded.

## **25 Limits on charging in exercise of general power**

- 5 (1) The general power confers power on a qualifying local authority to charge for providing a service to a person only if the following conditions are met.
- (2) The first condition is that the service is not one that a statutory provision requires the authority to provide to the person.
- (3) The second condition is that the person has agreed to the service being provided.
- 10 (4) Except in relation to a service provided for a commercial purpose, to the extent that the general power confers a power on a qualifying local authority to charge for the provision of a service, the power is subject to a duty to secure that, taking one financial year with another, the income from charges imposed under it does not exceed the costs of provision.
- 15 (5) The duty under subsection (4) applies separately in relation to each kind of service.
- (6) Subject to the duty under subsection (4), in exercising the power conferred by the general power to charge for providing a service, a qualifying local authority may set its charges as it thinks fit, and may among other things –
- (a) charge only some persons for providing a service;
- 20 (b) charge different persons, or different descriptions of persons, different amounts for the provision of a service.

## **26 Limit on doing things for commercial purpose in exercise of general power**

- 25 (1) The general power confers power on a qualifying local authority to do things for a commercial purpose only if they are things that the authority may, in exercise of the general power, do otherwise than for a commercial purpose.
- (2) Where, in exercise of the general power, an authority does things for a commercial purpose, the authority must do them through a company.
- (3) A qualifying local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.
- 30 (4) In this section, “company” means –
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006 (c.46), or
- (b) a registered society within the meaning of the Co-operative and Community Benefit Societies Act 2014 (c.14) or a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c.24 (NI)).
- 35

## **27 Power to make supplemental provision**

- (1) If the Welsh Ministers think that a statutory provision (whenever passed or made)

prevents qualifying local authorities from exercising the general power, or obstructs them in exercising the general power, the Welsh Ministers may by regulations amend, repeal, revoke or disapply that statutory provision.

- 5 (2) If the Welsh Ministers think that any other power overlaps (to any extent) the general power, then, for the purpose of reducing or removing that overlap, the Welsh Ministers may by regulations amend, repeal, revoke or disapply any statutory provision (whenever passed or made).
- 10 (3) The Welsh Ministers may by regulations make provision preventing qualifying local authorities from doing, in exercise of the general power, anything that is specified, or is of a description specified, in the regulations.
- (4) The Welsh Ministers may by regulations provide for the exercise of the general power to be subject to conditions, either generally or in relation to doing anything that is specified, or is of a description specified, in the regulations.
- 15 (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to –
- (a) all qualifying local authorities,
  - (b) a particular authority that is a qualifying local authority, or
  - (c) particular descriptions of local authorities that are qualifying local authorities.
- (6) Except as provided for in subsection (7), before making regulations under subsection (1), (2), (3) or (4) the Welsh Ministers must consult –
- 20 (a) whatever qualifying local authorities (if any) they think appropriate,
- (b) whatever representative persons (if any) they think appropriate, and
- (c) whatever other persons (if any) they think appropriate.
- (7) The duty imposed by subsection (6) does not apply in the case of regulations made by the Welsh Ministers only for the purpose of amending earlier regulations –
- 25 (a) so as to extend the earlier regulations, or any provision of the earlier regulations, to a particular authority or authorities of a particular description, or
- (b) so that the earlier regulations, or any provision of the earlier regulations, ceases to apply to a particular authority or to authorities of a particular description.
- 30 (8) Representative persons, for the purposes of subsection (6), are persons who appear to the Welsh Ministers to be representative of local government in Wales.
- (9) This section does not confer power to make provision –
- (a) that amends, repeals, revokes or disapplies a statutory provision contained in this Act;
  - (b) for the delegation or transfer of any function of legislating by order, rules,
- 35 regulations, or other subordinate instrument.

## 28 **General power of competence: repeal of local authority powers relating to promotion of well-being**

- (1) The 2000 Act is amended as follows.
- (2) In section 1 (meaning of “local authority”), in subsection (1), omit paragraph (b).

- (3) Omit sections 2 and 3.
- (4) Omit section 5.
- (5) In section 6 (power to modify enactments concerning plans etc.)—
- 5 (a) in subsection (1), omit “so far as that enactment has effect in relation to England”;
- (b) in subsection (2), omit “in England” in each place where those words occur.
- (6) Omit section 7.
- (7) In section 9 (procedure for orders)—
- (a) in subsection (1), omit “5 or”;
- (b) omit subsection (2);
- 10 (c) in subsection (3)—
- (i) for “the preceding provisions of this section” substitute “subsection (1)”;
- (ii) omit “5 or”;
- (iii) omit paragraph (d) (and the word “and” immediately preceding it);
- (d) in subsections (4) and (6) to (8) omit “5 or” in each place where it occurs.
- 15 (8) Omit section 9A.
- (9) In section 105 (orders and regulations)—
- (a) in subsection (6), omit “5,”;
- (b) in subsection (6A), omit “, 5”.
- (10) In the Well-being of Future Generations (Wales) Act 2015 (anaw 2), in Schedule 4 (public services boards: consequential amendments and repeals), omit paragraphs 3 and 4.
- 20

## 29 General power of competence: other minor and consequential amendments

- (1) In the 1972 Act, section 137 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) is amended as follows.
- (2) In subsection (9)—
- 25 (a) after “Subject” insert “(in relation to England)”;
- (b) in paragraph (b), after “council” insert “that is not a community council with competence for the purposes of Part 2 of the Local Government (Wales) Act 2017 (general power of competence)”.
- (3) In subsection (10), for the words from ““local authority”” to the end of the subsection, substitute “, in its application to England, “local authority” means a county council, a district council, a London borough council, the Common Council or a parish council.”
- 30 (4) In the Local Government Act 2003 (c.26), in section 93 (power to charge for discretionary services), in subsection (9), in paragraph (d), after “council” insert “that is not a community council with competence for the purposes of Part 2 of the Local Government (Wales) Act 2017”.
- 35 (5) In section 95 of the Local Government Act 2003 (c.26) (power to trade in function-related activities through a company)—
- (a) in subsection (4), after “section” insert “made by the Secretary of State”;

(b) after subsection (4), insert—

“(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 26 of the Local Government (Wales) Act 2017.”;

(c) in subsection (7), in the definition of “relevant authority”, in paragraph (d), after “council” insert “that is not a community council with competence for the purposes of Part 2 of the Local Government (Wales) Act 2017”.

(6) In the Local Government and Public Involvement in Health Act 2007, in Schedule 14 (consequential amendments relating to entities controlled etc. by local authorities), in paragraph 5 (amendments to section 95 of the Local Government Act 2003), in subparagraph (4)(c), after “company” insert “, for the purposes of subsection (4),”.

### 30 Interpretation

In this Chapter—

“general power” (“*pŵer cyffredinol*”) has the meaning given by section 23;

“qualifying local authority” (“*awdurdod lleol cymwys*”) has the meaning given by section 23;

“statutory provision” (“*darpariaeth statudol*”) means a provision of—

(a) a Measure or Act of the National Assembly for Wales;

(b) an Act of Parliament;

(c) an instrument made under a Measure or Act of the National Assembly for Wales, or under an Act of Parliament.

## CHAPTER 2

### COMMUNITY COUNCILS WITH COMPETENCE

#### 31 Community councils with competence

(1) A community council becomes a community council with competence if it passes a resolution—

(a) that it meets the competency requirements, and

(b) that it is a community council with competence.

(2) The competency requirements are that—

(a) at least two-thirds of the total number of members of the council have been declared to be elected (whether at an ordinary election or at a by-election),

(b) the clerk to the council holds a relevant professional qualification, and

(c) the council satisfies the audit condition.

(3) The audit condition is satisfied if—

(a) the council has received an unqualified Auditor’s opinion on the council’s accounts for two consecutive financial years, and

(b) one of those opinions has been received by the council within the period of twelve

months ending on the day on which the resolution is passed.

(4) An Auditor's opinion is unqualified if the Auditor General for Wales has not, in the opinion, expressed in any way that he is not satisfied in relation to the matters set out in section 17 of the Public Audit (Wales) Act 2004 (c.23).

5 (5) In this Part—

“Auditor's opinion” (*“barn Archwilydd”*) means an opinion provided by the Auditor General for Wales under section 23 of the Public Audit (Wales) Act 2004, having concluded an audit of a community council's accounts for a financial year;

10 “relevant professional qualification” (*“cymhwyster proffesiynol perthnasol”*) means any qualification prescribed as such by the Welsh Ministers in regulations.

### 32 Continuing or ceasing to be a community council with competence

(1) A community council with competence must pass a resolution at each relevant annual meeting of the council—

15 (a) that it meets the competency requirements and continues to be a community council with competence,

(b) that it meets the competency requirements but ceases to be a community council with competence, or

(c) that it does not meet the competency requirements and ceases to be a community council with competence.

20 (2) A community council with competence may pass a resolution at any meeting of the council that it ceases to be a community council with competence.

(3) A community council that passes a resolution of the kind mentioned in subsection (1)(b) or (c) or (2) ceases to be a community council with competence on the day on which the resolution is passed.

25 (4) A community council that fails to pass a resolution under subsection (1) ceases to be a community council with competence on the day of the relevant annual meeting in which it fails to pass the resolution.

30 (5) For the purposes of this Part, a “relevant annual meeting” means a meeting of the community council held under paragraph 23 of Schedule 12 to the 1972 Act in a year in which ordinary elections of community councillors to the council occur.

### 33 Community councils that cease to be community councils with competence

A community council that ceases to be a community council with competence may continue to exercise the general power of competence in relation to any activity undertaken whilst it was a community council with competence.

### 35 34 Power to amend this Part

(1) The Welsh Ministers may, by regulations, amend this Part for the purposes of—

(a) adding a competency requirement,

(b) removing a competency requirement,

(c) changing any of the competency requirements, or

(d) making provision for a community council to cease to be a community council with competence in circumstances other than those specified in section 32 if any of the competency requirements stop being met.

(2) Before making regulations under paragraphs (a) to (c) of subsection (1), the Welsh Ministers must consult any bodies representing the interests of community councils they consider appropriate.

### 35 **Guidance**

A community council must have regard to any guidance issued by the Welsh Ministers about how to exercise functions under this Chapter.

## 10 **PART 3**

### PROMOTING ACCESS TO LOCAL GOVERNMENT

#### CHAPTER 1

##### OVERVIEW OF PART

### 36 **Overview**

15 In this Part –

(a) Chapter 2 –

(i) requires a county council to encourage local people to participate in decision making by the council, and in decision making by other local authorities in the council's area;

(ii) provides for a council to prepare and publish a strategy setting out how it is to comply with its duty to encourage participation in decision making;

(iii) requires a county council to consult when estimating expenditure for the purpose of calculating its budget requirement for a financial year;

(b) Chapter 3 provides for the establishment of community area committees to operate within the area of a county council for the purpose of ensuring that community interests and priorities are taken into account by the council in exercising its functions;

(c) Chapter 4 requires a county council and any authority prescribed by regulations to enter into discussions, in certain circumstances, with other bodies for the purpose of improving local outcomes;

(d) Chapter 5 makes provision for –

(i) holding meetings where members of the public may scrutinise the exercise of functions by councils operating executive arrangements;

(ii) broadcasting proceedings at meetings of county councils and other local authorities which are open to the public;

(iii) giving members of the public the opportunity to speak at meetings of community councils open to the public;

- (e) Chapter 6 requires a county council –
- (i) to publish a guide to accompany its constitution and make copies of the guide available on request;
  - (ii) to publish an electronic and postal address for each of its members.

## CHAPTER 2

### PUBLIC PARTICIPATION IN LOCAL GOVERNMENT

#### *Duty to encourage participation in decision making*

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

- (1) A county council must encourage local people to participate in the making of decisions by the council (including the making of decisions in partnership or in conjunction with any other person).
- (2) A county council must also encourage local people to participate in the making of decisions by authorities connected with the council (including the making of decisions in partnership or in conjunction with any other person).
- (3) For the purposes of subsection (2) each of the following is an authority connected with a county council –
  - (a) a community council for an area in the county council's area;
  - (b) a fire and rescue authority for the county council's area;
  - (c) a National Park authority for a National Park any part of which is in the county council's area.
- (4) The Welsh Ministers may by regulations amend subsection (3) for the purpose of –
  - (a) adding a reference to any body or other person, or description of body or person, with functions of a public nature as an authority which is connected with a county council;
  - (b) removing a reference to any body or other person, or description of body or person, from that subsection.
- (5) In this section, a reference to the making of decisions includes a reference to the making of decisions by a person in relation to the exercise of a function delegated to that person by a county council or an authority connected with a council.

#### **38 Strategy on encouraging participation**

- (1) A county council must prepare and publish a strategy (“a public participation strategy”) specifying how it proposes to comply with the duty in section 37(1) and (2).
- (2) A public participation strategy must, in particular, address –
  - (a) ways of promoting awareness among local people of the county council's functions and the functions of authorities connected with the council;
  - (b) ways of promoting awareness among local people of how to become a member of the county council or of an authority connected with the council, and what membership entails;

- (c) ways of facilitating access for local people to information about decisions made, or to be made, by the county council or by authorities connected to the council;
- (d) ways of promoting and facilitating processes by which local people may make representations to the county council, or authorities connected with the council, about a decision before, and after, it is made;
- (e) arrangements made, or to be made, for the purpose of the council's duty in section 62 of the 2011 Measure (bringing views of the public to attention of overview and scrutiny committees);
- (f) ways of promoting awareness among members of the county council, and members of authorities connected with the council, of the benefits of using social media to communicate with local people.

(3) A public participation strategy may address how a county council proposes to comply with a duty imposed by another enactment, including an enactment contained in or under any other provision of this Act.

(4) In the case of a county council operating executive arrangements which involve a mayor and cabinet executive, a reference in subsection (2) to a member of a county council includes a reference to the elected mayor of the council.

### **39 Public participation strategy: consultation and review**

(1) A county council's first public participation strategy must be published as soon as is practicable after the coming into force of section 38, and when preparing that strategy the council must consult –

- (a) local people, and  
(b) such other persons as it considers appropriate.

(2) A county council –

- (a) must review its public participation strategy as soon as is practicable following each ordinary election of councillors to the council, and  
(b) may review its strategy at any other time.

(3) In conducting a review of a public participation strategy under subsection (2)(a) a county council must consult –

- (a) local people, and  
(b) such other persons as it considers appropriate.

(4) Following a review under subsection (2) a county council may revise its public participation strategy, or replace it with a new strategy.

(5) But a county council may not revise or replace its public participation strategy following a review under subsection (2)(b) without first having consulted –

- (a) local people, and  
(b) such other persons as it considers appropriate.

(6) If a county council revises or replaces a public participation strategy, it must publish the revised or new strategy as soon as is practicable.



*Budget calculations of county councils under Local Government Finance Act 1992***40 Consultation by county councils in respect of budget requirement**

- 5 (1) A county council must take reasonable steps to consult the persons listed in subsection (2) in relation to the estimate of expenditure to be made by it for a financial year under section 32(2)(a) of the 1992 Act (estimate of expenditure to be incurred in performing functions).
- (2) The persons are—
- (a) local people;
  - (b) persons carrying on a business in the council's area;
  - 10 (c) representatives of businesses in the council's area;
  - (d) persons who provide services to local people on the council's behalf;
  - (e) persons who carry out activities in the council's area for the benefit of local people, for which the council provides financial assistance;
  - (f) voluntary bodies carrying out activities in the council's area;
  - 15 (g) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by the council;
  - (h) such other persons as the council considers appropriate.
- (3) Calculations made under section 32 of the 1992 Act are not invalid merely because of a failure to comply with subsection (1).
- 20 (4) In subsection (1) the reference to calculations does not include substitute calculations made by virtue of section 37 of the 1992 Act.
- (5) In this section "1992 Act" means the Local Government Finance Act 1992 (c.14).

*General***41 Guidance on exercise of functions under this Chapter**

- 25 (1) The Welsh Ministers may issue guidance to a county council about the exercise by the council of its functions under this Chapter.
- (2) In exercising those functions a county council must have regard to any guidance issued to it under subsection (1).

**42 Meaning of "local people"**

- 30 In this Chapter, "local people", in relation to a county council, means people who live, work or study in the council's area.

## CHAPTER 3

## COMMUNITY AREA COMMITTEES

*Appointment and membership*

- 5 **43 Duty of county council to appoint community area committees**
- (1) A county council must appoint a committee, to be known as a community area committee, for each community area in the council's area.
- (2) The members of a community area committee are to be appointed in accordance with sections 44 to 46.
- 10 (3) A community area committee is to exercise the functions conferred on it by or under –
- (a) this Chapter, and
- (b) Part 2 of the 2000 Act (executive arrangements).
- (4) In subsection (1), "community area" means a community area determined under section 37(5) of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).
- 15 **44 County council members of committees**
- A community area committee must include every member of the county council elected for an electoral ward all or part of which is in the area of the committee (the "county council members" of the committee).
- 45 Community council members of committees**
- 20 (1) A county council must invite each relevant community council to nominate a person for appointment as a member of a community area committee.
- (2) A "relevant community council", in relation to a community area committee, means a council for a community all or part of which is in the area of the committee.
- (3) In response to an invitation, a relevant community council must either –
- 25 (a) nominate one of its members for appointment to the community area committee, or
- (b) join with another relevant community council in nominating one of that council's members for appointment.
- (4) If a community is divided into community wards, a member of the council for that community who is nominated for appointment to a community area committee must
- 30 represent a ward all or part of which is in the area of the committee.
- (5) A county council may appoint people nominated under this section to be community council members of a community area committee.
- 46 Community nominee members of committees**
- 35 (1) A county council must invite at least one body in each of the following categories to nominate a person for appointment as a member of a community area committee –

- (a) bodies other than community councils which exercise functions of a public nature in relation to the whole or any part of the area of the committee (whether or not they also exercise functions in relation to any other area);
- (b) voluntary bodies carrying on activities which directly or indirectly benefit the whole or any part of the area of the committee (whether or not they also benefit any other area).
- (2) A county council may also invite any other body with a connection to the area of a community area committee to nominate a person for appointment as a member of the committee.
- (3) A county council may appoint people nominated in response to invitations under this section to be community nominee members of a community area committee.
- (4) The community nominee members of a community area committee may not include more than one person nominated for appointment by any particular body.
- (5) A member of a county council may not be a community nominee member of a community area committee of the council.
- (6) In subsection (5), the reference to a member of a county council includes an elected mayor or an elected executive member of the council.

#### **47 Policy for appointments to community area committees**

- (1) A county council must prepare and publish a statement setting out how it proposes to exercise its functions under sections 45 and 46.
- (2) The statement must, in particular, specify the numbers of community council members and community nominee members that the council wishes to appoint to each of its community area committees.
- (3) A county council must exercise its functions under sections 45 and 46 with a view to appointing to each of its community area committees the numbers of community council members and community nominee members specified in the statement.
- (4) But a community area committee is not improperly constituted merely because it does not include the numbers of community council members and community nominee members specified in the statement.

#### **48 Term of office and termination of membership**

- (1) The term of office of a community council member or community nominee member of a community area committee is to be determined by the county council.
- (2) If a person who is a county council member of a community area committee ceases to be a member of the county council for an electoral ward all or part of which is in the area of the committee, the person also ceases to be a member of the committee.
- (3) But subsection (2) does not apply to a person who—
- (a) ceases to be a member of the county council by reason of retirement, and
- (b) not later than the day of retirement, is re-elected a member of the council for an electoral ward all or part of which is in the area of the committee.

*Proceedings and publicity***49 Proceedings of community area committees**

- (1) A community area committee must appoint one of its members to chair the committee.
- (2) The person appointed to chair a community area committee may not be a member of the county council's executive (unless all of the members of the committee are members of the executive).
- (3) A community area committee may appoint sub-committees.
- (4) Every member of a community area committee may vote on any question to be decided by the committee.
- (5) Every member of a sub-committee of a community area committee may vote on any question to be decided by the sub-committee.

**50 Meetings of community area committees: access and attendance**

- (1) The meetings of a community area committee, or of a sub-committee of a community area committee, must be held in the area of the committee.
- (2) A failure to comply with subsection (1) does not affect the validity of anything done by the community area committee or sub-committee.
- (3) A community area committee, or a sub-committee of a community area committee –
  - (a) may require officers of the county council to attend before it to answer questions, and
  - (b) may invite other people to attend meetings of the committee or sub-committee.
- (4) An officer of a county council must comply with any requirement imposed under subsection (3)(a).
- (5) A person is not obliged by subsection (4) 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.
- (6) A community area committee, or a sub-committee of a community area committee, is a committee or sub-committee of a principal council for the purposes of Part 5A of the 1972 Act (access to meetings and documents of certain authorities, committees and sub-committees).

**51 Arrangements for public participation**

- (1) A community area committee must make arrangements for informing local people about the committee and the exercise of its functions.
- (2) A county council must make arrangements in relation to each of its community area committees that enable local people to bring to the attention of the committee their views on any matter in respect of which the committee is exercising a function.
- (3) A community area committee must, when exercising a function, take into account any views brought to its attention in accordance with arrangements under subsection (2).

*Functions***52 Duty of community area committee to prepare statement of priorities and objectives**

- 5 (1) A community area committee must, no later than 6 months after the date of each ordinary election of members of the county council, submit a statement of priorities and objectives to the council.
- (2) The statement must set out what the community area committee considers should be the county council's priorities and objectives in exercising its functions in relation to the area of the committee.
- 10 (3) The statement may also contain recommendations as to steps which the committee considers that the council should take in respect of those priorities and objectives.
- (4) A community area committee must review its statement of priorities and objectives before the end of –
- 15 (a) the period of 12 months starting with the date on which it submitted the statement to the county council, and
- (b) each period of 12 months starting with the date on which the previous review was completed.
- (5) A community area committee may revise its statement of priorities and objectives at any time, and must submit the revised statement to the county council.
- 20 (6) A community area committee must arrange for its statement of priorities and objectives to be published.
- (7) The Welsh Ministers may by regulations make further provision about the form and content of a statement of priorities and objectives.

**53 Further provision about preparation of statement of priorities and objectives**

- 25 (1) In preparing and revising a statement of priorities and objectives, a community area committee must have regard to the most recent assessment published under section 37 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (assessments of local well-being) for the area of the county council.
- (2) Before submitting the statement to the county council, the community area committee must consult the following on a draft of the statement –
- 30 (a) such local people, or organisations representing local people, as the committee considers appropriate;
- (b) such voluntary bodies carrying on activities which directly or indirectly benefit the whole or any part of the area of the committee, or organisations representing such bodies, as the committee considers appropriate;
- 35 (c) such other persons as the committee considers appropriate.
- (3) The statement that the committee submits to the council must include –
- (a) a description of the consultation carried out under subsection (2), and
- (b) a summary of the views expressed in response to the consultation.

**54 Power to confer additional advisory functions on community area committee**

A county council may confer on a community area committee of the council a function of making reports or recommendations to the council or its executive on any matter relating to the area of the committee.

### 55 Delegation of functions of county council to community area committee

- 5 (1) A county council may arrange for a community area committee of the council to exercise a function of the council to which this section applies.
- (2) This section applies to a function of a county council if –
- 10 (a) the function is not the responsibility of an executive of the council, and
- (b) section 101(1)(a) of the 1972 Act (power to arrange for functions to be discharged by committees, sub-committees or officers) applies to the function.
- (3) Arrangements made by a county council under this section –
- (a) may not provide for a community area committee to exercise a function otherwise than in relation to the area of the committee;
- 15 (b) do not prevent a function being exercised by the council.
- (4) In this section, a reference to exercising a function includes doing anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the function.
- (5) Sections 14 and 15 of the 2000 Act (discharge of functions under executive arrangements) make provision by virtue of which a community area committee may exercise a function which is the responsibility of an executive of the county council.

### 20 56 Request to delegate functions to community area committee

- (1) A community area committee may –
- 25 (a) request the county council to make arrangements under section 55 for the committee to exercise a function of the council;
- (b) request the county council's executive, or a member or committee of the executive, to make arrangements under section 14 or 15 of the 2000 Act for the community area committee to exercise a function.
- (2) The recipient of the request must give the community area committee notice of its decision on whether to make the requested arrangements.
- 30 (3) If the recipient decides not to make the requested arrangements, the notice must include the reasons for the decision.

### 57 Power to require or restrict delegation of functions to community area committee

- (1) The Welsh Ministers may by regulations –
- 35 (a) require arrangements within subsection (2) to be made in relation to a function of a county council;
- (b) provide that a function may not be the subject of such arrangements;
- (c) restrict a power to make such arrangements in relation to a function;
- (d) make provision about the manner in which such arrangements must be made.
- (2) The arrangements are –

- (a) arrangements under section 55;
- (b) arrangements under section 14 or 15 of the 2000 Act for a function to be exercised by a community area committee.

### 58 Delegation of functions by community area committee

- 5 (1) A community area committee may arrange for any function that is exercisable by the committee under this Chapter to be exercised by a sub-committee of the committee or by an officer of the county council.
- 10 (2) Where by virtue of subsection (1) a function is exercisable by a sub-committee of a community area committee, the sub-committee may arrange for the function to be exercised by an officer of the council.
- (3) A county council which arranges for a function to be exercised by a community area committee under section 55 may direct that subsection (1) or (2) is not to apply to the function or is not to apply to it in particular cases or circumstances.
- 15 (4) A community area committee which arranges for a function to be exercised by a sub-committee under subsection (1) may direct that subsection (2) is not to apply to the function or is not to apply to it in particular cases or circumstances.
- (5) Arrangements made under this section for the exercise of a function do not prevent its exercise by any person by whom it is exercisable in the absence of such arrangements.

### *General*

### 20 59 Guidance

In exercising functions under this Chapter, each of the following must have regard to any guidance issued to it by the Welsh Ministers –

- (a) a county council;
- (b) an executive of a county council;
- 25 (c) a member or committee of an executive;
- (d) a community area committee;
- (e) a sub-committee of a community area committee;
- (f) a community council.

### 60 Functions of county councils under this Chapter

30 The functions conferred on a county council by this Chapter –

- (a) are not to be the responsibility of an executive of the council under executive arrangements;
- (b) are not functions to which section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) applies.

### 35 61 Power to apply enactments to community area committees

- (1) The Welsh Ministers may by regulations provide that for the purposes of an enactment specified in the regulations –

- (a) a community area committee is to be treated as if it were a committee appointed by a county council under section 102 of the 1972 Act;
- (b) a sub-committee of a community area committee is to be treated as if it were a sub-committee appointed under that section;
- 5 (c) arrangements under section 55 are to be treated as if they were arrangements under section 101(1)(a) of the 1972 Act;
- (d) arrangements under section 58 are to be treated as if they were arrangements under section 101(2) of that Act.
- (2) The regulations may include provision modifying the application of an enactment.
- 10 (3) In this section, “enactment” means a provision contained in any of the following—
- (a) an Act of Parliament;
- (b) an Act or Measure of the National Assembly for Wales;
- (c) subordinate legislation within the meaning of the Interpretation Act 1978 (c.30) (including subordinate legislation made under an Act of Parliament or an Act or
- 15 Measure of the National Assembly for Wales).

## 62 Interpretation of this Chapter

- (1) In this Chapter—
- “community council member” (“*aelod cyngor cymuned*”) means a member of a community area committee appointed under section 45;
- 20 “community nominee member” (“*aelod enwebedig o’r gymuned*”) means a member of a community area committee appointed under section 46;
- “county council member” (“*aelod cyngor sir*”) has the meaning given by section 44;
- “local people” (“*pobl leol*”), in relation to a community area committee, means people who live, work or study in the area of the committee;
- 25 “statement of priorities and objectives” (“*datganiad o flaenoriaethau ac amcanion*”) means a statement submitted under section 52(1).
- (2) In this Chapter—
- (a) a reference to the county council, in relation to a community area committee, is a reference to the county council that appointed the committee;
- 30 (b) a reference to a function which is the responsibility of an executive of a county council is to be interpreted in accordance with section 13 of the 2000 Act.

## 63 Further amendments and repeals

Schedule 8 contains further amendments and repeals relating to this Chapter.



## CHAPTER 4

## IMPROVEMENT REQUESTS

*Requests to discuss how outcomes might be improved*

**64 Definitions**

- 5 (1) This section defines various terms used in this Chapter.
- (2) An “improvement request” is a request made by an interested body to be permitted to enter into discussions with a relevant authority with a view to improving an outcome or outcomes in the authority’s area.
- (3) “Interested body” means –
- 10 (a) a body, other than a body exercising functions of a public nature, that carries out activities primarily for the benefit of a relevant authority’s area, part of a relevant authority’s area, or any group of persons within a relevant authority’s area;
- (b) a voluntary body;
- (c) a body of persons or a trust which is established for charitable purposes only;
- 15 (d) a community council for an area in a relevant authority’s area;
- (e) any other person or body specified in regulations made by the Welsh Ministers.
- (4) An “outcome”, in relation to a relevant authority’s area, is an outcome –
- (a) that results from, or is contributed to by, the provision of a public service by or on behalf of the authority, or
- 20 (b) that could be improved by the provision of a public service by or on behalf of the authority.
- (5) “Public service”, in relation to a relevant authority, means a service that is provided, or could be provided, to the public by or on behalf of the authority.
- (6) “Relevant authority” means –
- 25 (a) a county council, or
- (b) any other person or body exercising functions of a public nature that is specified in regulations by the Welsh Ministers.
- (7) “Voluntary body” means a body, other than a body exercising functions of a public nature, the activities of which are not carried out for profit.
- 30 (8) For the purposes of subsection (7), the fact that a body’s activities generate a surplus does not prevent it from being a voluntary body so long as that surplus is used for the purposes of its activities or is invested in a relevant authority’s area.

**65 Improvement requests**

A relevant authority must consider an improvement request if –

- 35 (a) it is submitted to the authority in writing by an interested body,
- (b) it complies with the requirements specified in section 66, and

- (c) it complies with any other requirements about improvement requests specified in regulations by the Welsh Ministers.

## **66 Requirements for improvement requests**

- (1) An improvement request must –

- (a) specify the outcome that might be improved,
- (b) explain how the outcome might be improved,
- (c) provide details of any knowledge, expertise or experience the interested body making the request has in relation to the outcome, and
- (d) set out the reasons why the interested body considers that it should enter into discussions with the relevant authority with a view to improving the outcome.

- (2) An improvement request may be made jointly by two or more interested bodies.

- (3) An improvement request may include a request that one or more relevant authorities other than the authority to which the request is made participate in discussions along with the authority to which the request is made.

### *Decisions about improvement requests*

## **67 Deciding whether to agree to an improvement request**

- (1) A relevant authority must agree to an improvement request unless –

- (a) there are reasonable grounds for refusing the request, or
- (b) subsection (2) applies.

- (2) This subsection applies where –

- (a) an improvement request (a “new request”) is submitted to a relevant authority,
- (b) the new request relates to matters that are the same, or substantially the same, as matters contained in a previous improvement request (a “previous request”), and
- (c) the new request was submitted to the authority before the end of the period of two years starting with the date on which the previous request was submitted.

- (3) For the purposes of subsection (2) –

- (a) a new request only relates to matters that are the same, or substantially the same, as matters contained in a previous request if both requests relate to the improvement of the same, or substantially the same, outcome;
- (b) it is irrelevant whether the body making a new request is the same body as made the previous request.

## **68 Informing interested bodies whether an authority has agreed to an improvement request**

- (1) A relevant authority must, before the end of the period set out in subsection (2), give an interested body that has made an improvement request a notice setting out –

- (a) whether it has decided to agree to or to refuse the request, and
- (b) if it has decided to refuse the request, the reasons for the decision.

- (2) The period is—
- (a) 45 days starting with the day on which the relevant authority received the improvement request, or
  - (b) such longer period as is agreed between the authority and the interested body.

5 **69 Entering into discussions with the interested body**

- (1) A relevant authority that agrees to an improvement request must, before the end of the period of 45 days starting with the day on which the notice is given under section 68(1), enter into discussions with the interested body about the request.
- (2) A relevant authority must publish any information of a description specified in regulations by the Welsh Ministers about decisions on whether to enter into discussions with interested bodies under this Chapter.

*Complaints*

15 **70 Complaints**

- (1) A relevant authority must establish a procedure for dealing with complaints relating to improvement requests.
- (2) The Welsh Ministers may make provision by regulations about matters that must be addressed in the complaints procedure.

*Reporting*

20 **71 Reporting on the outcome of improvement requests**

- (1) This section applies where—
- (a) an interested body has submitted an improvement request,
  - (b) the relevant authority has entered into discussions with the interested body as a result of that request, and
  - (c) those discussions have concluded.
- (2) The relevant authority must, as soon as reasonably practicable after the discussions have concluded, publish a report—
- (a) summarising the subject matter of the discussions,
  - (b) recording the outcome of the discussions (including any decisions that were taken), and
  - (c) explaining how the authority intends to keep the interested body informed about any further action taken as a result of the discussions.
- (3) In preparing the report, the relevant authority must seek the views of—
- (a) any interested body that took part in the discussions, and
  - (b) any other person it thinks appropriate.
- (4) The relevant authority must publish the report mentioned in subsection (2) on its website and in any other manner it thinks appropriate.

**72 Annual reports**

- (1) A relevant authority must publish an annual improvement request report for each financial year.
- (2) An annual improvement request report is a report setting out, in respect of the financial year to which it relates –
- (a) the number of improvement requests the authority received,
  - (b) the number of such requests which the authority –
    - (i) agreed to, and
    - (ii) refused,
  - (c) the number of such requests which resulted in a change to a public service, and
  - (d) any action taken by the authority –
    - (i) to promote the use of improvement requests, or
    - (ii) to support bodies in making improvement requests.
- (3) An annual improvement request report must be published no later than 30 June following the end of the financial year to which it relates.

*General***73 Guidance**

A relevant authority must have regard to any guidance issued by the Welsh Ministers about how it should carry out its functions under this Chapter.

**74 Regulations**

- (1) The Welsh Ministers may by regulations make further provision about improvement requests.
- (2) Regulations under subsection (1) may, in particular, make provision about –
- (a) the manner in which requests must be made;
  - (b) the procedure to be followed by relevant authorities in relation to requests;
  - (c) information that must be provided to relevant authorities in connection with improvement requests (in addition to that required by section 66);
  - (d) the procedure to be followed by relevant authorities in relation to requests that include a request of the type mentioned in section 66(3);
  - (e) information that must be included in reports (in addition to that required by sections 71 and 72);
  - (f) ways in which relevant authorities are to promote the use of improvement requests;
  - (g) support that relevant authorities must make available to interested bodies to enable them to make improvement requests and to participate in discussions with relevant authorities;
  - (h) additional support that must be made available to persons or groups of persons in

order to assist them to form interested bodies, to make improvement requests and to participate in discussions with relevant authorities.

- (3) The Welsh Ministers may by regulations –
- (a) amend or repeal any of paragraphs (a) to (d) of section 64(3);
  - (b) amend or repeal section 64(7) or (8);
  - (c) make any amendments to this Chapter (including amendments to any power to make regulations) in consequence of provision made under section 64(3)(e) or (6) (b) or under paragraph (a) or (b) of this subsection.

## CHAPTER 5

### ACCESS TO MEETINGS ETC. OF LOCAL AUTHORITIES

#### 75 Duty of elected mayors and executive leaders to attend public meetings

In the 2000 Act, at the appropriate place insert the following section –

##### **“15B Public meetings in relation to discharge of functions**

- (1) The standing orders of a local authority operating executive arrangements must include provision for requiring the elected mayor, or as the case may be, executive leader of the authority to attend at least one meeting per calendar year at which local people are given an opportunity to put questions to the elected mayor or executive leader about the discharge of functions which, under executive arrangements, are the responsibility of the executive.
- (2) “Local people”, in relation to a local authority, means people who live, work or study in the authority’s area.”

#### 76 Electronic broadcasts of meetings of certain local authorities

- (1) A county council must put in place arrangements for the purpose of ensuring that –
  - (a) a broadcast of proceedings at a meeting to which subsection (2) applies is available electronically so that members of the public not in attendance at the meeting can see and hear the proceedings as they take place;
  - (b) the broadcast is available electronically for a reasonable period after the meeting.
- (2) This subsection applies to proceedings at a meeting, or any part of a meeting, of a county council or of a committee or sub-committee of a county council which is open to the public.
- (3) The reference in subsection (2) to a county council, in relation to a council with an executive (within the meaning of Part 2 of the 2000 Act), includes a reference to the executive.
- (4) The Welsh Ministers may by regulations specify proceedings to which subsection (2) does not apply.
- (5) A county council putting into place any arrangements required by subsection (1) must have regard to any guidance issued by the Welsh Ministers.

- (6) The validity of any proceedings to which subsection (2) applies is not affected by the availability of a broadcast (whether as the proceedings take place or afterwards).
- (7) The Welsh Ministers may by regulations make provision for and in connection with ensuring that proceedings at a meeting of an authority listed in subsection (8), or at a meeting of a committee or sub-committee of such an authority, are broadcast electronically.
- (8) The authorities are –
- (a) a fire and rescue authority for an area in Wales;
  - (b) a National Park authority for a National Park in Wales.
- (9) Regulations under subsection (7) may amend or repeal any provision of –
- (a) the Public Bodies (Admission to Meetings) Act 1960 (c.67);
  - (b) Part 5A of the 1972 Act (access to meetings and documents of local authorities).
- (10) A reference in this section to a committee or sub-committee includes a reference to a joint committee, or a sub-committee of a joint committee.

15 **77 Public access to meetings of certain local authorities**

- (1) The Welsh Ministers may by regulations make provision for and in connection with allowing persons –
- (a) to film, photograph or make sound recordings of proceedings at a meeting of an authority to which this section applies, or of a committee or sub-committee of such an authority;
  - (b) to use other means for enabling persons not present at such a meeting to see or hear proceedings at the meeting, as it takes place or later;
  - (c) to report or provide commentary on the proceedings at such a meeting, orally or in writing, so that the report or commentary is available, as the meeting takes place or later, to persons not present at the meeting.
- (2) The regulations may, in particular, make provision –
- (a) for allowing persons to make available to the public or a section of the public using any medium (including the internet) things produced as a result of activities within subsection (1);
  - (b) about the facilities to be made available by authorities to which the regulations apply to enable persons to carry on such activities;
  - (c) about the steps to be taken by persons before carrying on such activities;
  - (d) about the circumstances in which persons may not carry on such activities, including for enabling a person specified in the regulations to prevent them from doing so in the circumstances specified in the regulations.
- (3) The regulations may amend or repeal any provision of –
- (a) the Public Bodies (Admission to Meetings) Act 1960 (c.67);
  - (b) Part 5A of the 1972 Act (access to meetings and documents of local authorities and committees of such authorities).

- (4) This section applies to—
- (a) a county council;
  - (b) a community council;
  - (c) a fire and rescue authority for an area in Wales;
  - (d) a National Park authority for a National Park in Wales.
- (5) In subsection (1) a reference to a committee or sub-committee includes a reference to a joint committee or sub-committee of a joint committee.
- (6) The reference in subsection (4)(a) to a “county council”, in relation to a council with an executive (within the meaning of Part 2 of the 2000 Act), includes a reference to the executive.

## 78 Participation at meetings of community councils

In Part 4 of Schedule 12 to the 1972 Act (meetings and proceedings of community councils), after paragraph 27 insert—

“27A(1) This paragraph applies in respect of a meeting or part of a meeting of a community council which is open to the public.

(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.

(3) In complying with sub-paragraph (2), the person presiding over the meeting must have regard to any guidance issued by the Welsh Ministers.”

## CHAPTER 6

### FURTHER DUTIES OF COUNTY COUNCILS

## 79 Duty to publish constitution guide

(1) Section 37 of the 2000 Act (local authority constitution) is amended as follows.

(2) After subsection (1) insert—

“(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.”

(3) In subsection (2)—

(a) after the word “must” insert “—

(a) publish their constitution and their constitution guide on their website, and

(b) “;

(b) after “copies of their constitution” insert “and their constitution guide”.

(4) In subsection (3) –

- (a) after “constitution” insert “or, as the case may be, their constitution guide”;
- (b) for the words “who requests” to the end of the subsection, substitute “on request, either free of charge or at a charge representing no more than the cost of providing the copy”.

## 80 **Duty on county councils to publish official addresses**

A county council must publish on its website, and in any other manner it considers appropriate, an official electronic and postal address for each member of the council, to which correspondence for the member may be sent.

## PART 4

### FUNCTIONS OF COUNTY COUNCILS AND THEIR MEMBERS

#### CHAPTER 1

#### OVERVIEW OF PART

## 81 **Overview**

In this Part –

- (a) Chapters 2 to 4 impose duties upon members of a county council which relate to their performance, and make connected provision, including for the enforcement of those duties;
- (b) Chapter 5 makes provision –
  - (i) for objectives to be set relating to the performance of an executive of a council operating executive arrangements;
  - (ii) for candidates for election as executive leader of a council to produce written manifestos;
  - (iii) for the appointment of assistants to executives where a council is operating executive arrangements;
  - (iv) for issuing guidance to elected mayors and executive leaders on equality and diversity;
- (c) Chapter 6 makes provision –
  - (i) removing the requirement for a county council to designate a head of paid service and requiring instead that a chief executive be appointed for the council, whose functions will include duties imposed under that Chapter;
  - (ii) relating to the appointment of the head of democratic services of a county council, and a council’s pay policy as it relates to that post;
- (d) Chapter 7 makes provision –
  - (i) in respect of the meetings and functions of overview and scrutiny committees;



- (ii) requiring standards committees to produce annual reports on the exercise of their functions;
- (e) Chapter 8 makes minor amendments to the 2000 Act and the Local Government (Democracy) (Wales) Act 2013 (anaw 4).

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## CHAPTER 2

### DUTIES ON MEMBERS OF COUNTY COUNCILS

#### *Performance duties*

#### **82 Members of county councils to attend meetings**

- (1) A member of a county council must attend all relevant meetings.
- 10 (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) For the purposes of subsection (1), each of the following is a relevant meeting –
  - (a) a meeting of the county council of which the person is a member;
  - 15 (b) a meeting of a committee or sub-committee of the county council, if the person is a member of that committee or sub-committee;
  - (c) a meeting of any joint committee, joint board or other body of which the person is a member, if that committee, board or body is discharging any of the functions of the county council, or has been appointed to advise the council on any matter relating to the discharge of its functions;
  - 20 (d) if a county council is operating executive arrangements and the person is a member of the executive, a meeting of the executive or of a committee of the executive of which the person is a member;
  - (e) any other meeting that the person would reasonably be expected to attend in the exercise of his or her functions as a member of the county council.
  - 25 (4) Subsection (1) does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.
  - (5) Nothing in this section affects the operation of section 85 of the 1972 Act (vacation of office because of failure to attend meetings for six months).

#### **83 Members of county councils to hold surgeries**

- 30 (1) A member of a county council must hold a surgery at least four times in every relevant 12 month period.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- 35 (3) A member holds a surgery if the member makes himself or herself available for at least one hour to meet members of the public to discuss matters in private.
- (4) In complying with subsection (1), the member must ensure that the location, date and time of the surgery is published on the council's website and in any other manner he or she thinks appropriate more than seven days before the day of the surgery.

- (5) For the purposes of this section, a relevant 12 month period is –
- (a) the period of 12 months starting with the day on which the member assumes office as member of the council, and
  - (b) each subsequent period of 12 months.
- 5 (6) For the purposes of subsection (5), any period during which a member is exercising a right to a family absence under Part 2 of the 2011 Measure is to be disregarded; accordingly, the following two periods are to be treated as consecutive –
- (a) any part of a 12 month period that falls immediately before the period of family absence, and
  - 10 (b) the period that begins immediately after the period of family absence.

#### **84 Members of county councils to answer correspondence**

- (1) A member of a county council must respond to all correspondence sent to his or her official address within 14 days of receipt.
- 15 (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) A member's "official address" is any address (whether postal or electronic) which is published by the council under section 80.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

#### **85 Members of county councils to complete training**

- 20 (1) A member of a county council must complete all compulsory training courses.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- 25 (3) Training is compulsory if the county council of which a person is a member has notified the person that he or she must complete it.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

#### *Duty to make an annual report*

#### **86 Members of county councils to make annual reports**

- 30 (1) A member of a county council must make a report –
- (a) about his or her activities as a member of the council during the period of 12 months to which the report relates;
  - (b) setting out the results of those activities, if known to the member.
- 35 (2) A member of a county council must submit his or her report made under subsection (1) (an "annual report") to the county council's head of democratic services in accordance with the council's standing orders made by virtue of subsection (3)(b).
- (3) A county council must specify in its standing orders –

- (a) the period to which annual reports must relate, and
  - (b) when annual reports must be submitted to the head of democratic services.
- (4) Standing orders made under subsection (3)(b) must not permit an annual report to be submitted after the end of the period of three months starting with the day of the annual meeting of the county council which follows the period to which the annual report relates.
- (5) A county council must publish the annual reports submitted by its members.

### CHAPTER 3

#### BREACHES OF DUTIES UNDER CHAPTER 2

10

#### *Possible breach of performance duties*

#### **87 Complaints about a member's non-compliance with duties**

- (1) A person may make a complaint about a possible breach by a member of a county council of a duty imposed by section 82, 83, 84 or 85 to the monitoring officer of that council.
- (2) A complaint under subsection (1) must be made in writing.

#### **15 88 Deciding whether to investigate possible breach of performance duties**

- (1) If the monitoring officer of a county council –
  - (a) receives a complaint under section 87, or
  - (b) otherwise has reason to believe that a member has breached a duty under section 82, 83, 84 or 85,
 he or she must refer the matter to the chair of the standards committee of the county council.
- (2) The monitoring officer and the chair of the standards committee must together consider whether or not the matter should be investigated.
- (3) When considering whether a matter should be investigated, the monitoring officer and the chair of the standards committee must consider –
  - (a) in cases where the monitoring officer has received a complaint under section 87 –
    - (i) whether the complaint is frivolous or vexatious, and
    - (ii) whether the complaint relates to the same, or substantially the same, facts as a complaint that has already been disposed of, and
  - (b) in all cases, whether it is appropriate for the matter to be investigated.
- (4) If either the monitoring officer or the chair of the standards committee consider that a matter should be investigated, the monitoring officer must investigate the matter.
- (5) If the monitoring officer and the chair of the standards committee both consider that a matter should not be investigated, no investigation may take place; and, in cases where the monitoring officer has received a complaint under section 87, the monitoring officer must as soon as practicable take reasonable steps to –
  - (a) notify the person who made the complaint that the matter will not be investigated,

35

and

(b) give reasons for that decision.

- (6) The monitoring officer and the chair of the standards committee may, for the purpose of deciding whether to investigate a matter, make such enquiries as they think necessary.

5 *Possible breach of duty to make annual report*

### 89 Deciding whether to investigate possible breach of duty to make annual report

- (1) This section applies where the head of democratic services for a county council considers that a member of the county council may have breached the duty under section 86.

- (2) The head of democratic services may –

- 10 (a) notify the monitoring officer of the council, who may investigate the matter;  
 (b) if the head of democratic services is also the monitoring officer of the council, investigate the matter (in the exercise of his or her functions as monitoring officer).

- (3) When considering whether to conduct an investigation under this section, the monitoring officer must consult the chair of the standards committee of the county council on  
 15 whether it is appropriate for the matter to be investigated.

*Investigations, reports and sanctions*

### 90 Investigation by monitoring officer

- (1) This section applies if the monitoring officer of a county council investigates a matter under section 88 (possible breach of performance duties) or 89 (possible breach of duty to  
 20 make annual report).

- (2) The monitoring officer must give the member who is the subject of the investigation an opportunity to respond to the matter being investigated.

- (3) The monitoring officer may –

- 25 (a) ask any person for information relating to the matter being investigated, and  
 (b) ask any person to assist him or her in conducting the investigation.

### 91 Monitoring officer's report

- (1) After conducting an investigation under section 88 or 89, the monitoring officer of a county council must –

- 30 (a) provide the standards committee of the county council with a report on the investigation,  
 (b) make any recommendations to the standards committee that the monitoring officer considers appropriate,  
 (c) send a copy of the report, and any recommendations made, to the member of the county council who was the subject of the investigation, and  
 35 (d) if the investigation results from a complaint under section 87, take reasonable steps to send a copy of the report, and any recommendations made, to the person who made the complaint.

- (2) The standards committee must allow the monitoring officer to appear before it for the purpose of presenting the report and any recommendations made.
- (3) The Welsh Ministers may by regulations make provision about the publicity to be given to reports and recommendations provided under this section.

5 **92 Consideration of matter by standards committee**

- (1) This section applies if the standards committee of a county council receives a report from a monitoring officer under section 91.
- (2) The standards committee must determine whether there is any evidence of a breach of the duty in question.
- 10 (3) If the standards committee determines that there is no evidence of a breach of the duty, it must –
  - (a) notify the member who is the subject of the report, and
  - (b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint.
- 15 (4) If the standards committee determines that there is evidence of a breach of the duty, it must give the member who is the subject of the report written notice that he or she may make representations to the standards committee, either orally or in writing, in respect of the report.
- 20 (5) The standards committee may, for the purposes of exercising its functions under this section –
  - (a) ask the monitoring officer to attend before it for the purposes of assisting it, and
  - (b) ask any person for information, or invite any person to make representations to it.
- (6) The monitoring officer may not unreasonably refuse a request made under subsection (5).
- 25 (7) The standards committee must determine the period within which a member may make representations under subsection (4); but the period must not be less than 28 days starting with the day on which the member is given notice under that subsection.

**93 Standards committee's determination**

- 30 (1) After the period determined under section 92(7) for making representations has ended, the standards committee must determine whether the member who is the subject of the report under section 91 has breached the duty in question.
- (2) If the standards committee determines that the member has breached the duty, it may decide to –
  - 35 (a) censure the member,
  - (b) suspend or partially suspend the member from being a member of the county council for a period not exceeding six months, or
  - (c) take no further action.
- (3) The standards committee must –
  - (a) notify the member of its determination under this section, and of any action that will follow, and

(b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint of those matters.

(4) The Welsh Ministers may by regulations make provision about the publicity that is to be given to any determination under this section and to any action taken against a member.

(5) The Welsh Ministers must by regulations make provision conferring rights of appeal on members of a county council against any determination of a standards committee under this section.

## CHAPTER 4

### FURTHER PROVISION ABOUT DUTIES ON MEMBERS

#### *Regulations and guidance relating to Chapters 2 and 3*

#### **94 Regulations**

(1) The Welsh Ministers may by regulations make further provision about the way in which a possible breach of a duty imposed by Chapter 2 is to be dealt with.

(2) Regulations under subsection (1) may, in particular, make provision—

(a) about matters to be taken into account in considering whether a possible breach of a duty should be investigated;

(b) about matters to be taken into account in determining whether a member has breached a duty;

(c) enabling a monitoring officer or a standards committee to refer a possible breach of a duty, or any other matter that comes to the monitoring officer or the standards committee's attention in the course of an investigation, to the monitoring officer or the standards committee of another relevant authority;

(d) about procedures to be followed by a monitoring officer or a standards committee;

(e) about the disclosure of information;

(f) enabling sums to be paid to persons by way of expenses and allowances or costs;

(g) about how appeals are to be made, considered and determined.

(3) For the purposes of subsection (2)(c), a "relevant authority" means—

(a) a county council;

(b) a fire and rescue authority;

(c) a National Park authority for a National Park.

#### **95 Guidance**

A person exercising functions under Chapter 2 or 3 must have regard to any guidance issued by the Welsh Ministers.

#### *Related amendments*

#### **96 Standards committee to provide training**

In section 54 of the 2000 Act (functions of standards committees), before subsection (3)

insert –

“(2B) A standards committee of a county council in Wales also has the specific function of advising, training or arranging to train members of the council on matters relating to the duties imposed by sections 82 to 86 of the Local Government (Wales) Act 2017 (duties to attend meetings, hold surgeries, answer correspondence, complete training and make annual reports).”

## 97 Amendments to the 2011 Measure

(1) The 2011 Measure is amended as follows.

(2) Section 5 is repealed.

(3) In section 7, after subsection (1), insert –

“(1A) A local authority must –

(a) consider whether it should be compulsory for its members to complete any training under section 85 of the Local Government (Wales) Act 2017, and

(b) in exercising its functions under subsection (1), secure the provision of any training which it is compulsory for a member to attend under section 85 of that Act.”

*Role of leaders of political groups on county councils*

## 98 Duties of leaders of political groups in relation to standards of conduct

(1) The 2000 Act is amended as follows.

(2) After section 52 insert –

### “52A County councils: duties of leaders of political groups in relation to standards of conduct

(1) A leader of a political group consisting of members of a county council in Wales –

(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

(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.

(2) In complying with subsection (1), a leader of a political group must have regard to any guidance issued by the Welsh Ministers.

(3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which –

(a) members of a county council in Wales are to be treated as constituting a political group;

(b) a member of a political group is to be treated as a leader of the

group.

(4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they consider appropriate.”

(3) In section 54 (functions of standards committees), after subsection (2) insert –

“(2A) A standards committee of a county council in Wales also has the specific functions of –

(a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and

(b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.”

## CHAPTER 5

### EXECUTIVES OF COUNTY COUNCILS

#### 99 Objectives to be met by council executives

In the 2000 Act, at the appropriate place insert the following section –

##### “15A Duty to set objectives etc. in relation to discharge of functions

(1) As soon as practicable after an elected mayor or, as the case may be, executive leader of a local authority is elected, he or she must set objectives to be met by the executive in the discharge of functions which, under executive arrangements, are the responsibility of the executive.

(2) An elected mayor or executive leader must keep objectives set under this section under review, and may revise the objectives at any time.

(3) As soon as is reasonably practicable after 31 March in each year, the elected mayor or the executive leader of a local authority must prepare a report on the extent to which objectives set under this section have been achieved.

(4) An elected mayor or executive leader must arrange for the publication of –

(a) objectives set under this section, and

(b) reports prepared under subsection (3).”

#### 100 Manifestos: election of executive leader

(1) In paragraph 2 of Schedule 1 (leader and cabinet executives, Wales) to the 2000 Act –

(a) insert –

“(1A) The executive arrangements –

(a) must include provision requiring a candidate for election as the executive leader to prepare a written manifesto, and provision for ensuring that copies of the manifesto are made available before the election to the other members of the authority;



(b) may include other provision with respect to the election of the executive leader.”;

(b) in sub-paragraph (2)–

(i) after “may” insert “also”, and

(ii) in paragraph (a) omit “election and”.

(2) After paragraph 2 of Schedule 1 insert –

“2A The standing orders of a local authority operating executive arrangements which involve a leader and cabinet executive (Wales) must include provision for the purpose of ensuring that a candidate for election as the executive leader is given the opportunity to promote his or her written manifesto at a meeting of the authority held before the election.”

## 101 Appointment of assistants to executive

(1) Schedule 1 to the 2000 Act (executive arrangements in Wales: further provision) is amended as follows.

(2) Before paragraph 4 insert –

### *“Assistants to the executive*

3A (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.

(2) Such a councillor is referred to in this Schedule as an assistant to the executive of the authority.

(3) Assistants to the executive of an authority are to be appointed –

(a) in the case of an authority operating a mayor and cabinet executive, by the elected mayor;

(b) in the case of an authority operating a leader and cabinet executive (Wales), by the executive leader or the authority.

(4) Executive arrangements which make provision for the appointment of assistants to an executive may include provision about –

(a) the number of assistants that may be appointed,

(b) their term of office, and

(c) their responsibilities.

(5) The assistants to the executive of a local authority may not include –

(a) the chairman and vice-chairman of the authority;

(b) the presiding member and deputy presiding member of the authority (if the authority has a presiding member).

(6) An assistant to the executive of an authority is not a member of the executive of the authority.

(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)."

5 (3) In paragraph 5—

(a) at the beginning insert—

"(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.

10 (2) “;

(b) for “not a member of the authority's executive” substitute “neither a member of the authority's executive nor an assistant to the executive”.

(4) Schedule 6 contains further amendments relating to assistants to local authority executives.

## 15 102 Guidance

(1) Section 38 of the 2000 Act (guidance) is amended as follows.

(2) In subsection (1), after “local authority” insert “, an elected mayor or an executive leader”.

(3) After subsection (1) insert—

20 “(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).”

## CHAPTER 6

### APPOINTMENT ETC. OF CERTAIN CHIEF OFFICERS

## 25 103 Appointment and reports of chief executive

(1) A county council must appoint a chief executive.

(2) The chief executive of a county council must—

(a) keep each of the matters specified in subsection (3) under review, and

30 (b) where he or she considers it appropriate to do so, prepare a report to the council setting out his or her proposals in respect of any of those matters.

(3) Those matters are—

(a) the manner in which the exercise by the council of its different functions is co-ordinated;

35 (b) the number and grades of staff required by the council for the exercise of its functions;

(c) the organisation of the council's staff;

(d) the appointment of the council's staff;

(e) the arrangements for the management of the council's staff (including arrangements for training and development).

5 (4) As soon as practicable after preparing a report under subsection (2)(b), the chief executive of a county council must arrange for a copy of the report to be sent to each member of the council.

(5) A county council must consider a report prepared under subsection (2)(b) at a meeting held not more than three months after copies of the report are first sent to members of the council; and section 101 of the 1972 Act does not apply to the duty imposed by this subsection.

10 (6) A county council must provide its chief executive with such staff, accommodation and other resources as are, in the chief executive's opinion, sufficient to allow the chief executive's duties under this section to be carried out.

(7) Schedule 7 makes amendments to other legislation in consequence of this section.

#### 104 Council leaders to set objectives for chief executives etc.

15 (1) This section applies where a county council is operating executive arrangements.

(2) The council's senior executive member must, as soon as is practicable after a person is appointed as chief executive of the council, set objectives to be met by the chief executive.

(3) The council's senior executive member must annually –

20 (a) review the extent to which the chief executive has met objectives set under this section, and

(b) review and, if the senior executive member considers it appropriate, revise the objectives.

(4) The council's senior executive member must arrange for objectives set under this section to be published.

25 (5) The council's senior executive member must –

(a) prepare a report on each review under subsection (3)(a),

(b) arrange for the report to be published, and

(c) arrange for a copy of the report to be sent to each member of the council.

30 (6) The council must consider a report on a review under subsection (3)(a) at a meeting held not more than three months after the date on which the report is published; and section 101 of the 1972 Act does not apply to the duty imposed by this subsection.

(7) The council's senior executive member may not do anything mentioned in subsection (2), (3), (4) or (5) without consulting its chief executive.

(8) The Welsh Ministers may issue guidance to –

35 (a) a senior executive member of a county council;

(b) a county council,

on the exercise of functions under this section, and the person to whom any guidance is issued must have regard to it.

(9) In this section "senior executive member" means –

- (a) in the case of a council operating a leader and cabinet executive, the executive leader;
- (b) in the case of a council operating a mayor and cabinet executive, the elected mayor.

5 (10) In subsection (9) –

“executive leader” (“*arweinydd gweithrediaeth*”) has the same meaning as in section 11(3)(a) of the 2000 Act;

“leader and cabinet executive” (“*gweithrediaeth arweinydd a chabinet*”) means a leader and cabinet executive (Wales) within the meaning of section 11(3) of the 2000 Act.

## 105 Head of democratic services

(1) In section 8(4) of the 2011 Measure –

(a) omit paragraph (b), and

(b) in paragraph (c), for “that section” substitute “section 5 of the Local Government and Housing Act 1989”.

(2) In section 43(2) of the Localism Act 2011 (c.20) (meaning of “chief officer” for the purposes of pay policy statements), after paragraph (e) insert –

“(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 country borough in Wales).”

## CHAPTER 7

### OVERVIEW AND SCRUTINY COMMITTEES AND STANDARDS COMMITTEES

## 106 Voting rights of co-opted members of overview and scrutiny committees

(1) The 2000 Act is amended in accordance with subsections (2) and (3).

(2) In Schedule 1 (further provision about executive arrangements), at the end insert –

*“Overview and scrutiny committees: voting rights of co-opted members*

15 (1) A local authority may –

(a) permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee;

(b) permit a co-opted member of a sub-committee of an overview and scrutiny committee of the authority to vote at meetings of the sub-committee.

(2) Permission to vote at meetings of an overview and scrutiny committee may include permission to vote at meetings of its sub-committees (including sub-committees it may appoint in the future).

(3) Permission under this paragraph may only be given with the

agreement of the overview and scrutiny committee.

- (4) Permission must relate to a specific co-opted member.
- (5) Permission may be given subject to limitations.
- (6) A limitation may, in particular, relate to—
  - (a) the questions on which the co-opted member is entitled to vote;
  - (b) the duration of the co-opted member's entitlement to vote.
- (7) The Welsh Ministers may by regulations make provision about the exercise of the functions of local authorities and overview and scrutiny committees under this paragraph.
- (8) Regulations under sub-paragraph (7) may, in particular, include—
  - (a) provision for a maximum or minimum number of co-opted members of an overview and scrutiny committee or sub-committee that may be permitted to vote at meetings;
  - (b) provision about the procedure for giving permission.
- (9) Section 101 of the Local Government Act 1972 (c.70) (arrangements for discharge of functions by local authorities) does not apply to the functions of a local authority under this paragraph.
- (10) In this paragraph, "co-opted member", in relation to an overview and scrutiny committee of a local authority or a sub-committee of such a committee, means a member of the committee or sub-committee who is not a member of the authority."

- (3) In section 21(10) (co-opted members of overview and scrutiny committees), after "that meeting" insert "unless permitted to do so under paragraph 15 of Schedule 1".
- (4) In section 58(3)(c)(i) of the 2011 Measure (provisions that may be applied to joint overview and scrutiny committees), after "section 21 of" insert ", or paragraphs 8 to 15 of Schedule 1 to,".
- (5) In section 185(3)(b)(i) of the National Health Service (Wales) Act 2006 (c.42) (provisions that may be applied to joint overview and scrutiny committees with functions relating to the health service), after "(6) to (17) of" insert ", and paragraph 15 of Schedule 1 to,".

### 30 **107 Making information available to overview and scrutiny committees**

In section 22(10) of the 2000 Act (power to require information to be made available about decisions), for "or members of the authority" substitute ", members of the authority, an overview and scrutiny committee of the authority or a sub-committee of such a committee".

### 35 **108 Power to require authorities to appoint joint overview and scrutiny committees**

- (1) Section 58 of the 2011 Measure (joint overview and scrutiny committees) is amended as follows.
- (2) In subsection (1), after "authorities may" insert "or must".
- (3) In subsection (3), for paragraph (a) substitute—

- “(a) provision about the circumstances in which arrangements may be made;
- (aa) provision prescribing circumstances in which arrangements must be made;
- 5 (ab) provision for arrangements to be made subject to prescribed conditions or limitations;”.

## 109 Duty of standards committee to make annual report

In Part 3 of the 2000 Act, at the end of Chapter 1 insert—

### “56B Annual reports by standards committees

- 10 (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.
- (2) The annual report must describe how the committee’s functions have been discharged during the financial year.
- 15 (3) In particular, it must include a summary of—
- (a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;
- (b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;
- 20 (c) action taken by the committee following its consideration of such reports and recommendations;
- (d) notices given to the committee under Chapter 4 of this Part.
- (4) An annual report by a standards committee of a county council in Wales must include—
- 25 (a) 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;
- (b) a summary of—
- 30 (i) matters referred to the chair of the committee under section 88 (possible breach of performance duties by members) of the Local Government (Wales) Act 2017, and
- (ii) matters considered under section 92 of that Act (consideration by standards committee of possible breaches of duties), and determinations made under section 93 of that Act (standards committee’s determination in relation to possible breaches of duties).
- 35 (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.
- 40

- (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.
- (7) The function of considering the report may be discharged only by the relevant authority (and is accordingly not a function to which section 101 of the Local Government Act 1972 applies).
- (8) In this section “financial year” means a period of 12 months ending with 31 March.”

## CHAPTER 8

### MINOR AMENDMENTS TO OTHER LEGISLATION

#### 110 Minor amendments to other legislation

- (1) Section 106 of the 2000 Act (orders and regulations) is amended in accordance with subsections (2) and (3).
- (2) Omit subsection (5).
- (3) In subsection (6) –
- (a) after “made under” insert “section 52A(3),”;
  - (b) after “54(5)” insert “or under paragraph 15(7) of Schedule 1”.
- (4) In the Local Government (Democracy) (Wales) Act 2013 (anaw 4), omit section 68(4)(a).

## PART 5

### COUNTY COUNCILS: IMPROVEMENT OF GOVERNANCE

#### CHAPTER 1

##### DUTY TO MAKE ARRANGEMENTS TO SECURE GOOD GOVERNANCE ETC.

#### 111 Governance arrangements

- (1) A county council must, in relation to the exercise of its functions, make, implement and comply with arrangements (“governance arrangements”) for the purpose of securing –
- (a) good governance;
  - (b) accountability;
  - (c) economy, efficiency and effectiveness in its use of resources.
- (2) In making governance arrangements, a county council must comply with the principles, processes and practices set out or otherwise prescribed by the Welsh Ministers in regulations made under subsections (3) and (4).
- (3) The Welsh Ministers must by regulations make provision about principles, processes and practices relating to good governance, and they may do so by prescribing in the regulations any code of practice or guidance (whether or not issued by the Welsh Ministers).

- (4) The Welsh Ministers may by regulations make provision about principles, processes and practices relating to accountability and the economy, efficiency and effectiveness of a county council in its use of resources, and they may do so by prescribing any code of practice or guidance (whether or not issued by the Welsh Ministers).
- 5 (5) The Welsh Ministers may by regulations make further provision about governance arrangements

## CHAPTER 2

### CORPORATE PLANS

#### *Preparation, publication and review of corporate plans*

#### 10 **112 Duty of county councils to prepare and publish a corporate plan**

- (1) A county council must prepare and publish a corporate plan in accordance with this section.
- (2) The plan must include a statement of the council's priorities in relation to the exercise of its functions (including its priorities in relation to its performance in the short-term, 15 medium-term and long-term).
- (3) The plan must include a statement identifying matters in relation to which the council anticipates making decisions of particular significance.
- (4) The plan must set out information about the council's strategies relating to—
- 20 (a) workforce and workforce planning;
- (b) financial affairs and financial planning;
- (c) complaints handling;
- (d) risk management;
- (e) overview and scrutiny of the exercise of its functions;
- (f) management of assets;
- 25 (g) public participation (as to which, see section 38).
- (5) The plan must, when it is first published, include—
- (a) the documents mentioned in subsection (6), as most recently published, or
- (b) information on how to obtain those documents (including in electronic form).
- (6) The documents are—
- 30 (a) the self assessment report published by the county council under section 117,
- (b) the well-being objectives, and the statement relating to them, published by the county council in accordance with sections 3 and 7 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2),
- (c) the annual report published by the county council under section 13 of that Act, 35 and
- (d) the assessment of local well-being published by the public services board for the county under section 37 of that Act.



- (7) The Welsh Ministers may by regulations make further provision about what must be included in a corporate plan.

### 113 When corporate plan is to be published

- (1) A county council must publish its first corporate plan no later than three months after the date of the first ordinary election of councillors of the council following the coming into force of this section.
- (2) Subsequently, a county council must publish corporate plans no later than three months after the date of each ordinary election of councillors of the council.
- (3) The Welsh Ministers may by regulations make—
- (a) provision about how a corporate plan is to be published, and
  - (b) further provision about when a corporate plan must be published, including provision amending subsection (1) or (2) for the purpose of changing the deadline by which publication must take place.

### 114 Review and revision of corporate plan

- (1) A county council must review its corporate plan from time to time (but not less frequently than at intervals of one year).
- (2) As part of each review, the council must assess its progress in relation to the priorities set out in the statement included in the plan under section 112(2).
- (3) On completing the review, the council must publish a revised corporate plan that includes a report of the assessment under subsection (2).
- (4) The council must ensure that the revised plan includes—
- (a) the documents mentioned in section 112(6), as most recently published, or
  - (b) information on how to obtain those documents (including in electronic form).
- (5) The council must also publish a revised plan if it thinks it is appropriate to do so for any other reason.

### 115 Consultation about corporate plan

Before preparing or revising its corporate plan, a county council must consult—

- (a) each Local Health Board for an area any part of which is in the council's area,
- (b) the public services board for the council's area, and
- (c) any other persons the council thinks appropriate.

## CHAPTER 3

### ASSESSMENTS OF GOVERNANCE ARRANGEMENTS

#### *Self assessment*

### 116 Duty of county council to carry out self assessment

- (1) A county council must carry out a self assessment from time to time (but not less

frequently than at intervals of one year).

- (2) A self assessment is an assessment by the council of its compliance with its duties under section 111.

### 117 Self assessment report

5 (1) A county council must prepare a report of each self assessment that it carries out (a “self assessment report”).

(2) A self assessment report must –

(a) set out the council’s assessment of its compliance with its duties under section 111, and

10 (b) identify what action (if any) the council proposes to take in the light of that assessment.

(3) The county council must make a draft of the self assessment report available to its corporate governance and audit committee.

15 (4) The corporate governance and audit committee must review the draft of the self assessment report and may make recommendations for changes to the draft.

(5) The county council must, in finalising the self assessment report –

(a) have regard to any recommendations for changes made by the corporate governance and audit committee, and

20 (b) if it does not make a change recommended by the committee, set out in the self assessment report the recommendation and the reasons why it did not make the change.

(6) The county council must publish the finalised self assessment report.

(7) The Welsh Ministers may by regulations make provision about –

(a) the form and content of a self assessment report;

25 (b) when and how it must be published.

#### *Peer assessment*

### 118 Duty of county council to arrange peer assessments

(1) A county council must arrange for peer assessments to be carried out.

30 (2) A peer assessment is an assessment, by a panel appointed by the county council, of the council’s compliance with its duties under section 111.

(3) The Welsh Ministers may by regulations make provision about the appointment of panels to carry out peer assessments.

(4) The regulations may, in particular, include provision about –

(a) the number of people who may or must be appointed to a panel;

35 (b) descriptions of people who may or must be appointed to a panel;

(c) circumstances in which a person may not be appointed to a panel.

### 119 Frequency of peer assessments

- (1) Arrangements made by a county council under section 118 must ensure that a peer assessment is carried out in relation to the council –
  - (a) no later than 31 March 2023, and
  - (b) at least once during each electoral cycle after that date.
- 5 (2) In subsection (1)(b), an “electoral cycle” means a period that –
  - (a) begins with an ordinary election of members of a county council, and
  - (b) ends with the next ordinary election of members of the council.
- (3) The Welsh Ministers may by regulations amend subsections (1) and (2) for the purpose of changing when and how often a peer assessment must be carried out.

#### 10 **120 Peer assessment report**

- (1) Arrangements made by a county council under section 118 must require a panel that carries out a peer assessment in relation to the council to –
  - (a) prepare a report of the assessment (a “peer assessment report”), and
  - (b) submit the report to the council.
- 15 (2) The peer assessment report –
  - (a) must set out the panel’s assessment of the council’s compliance with its duties under section 111, and
  - (b) may recommend action to be taken by the council in the light of that assessment.
- (3) The county council must publish the peer assessment report.

#### 20 **121 Council’s response to peer assessment report**

- (1) A county council must prepare a response to each peer assessment report submitted to it.
- (2) The response must –
  - (a) state whether the council accepts the assessment and recommendations (if any) set out in the report, and
  - 25 (b) identify what action (if any) the council proposes to take in the light of the report.
- (3) The county council must make a draft of the response to the peer assessment report available to its corporate governance and audit committee.
- (4) The corporate governance and audit committee must review the draft of the response to the peer assessment report and may make recommendations for changes to the draft.
- 30 (5) The county council must, in finalising the response to the peer assessment report –
  - (a) have regard to any recommendations for changes made by the corporate governance and audit committee, and
  - (b) if it does not make a change recommended by the committee, set out in the response the recommendation and the reasons why it did not make the change.
- 35 (6) The county council must publish the finalised response to the peer assessment report.

#### **122 Further provision about peer assessment report and response**

The Welsh Ministers may by regulations make provision about—

- (a) the form and content of a peer assessment report and response;
- (b) when and how the report and response must be published.

*Combined regulators' assessment*

5 **123 Definitions of “relevant regulator” and “relevant functions”**

(1) In this Part—

- (a) “relevant regulator” means a person listed in subsection (2);
- (b) the “relevant functions” of a relevant regulator means the functions specified in respect of the regulator in that subsection.

10 (2) The relevant regulators and their relevant functions are—

- (a) Her Majesty’s Chief Inspector of Education and Training in Wales exercising functions under section 38 of the Education Act 1997 (c.44);
- (b) the Welsh Ministers exercising functions under sections 149A and 149B of the Social Services and Well-being (Wales) Act 2014 (anaw 4);

15 (c) the Auditor General for Wales—

- (i) auditing the accounts of a county council under Chapter 1 of Part 2 of the Public Audit (Wales) Act 2004 (c.23),
- (ii) undertaking studies under Chapter 2 of Part 2 of that Act in relation to a county council, or
- (iii) carrying out examinations of a county council under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2).

20 (3) The Welsh Ministers may by regulations amend subsection (2) by—

- (a) adding or removing a person or function, or
- (b) varying the description of a person or function.

25 **124 Duty to carry out combined assessment of governance arrangements of county council**

(1) The relevant regulators must, at such intervals as they think fit, carry out a combined assessment in relation to each county council.

30 (2) A combined assessment is an assessment of a county council’s compliance with its duties under section 111 carried out jointly by the relevant regulators, based on a review by the relevant regulators of—

- (a) reports relating to the council made by each of the relevant regulators in the exercise of their relevant functions,
- (b) information available to the relevant regulators as a result of exercising their relevant functions in relation to the council, and
- (c) documents published in relation to the council under this Part.

35 (3) A relevant regulator may share reports and information within subsection (2)(a) and (b) with the other relevant regulators for the purposes of a combined assessment.

- (4) In carrying out a combined assessment, the relevant regulators may consult any other person who exercises functions of a public nature in relation to the council.

## 125 Report of combined assessment

- 5 (1) The relevant regulators must prepare a report of each combined assessment (a "combined assessment report").
- (2) The combined assessment report must set out the relevant regulators' assessment of the county council's compliance with its duties under section 111.
- (3) The combined assessment report may also include –
- 10 (a) recommendations to the council about action that it should take in the light of that assessment;
- (b) recommendations to the Welsh Ministers about the exercise of their functions under this Part in relation to the council.
- (4) The relevant regulators must try to reach agreement about the matters to be set out in the combined assessment report, but where they are unable to do so, the report may set out
- 15 the views of each of them separately.
- (5) The relevant regulators must send a copy of the combined assessment report –
- (a) to the county council to which the combined assessment relates, and
- (b) if the report includes recommendations to the Welsh Ministers, to the Welsh Ministers.
- 20 (6) The county council must publish the combined assessment report.

## 126 Council's response to combined assessment report

- (1) A county council that receives a combined assessment report must prepare a response to the report.
- (2) The response must –
- 25 (a) state whether the council accepts the assessment and recommendations (if any) set out in the report, and
- (b) identify what action (if any) the council proposes to take in the light of the report.
- (3) The county council must make a draft of the response to the combined assessment report available to its corporate governance and audit committee.
- 30 (4) The corporate governance and audit committee must review the draft of the response to the combined assessment report and may make recommendations for changes to the draft.
- (5) The county council must, in finalising the response to the combined assessment report –
- 35 (a) have regard to any recommendations for changes made by the corporate governance and audit committee, and
- (b) if it does not make a change recommended by the committee, set out in the response the recommendation and the reasons why it did not make the change.
- (6) The county council must send a copy of the finalised response to the combined assessment report –

- (a) to the relevant regulators, and
  - (b) if the combined assessment report includes recommendations to the Welsh Ministers, to the Welsh Ministers.
- (7) The county council must publish the response to the combined assessment report.

5 **127 Further provision about combined assessments**

The Welsh Ministers may by regulations make provision about –

- (a) when a combined assessment must be carried out;
- (b) the form and content of a combined assessment report and response;
- (c) when and how the report and response must be published.

10

**CHAPTER 4**

**GOVERNANCE REVIEWS AND INTERVENTION**

*Governance reviews*

**128 Welsh Ministers' power to arrange governance review**

- 15 (1) If the Welsh Ministers consider that a county council is, or may be, failing to comply with any of its duties under section 111, they may arrange for a governance review to be carried out in respect of the council.
- (2) A governance review is a review of a county council's compliance with its duties under section 111, with a view to identifying any action that should be taken to ensure its compliance with those duties.
- 20 (3) Arrangements made by the Welsh Ministers for a governance review to be carried out must –
- (a) describe the scope of the review,
  - (b) identify the person by whom the review is to be carried out (the "reviewer"), and
  - (c) specify a period within which the reviewer is to send a report to the Welsh Ministers under section 133(4).
- 25 (4) The arrangements may include any other provision that the Welsh Ministers think is appropriate.

**129 Consultation to be carried out before making arrangements for governance review**

30 Before making arrangements for a governance review to be carried out in respect of a county council, the Welsh Ministers must consult –

- (a) the council, and
- (b) whatever other persons (if any) the Welsh Ministers think appropriate.

**130 Duty to notify council of arrangements for governance review**

- 35 (1) As soon as reasonably practicable after making arrangements for a governance review, the Welsh Ministers must notify the council concerned of the arrangements, and of the

reasons for making the arrangements.

- (2) The notification must –
- (a) describe the scope of the review,
  - (b) identify the reviewer, and
  - (c) state the period specified under section 128(3)(c).

### 131 Council's duty to co-operate with governance reviewer

A county council that is the subject of a governance review must provide the reviewer with whatever facilities and assistance the reviewer may reasonably require for the purpose of carrying out the review, including among other things by providing documents, records and other information.

### 132 Provision of information by other persons

- (1) A reviewer carrying out a governance review in respect of a county council may require a person within subsection (3) to provide the reviewer with whatever facilities and assistance the reviewer may reasonably require for the purpose of carrying out the review, including among other things by providing documents, records and other information.
- (2) That person must take all reasonable steps to comply with the requirement.
- (3) The persons are –
- (a) the public services board for the county council's area;
  - (b) the Local Health Board for an area any part of which is in the county council's area;
  - (c) a community council in the county council's area;
  - (d) Her Majesty's Chief Inspector of Education and Training in Wales;
  - (e) the Auditor General for Wales.
- (4) A person is not required by this section to provide documents, records or other information if the person is prohibited from providing them by any enactment or other rule of law.
- (5) The power in subsection (1) includes power to require documents or records to be produced in a form which is legible and portable.
- (6) The Welsh Ministers may by regulations amend subsection (3) by –
- (a) adding or removing a person, or
  - (b) varying the description of a person.

### 133 Reviewer's duty to prepare report

- (1) Where a governance review has been carried out in respect of a county council, the reviewer must prepare a report on the review (a "governance review report").
- (2) The governance review report must –
- (a) set out the reviewer's assessment of the council's compliance with its duties under

section 111,

- (b) identify any action that the reviewer recommends be taken in order to ensure that the council complies with those duties,
- (c) specify the person who the reviewer considers should take the action,
- (d) specify the period within which the reviewer considers that the action should be taken, and
- (e) set out whether the reviewer considers that the action is likely to be taken within that period.

(3) The report must also contain any other information about the review, or the governance arrangements of the council, that is requested by the Welsh Ministers.

(4) The reviewer must send a copy of the governance review report to –

- (a) the county council, and
- (b) the Welsh Ministers.

(5) The county council must publish the report within the period of 14 days starting with the date on which a copy of it is sent to the council under subsection (4).

#### **134 Council's response to governance review report**

(1) A county council must prepare a response to any governance review report sent to it under section 133(4).

(2) The response must identify what action (if any) the council proposes to take in the light of the report.

(3) The county council must make a draft of the response to the governance review report available to its corporate governance and audit committee.

(4) The corporate governance and audit committee must review the draft of the response to the governance review report and may make recommendations for changes to the draft.

(5) The county council must, in finalising the response to the governance review report –

- (a) have regard to any recommendations for changes made by the corporate governance and audit committee, and
- (b) if it does not make a change recommended by the committee, set out in the response the recommendation and the reasons why it did not make the change.

(6) The county council must –

- (a) send the finalised response to the governance review report to the Welsh Ministers before the end of the period of 31 days starting with the date on which the copy of the report is sent to the council under section 133(4), and
- (b) publish the response.

(7) The Welsh Ministers may extend the period in subsection (6)(a) in any particular case if satisfied that the extension is reasonable to allow the council to discharge its duties under this section.

(8) A period may be extended under subsection (7) more than once.



*Intervention directions***135 Welsh Ministers' power to give intervention directions**

- (1) The Welsh Ministers may give an intervention direction to a county council if –
- (a) they have received a copy of a governance review report in respect of the council, and the council's response to the report, and
  - (b) they consider that giving an intervention direction is necessary or appropriate in order to ensure that the council complies with its duties under section 111.
- (2) An intervention direction is a direction within section 136, 137 or 138.

**136 Direction to obtain support services**

- (1) A direction within this section is a direction to a county council to enter into a contract or other arrangement with a specified person, or with a person of a specified description, for the provision to the council of specified support services.
- (2) "Support services" are services that the Welsh Ministers consider to provide information, advice, training, or other support.
- (3) A direction within this section may require the contract or other arrangement to contain specified terms and conditions.

**137 Direction to take specified steps**

A direction within this section is a direction to a county council to take specified steps, within a specified period.

**138 Direction that functions be performed by Welsh Ministers or their nominee**

- (1) A direction within this section is a direction that specified functions of a county council be exercised by the Welsh Ministers or a person nominated by them.
- (2) If a direction within this section is in force –
- (a) the council to which it relates must comply with the instructions of the Welsh Ministers or their nominee in relation to the exercise of the functions, and
  - (b) the functions of the council to which it relates are to be treated for all purposes as being exercisable by the Welsh Ministers or their nominee.
- (3) The Welsh Ministers may by regulations make provision amending, repealing, revoking or applying any statutory provision (whenever passed or made, including a statutory provision contained in or made under this Act), for the purposes of its application in respect of functions exercisable by the Welsh Ministers or their nominee by virtue of a direction within this section.
- (4) In this section, "statutory provision" means a provision of –
- (a) a Measure or Act of the National Assembly for Wales;
  - (b) an Act of Parliament;
  - (c) an instrument made under a Measure or Act of the National Assembly for Wales, or under an Act of Parliament.

**139 General provision about intervention directions**

- (1) A county council must comply with an intervention direction given to it.
- (2) An intervention direction –
- (a) must be in writing;
  - (b) may be varied or revoked by a later direction.

**140 Duty to co-operate**

- (1) A county council must provide a person within subsection (2) with whatever facilities and assistance the person may reasonably require in connection with the exercise of functions by virtue of an intervention direction, including among other things by providing documents, records and other information.
- (2) The persons are –
- (a) the Welsh Ministers;
  - (b) any person authorised for the purposes of this section by the Welsh Ministers;
  - (c) any person acting under an intervention direction;
  - (d) any person assisting –
    - (i) the Welsh Ministers, or
    - (ii) a person mentioned in paragraph (b) or (c).

**141 Powers of entry and inspection**

- (1) A person within subsection (2) has at all reasonable times –
- (a) a right of entry to the premises of the county council concerned;
  - (b) a right to inspect, and take copies of, any records or other documents kept by that council, and any documents containing information relating to that council, that the person considers relevant to the exercise of the person's functions under or by virtue of this Chapter.
- (2) The following persons are within this subsection –
- (a) a person specified in a direction within section 136 given to a county council, or, where a direction within section 136 given to a county council specifies a description of persons, the person with whom the county council enters into the contract or other arrangement required by the direction;
  - (b) the Welsh Ministers, where they have given a county council a direction within section 138 that specified functions of the council be exercised by the Welsh Ministers;
  - (c) a person nominated by a direction within section 138 given to a county council.
- (3) In exercising the right under subsection (1)(b) to inspect records or other documents, a person ("P") –
- (a) is entitled to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the records or other documents in question, and

(b) may require the following persons to provide any assistance P may reasonably require (including, among other things, the making of information available for inspection or copying in a legible form) –

(i) a person by whom or on whose behalf the computer is or has been so used;

(ii) a person having charge of, or being otherwise concerned with the operation of, the computer, apparatus, or material.

(4) Any reference in this section to a person falling within subsection (2) includes a reference to any person assisting that person.

## 142 Interpretation of Chapter

(1) In this Chapter, “specified”, in relation to a direction, means specified in the direction.

(2) References in this Chapter to “documents” and “records” each include information recorded in any form.

## CHAPTER 5

### CO-ORDINATION BETWEEN REGULATORS

## 143 Co-ordination of relevant functions of relevant regulators

(1) The relevant regulators must have regard to the need for co-ordination in the exercise of relevant functions.

(2) The Welsh Ministers may by regulations make further provision for and in connection with the co-ordination of the exercise by relevant regulators of relevant functions.

(3) Regulations made under subsection (2) may, among other things, make provision for –

(a) a timetable for the exercise of relevant functions to be prepared and published;

(b) relevant regulators to be required to adhere to the timetable;

(c) information to be shared between relevant regulators in connection with the exercise of relevant functions;

(d) relevant regulators to consult one another in relation to the exercise of relevant functions.

## CHAPTER 6

### MISCELLANEOUS PROVISION ABOUT CHAPTERS 1 TO 5

## 144 Guidance

A person exercising functions under this Part must have regard to any guidance issued by the Welsh Ministers.

## 145 Exercise of functions under this Part

(1) The functions conferred on a county council by this Part (other than functions expressly conferred on a committee of a council) may be exercised by the council or by its executive, as the council may determine.

- (2) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply in relation to any function of a county council under this Part (including the function in subsection (1)).
- (3) If a county council determines that any function under this Part is to be exercised by its executive, section 14 or (as the case may be) 15 of the 2000 Act (discharge of functions by executives) does not apply in relation to that function.

#### 146 Interpretation of Part

In this Part –

“combined assessment” (*“asesiad cyfun”*) has the meaning given in section 124 and “combined assessment report” has the meaning given in section 125;

“corporate plan” (*“cynllun corfforaethol”*) is to be interpreted in accordance with section 112;

“governance arrangements” (*“trefniadau llywodraethu”*) has the meaning given in section 111;

“governance review” (*“adolygiad llywodraethu”*) has the meaning given in section 128 and “governance review report” (*“adroddiad ar adolygiad llywodraethu”*) has the meaning given in section 133;

“intervention direction” (*“cyfarwyddyd ymyrryd”*) has the meaning given in section 135;

“peer assessment” (*“asesiad gan gymheiriaid”*) has the meaning given in section 118 and “peer assessment report” (*“adroddiad ar asesiad gan gymheiriaid”*) has the meaning given in section 120;

“public services board” (*“bwrdd gwasanaethau cyhoeddus”*) has the same meaning as in the Well-being of Future Generations (Wales) Act 2015 (anaw 2);

“relevant regulator” (*“rheoleiddiwr perthnasol”*) and “relevant functions” (*“swyddogaethau perthnasol”*) have the meanings given in section 123;

“reviewer” (*“adolygydd”*) has the meaning given in section 128(3)(b);

“self assessment” (*“hunanasesu”*) has the meaning given in section 116 and “self assessment report” (*“adroddiad hunanasesu”*) has the meaning given in section 117.

#### 147 Amendment of Local Government (Wales) Measure 2009

- (1) In the Local Government (Wales) Measure 2009 (nawm 2), in section 1 (meaning of “Welsh improvement authority”), omit paragraph (a).
- (2) In consequence of the amendment in subsection (1), in Part 1 of that Measure –
- in section 4 (aspects of improvement), omit subsection (3)(a);
  - in section 11 (meaning of “powers of collaboration”), omit subsections (1)(b) and (2);
  - in section 16 (meaning of “relevant regulators” and “relevant functions”), omit subsection (2)(a) and (b);
  - in section 22 (reports of special inspections), omit subsection (5).

## CHAPTER 7

## CORPORATE GOVERNANCE AND AUDIT COMMITTEES

**148 Renaming of audit committees**

- 5 (1) In section 81 of the 2011 Measure (local authorities to appoint audit committees), in subsection (1), for “(an “audit committee”)” substitute “(a “corporate governance and audit committee”)”.
- (2) Schedule 9 makes consequential amendments to the 2011 Measure relating to the renaming of audit committees.

**149 Functions of corporate governance and audit committee**

- 10 (1) After section 81 of the 2011 Measure insert –

**“81A Further provision about functions of committees**

- (1) In exercising its functions under section 81(1) the corporate governance and audit committee of a local authority must, in particular, assess –

- 15 (a) the authority’s ability to comply with its duties under section 111 of the Local Government (Wales) Act 2017;
- (b) the authority’s ability to make progress in relation to the priorities set out in the statement included in its corporate plan under section 112(2) of that Act;
- 20 (c) the arrangements made by the authority –
- (i) in relation to self assessments under section 116 of that Act;
- (ii) under section 118 of that Act (peer assessments), and
- (d) the local authority’s ability to handle complaints effectively.

- 25 (2) The corporate governance and audit committee must report to the local authority on an assessment under subsection (1).

- (3) A corporate governance and audit committee also has functions under –

- 30 (a) section 117 of the Local Government (Wales) Act 2017 (self assessment reports);
- (b) section 121 of that Act (responses to peer assessment reports);
- (c) section 126 of that Act (responses to combined assessment reports);
- 35 (d) section 134 of that Act (responses to governance review reports).”

**150 Membership of corporate governance and audit committee**

- (1) Section 82 of the 2011 Measure (membership) is amended as follows.

(2) In subsection (2) –

(a) in paragraph (a) omit the words “at least”;

(b) for paragraph (b) substitute –

“(b) one-third of the members of that committee are lay persons;”.

(3) After subsection (5) insert –

“(5A) A corporate governance and audit committee is to appoint –

(a) a member of the committee as its chair (“the committee chair”),  
and

(b) a member of the committee as the deputy to the committee  
chair (“the deputy chair”).

(5B) The member appointed as the committee chair must be a lay person.

(5C) The member appointed as the deputy chair must not be a member of  
the local authority’s executive.”

(4) Omit subsection (6).

## 151 Meaning of lay person

In section 87 of the 2011 Measure (interpretation), omit the definition of “lay member”  
and insert –

““lay person” (“*person lleyg*”) means a person who –

(a) is not a member or an officer of any local authority,

(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

(c) is not the spouse or civil partner of a member or an officer of  
any local authority;”.

## 152 Proceedings etc.

(1) Section 83 of the 2011 Measure (proceedings) is amended as follows.

(2) For subsections (1) and (2) substitute –

“(1) A meeting of a corporate governance and audit committee is to be  
chaired –

(a) by the committee chair, or

(b) if the committee chair is absent, by the deputy chair.

(2) If both the committee chair and the deputy chair are absent the  
committee may appoint another member of the committee (who may  
not be a member of the local authority’s executive) to chair the  
meeting.”

(3) Omit subsection (8).

**PART 6****COMMUNITY COUNCILS****CHAPTER 1****REVIEW OF COMMUNITY COUNCIL ARRANGEMENTS**5 **153 Duty to review community council arrangements**

- (1) The Local Democracy and Boundary Commission for Wales (“the Commission”) must conduct a community council review in relation to each of the counties in Wales, as set out in Schedule 1 (but the Commission may begin to conduct the reviews at any time before 1 April 2020).
- 10 (2) In this Chapter, “community council review”, in relation to a county, means a review of the communities in the area of the county which is conducted for the purpose of recommending that the council for the county makes changes in respect of—
- (a) councils for communities and common community councils in the area of the county, and
  - 15 (b) the electoral arrangements for communities in the area of the county.
- (3) For the purposes of subsection (2)(a), the Commission may recommend that the council for a county under review should, in relation to communities in the area of the county and their councils—
- (a) establish a separate council for a community;
  - 20 (b) dissolve a separate council for a community;
  - (c) group two or more communities together under a new common community council;
  - (d) add one or more communities to a group of communities for which there is a common community council;
  - 25 (e) separate one or more communities from a group of communities;
  - (f) dissolve a group of communities and its common community council;
  - (g) give a name to a new, or change the name of an existing, council for a community or common community council.
- (4) In subsection (2)(b) “electoral arrangements”, in relation to a community, means—
- 30 (a) the number of members of a council for the community or a common community council for a group which includes the community;
  - (b) the division of the community into community wards for the purpose of the election of members to a council for the community or a common community council for a group which includes the community;
  - 35 (c) the apportionment of members of a council for the community, or of a common community council for a group which includes the community, among community wards;
  - (d) the number, type and boundaries of any community wards into which the

community is to be divided for the purpose of the election of members to a council for the community or a common community council for a group which includes the community;

(e) the number of members to be elected for a community ward;

(f) the name of a community ward.

(5) In subsection (4)(d) the reference to the type of a community ward is a reference to whether the 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.

(6) The Commission may, in consequence of recommendations it makes in respect of matters set out in subsection (2)(a) and (b), recommend that a county council should –

(a) change the boundaries of communities in the area of the county;

(b) constitute a new community within the area of the county (whether by merging existing communities in whole or in part, or otherwise);

(c) abolish an existing community in the area of the county,

and the Commission may also make recommendations as to the name of an altered or new community.

#### **154 Conduct of community council review**

(1) In conducting a community council review, the Commission must seek to ensure effective and convenient local government.

(2) In considering on a community council review whether a community should be divided into community wards, the Commission must have regard to –

(a) whether the number or distribution of the local government electors for the community makes a single election of community councillors impractical or inconvenient, and

(b) whether it is desirable that any area of the community should be separately represented on the community council.

(3) Where it is decided on a community council review that a community should be divided into community wards, or that changes should be made to any existing wards in a community, in considering the size and boundaries of the wards and in setting the number of community councillors to be elected for each ward the Commission must have regard to –

(a) any change in the number or distribution of local government electors for the community which is likely to take place within the period of five years immediately after any recommendation is made,

(b) the desirability of setting boundaries which are and will remain easily identifiable, and



(c) any local ties which will be broken by the setting of any particular boundaries.

(4) Where it is decided on a community council review that a community which is divided into wards should no longer be divided into wards, or that the number of councillors to be elected for a community which is not divided into wards should change, in setting the number of councillors to be elected for each community the Commission must have regard to –

(a) the number and distribution of local government electors for the community, and

(b) any change in the number or distribution of local government electors for the community which is likely to take place within the period of five years immediately after the number of community councillors is set.

(5) For the purposes of subsections (2) to (4) 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).

(6) In this section –

“relevant official statistics” (*“ystadegau swyddogol perthnasol”*) means the official statistics within the meaning of section 6 of the Statistics and Registration Service Act 2007 (c.18) which the Commission considers appropriate;

“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.

## 155 Pre-review notification

Before conducting a community council review, the Commission must take the steps it considers appropriate to bring the review to the attention of –

(a) every county council and county borough council established under section 20 of the 1972 Act whose area is in the area of the county in relation to which the review will be conducted;

(b) the councils for communities and common community councils in the area of the county;

(c) the local government electors for a community in the area of the county which does not have a separate council and is not grouped under a common community council;

(d) every organisation which represents a council for a community or a common community council in the area of the county and which has asked the Commission to be consulted;

(e) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by a council for a community or a common community council in the area of the county;

(f) any other persons it considers likely to be interested in the review.

## 156 Consultation, investigation and report

(1) In conducting a community council review, the Commission –

- (a) must consult—
- (i) every county council and county borough council established under section 20 of the 1972 Act whose area is in the area of the county in relation to which the review is being conducted,
  - 5 (ii) the council for the county in relation to which the review is being conducted (after the ordinary elections of councillors for the that county held on 2 May 2019 under section 14),
  - (iii) the review consultees, and
  - (iv) any other persons it considers appropriate, and
- 10 (b) must conduct the investigations it considers appropriate.
- (2) In this Chapter “the review consultees”, in relation to a county, are—
- (a) the councils for communities and common community councils in the area of the county;
  - 15 (b) the local government electors for a community in the area of the county which does not have a separate council and is not grouped under a common community council;
  - (c) every organisation which represents a council for a community or a common community council in the area of the county and which has asked the Commission to be consulted;
  - 20 (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by a council for a community or a common community council in the area of the county.
- (3) Every council for a community and common community council must provide the Commission with such information as the Commission may reasonably require in connection with a community council review.
- 25 (4) After conducting a community council review, the Commission must prepare a report containing—
- (a) any recommendations for change in respect of the matters in section 153(2) it considers appropriate or, if it does not consider any change appropriate, a recommendation to that effect, and
  - 30 (b) details of the review it conducted.
- (5) The Commission must, on or after 1 April 2020—
- (a) send the report to—
    - (i) the council for the county to which the review relates,
    - 35 (ii) the councils for communities and common community councils in the area of the county, and
    - (iii) the Welsh Ministers,
  - (b) publish the report on a website,
  - (c) secure that the report is available for inspection (without charge) during the period for representations at its offices and in the offices of the council for the
  - 40

county to which the report relates,

(d) secure that the report is available for inspection (without charge) during the period for representations at a location in each of the communities in the area of the county to which the report relates,

5 (e) inform the following persons of how to obtain a copy of the report –

(i) the review consultees (other than those mentioned in paragraph (a)(ii)),

(ii) any other person it consulted under subsection (1)(a)(iv), and

10 (iii) any other person who submitted evidence to it in the course of the review (other than a county council or county borough council which ceases to exist on 1 April 2020),

(f) invite representations on the recommendations in the report, and

(g) notify the following persons of the period for representations –

(i) the council for the county in relation to which the review is being conducted,

15 (ii) the review consultees,

(iii) any other person it consulted under subsection (1)(a)(iv),

(iv) any other person who submitted evidence to it in the course of the review (other than a county council or county borough council which ceases to exist on 1 April 2020),

20 (v) the Welsh Ministers, and

(vi) any other person it considers appropriate.

(6) For the purposes of subsection (5), “the period for representations” is a period of not less than 6, nor more than 12, weeks (as determined by the Commission) starting no earlier than one week after notice of the period is given under paragraph (g).

25 **157 Final report on review**

(1) After the period for representations under section 156(5) has ended, the Commission must consider its recommendations having regard to any representations received by it during that period.

(2) The Commission must then prepare a further report containing –

30 (a) any recommendations for change in respect of the matters in section 153(2) it considers appropriate or, if it does not consider any change appropriate, a recommendation to that effect,

(b) details of the review conducted and the consultation carried out in respect of the recommendations, and

35 (c) details of any changes to the recommendations made in the light of the representations received, and an explanation of why those changes have been made.

(3) The Commission must –

(a) submit the report to the council for the county to which the report relates no later

than the date specified by the Welsh Ministers in regulations,

- (b) publish the report on a website,
- (c) secure that the report is available for inspection (without charge) at its offices and in the offices of the council for the county to which the report relates, for a period of at least 6 weeks starting with the date on which the report is submitted to the council,
- (d) secure that the report is available for inspection (without charge) at a location in each of the communities in the area of the county to which the report relates for a period of at least 6 weeks starting with the date on which the report is submitted to the council,
- (e) send a copy of the report to—
  - (i) the councils for communities and common community councils in the area of the county, and
  - (ii) the Welsh Ministers, and
- (f) inform the following persons of how to obtain a copy of the report—
  - (i) the review consultees (other than those mentioned in paragraph (e)(i)),
  - (ii) any other person it consulted under section 156(1)(a)(iv), and
  - (iii) any other person who submitted evidence to it in the course of the review (other than a county council or county borough council which ceases to exist on 1 April 2020).

#### **158 Implementation of Commission recommendations by county council**

- (1) The council for the county to which a further report prepared by the Commission under section 157 relates must, where the report contains recommendations for change, by order—
  - (a) implement those recommendations without modification, or
  - (b) implement those recommendations with such modification as may be agreed with the Commission.
- (2) The county council may not make an order under subsection (1)—
  - (a) before the end of the period of 6 weeks starting with the date on which the Commission submitted its further report under section 157 to the council, and
  - (b) after the end of the period of 6 months starting with that date.
- (3) An order under subsection (1) must come into force before the date specified by the Welsh Ministers in regulations.
- (4) The county council must, on the day it makes the order—
  - (a) send a copy of the order to the Commission and to each council for a community and common community council affected by the order, and
  - (b) publish the order on a website.

#### **159 Community council arrangements order if Commission does not submit report**

- (1) If the Commission has not submitted a final report under section 157 to the council for the county to which the report relates before the date specified by the Welsh Ministers under section 157(3) the Welsh Ministers may make an order under subsection (2).
- (2) The Welsh Ministers may by order make provision –
- 5           (a) for any of the things set out in section 153(3), in relation to the county to which the report relates;
- (b) changing the electoral arrangements of communities in that county.
- (3) An order under subsection (2) may also make relevant consequential provision in relation to the county in question.
- 10       (4) The Commission must provide the Welsh Ministers with such information as the Welsh Ministers may reasonably require relating to any matters which have come to its attention in consequence of –
- (a) any consultation under section 156,
- (b) any investigations under that section,
- 15           (c) the preparation of a report under section 156 or 157, or
- (d) anything else done in the conduct of a community council review.
- (5) The Welsh Ministers must, on the day they make an order under subsection (2) –
- (a) send a copy of the order to the Commission, the county council and each council for a community and common community council affected by the order, and
- 20           (b) publish the order on a website.
- (6) The Welsh Ministers may by order vary or revoke an order under subsection (2) (or this subsection).
- (7) In this section –
- 25           “electoral arrangements” (*“trefniadau etholiadol”*) has the meaning given in section 153(4), and
- “relevant consequential provision” (*“darpariaeth ganlyniadol berthnasol”*) means provision doing anything that the Commission could recommend under section 153(6).

## 160       **Implementation by Welsh Ministers if county council does not implement**

- 30       (1) If a county council has not made an order under section 158 before the end of the period of 6 months starting with the date on which the Commission submitted its further report under section 157 to the council, the Welsh Ministers may by order –
- (a) implement the recommendations for change contained in the report without modification, or
- 35           (b) implement those recommendations for change with such modification as may be agreed with the Commission.
- (2) The Commission must provide the Welsh Ministers with any further information in relation to its recommendations which the Welsh Ministers may reasonably require.
- (3) The Welsh Ministers must, on the day they make an order under subsection (1) –

- (a) send a copy of the order to the Commission, the county council and each council for a community and common community council affected by the order, and
- (b) publish the order on a website.

### 161 Implementation orders: transitional, consequential etc. provision

- 5 (1) An order made under section 158, 159 or 160 may make such incidental, consequential, supplemental or transitional provision as the implementing authority considers necessary or expedient.
- (2) Such an order may in particular make provision about—
- 10 (a) the assignment of existing members of a council for a community or a common community council to new or altered community wards;
  - (b) the first election of members of a council for a community or a common community council for any new or altered community ward;
  - (c) the holding of a fresh election of members for all community wards in the community in question;
  - 15 (d) the order of retirement of members for a community ward;
  - (e) the constitution, election to and membership of any public body in any area or community ward affected by the order;
  - (f) any of the matters in section 163(2).
- (3) In this section—
- 20 “public body” (*“corff cyhoeddus”*) includes—
- (a) a county council, a council for a community and a common community council;
  - (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;
  - 25 (c) any other authority having powers of levying or issuing a precept for any rate for public purposes.
- “implementing authority” (*“awdurdod gweithredu”*) means—
- 30 (a) in the case of an order under section 158, the county council which made the order;
  - (b) in the case of an order under section 159 or 160, the Welsh Ministers.

### 162 Variation and revocation of implementation orders

- 35 (1) Other than as provided for by this section, orders made under this section or section 158 or 160 may not be varied or revoked.
- (2) An implementing authority may by order vary or revoke any provision which is—
- (a) contained in an order made under this section or section 158 or 160, and
  - (b) of a type described in section 161(2).

- (3) Before making an order under subsection (2) the implementing authority must comply with subsections (4) and (5).
- (4) The implementing authority must –
- 5 (a) send a copy of a draft of the order to any public body it considers likely to be affected by the order,
- (b) publish the draft order on a website and in such other manner as it considers likely to bring the order to the attention of persons who may have an interest in it,
- 10 (c) secure that a copy of the draft order is available for inspection (without charge) by interested persons at such places as the implementing authority considers appropriate, and
- (d) invite representations in relation to the draft order to be made within the period of 2 months starting on the date of publication on a website under paragraph (b).
- (5) The implementing authority must consider any representations received within the 2 month period, and may modify the order in the light of such representations.
- 15 (6) Where an implementing authority is satisfied that a mistake has occurred in the preparation of an order it has made under this section or section 158 or 160, it may by order make such provision as it considers necessary or expedient to rectify the mistake.
- (7) In subsection (6) “mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on information supplied by any public body which is
- 20 inaccurate or incomplete.
- (8) An implementing authority must, on the day it makes an order under this section –
- (a) send a copy of the order –
- (i) to the Commission,
- 25 (ii) to each council for a community and common community council affected by the order,
- (iii) if the implementing authority is the Welsh Ministers, to the council for the county to which the order relates, and
- (iv) if the implementing authority is a county council, to the Welsh Ministers, and
- 30 (b) publish the order on a website.
- (9) In this section –
- “implementing authority” means –
- (a) in the case of an order under section 158, and subject to subsection (10)(a), the county council that made the order;
- 35 (b) in the case of an order under section 160, the Welsh Ministers;
- “public body” has the meaning given in section 161.
- (10) Where an order under this section or section 158 was made by a county council which no longer exists (“the old council”) –
- (a) “implementing authority” means a county council which is a successor to the old
- 40 council, but an order made by a successor county council may vary or revoke

provision in the order under section 158 only in so far as it relates to the successor county council's area;

- (b) subsection (6) is to be read as enabling the successor county council to make an order rectifying a mistake in the preparation of an order made by the old council, but only in so far as the mistake relates to the successor county council's area.

### 163 General consequential, transitional etc. provision

- (1) The Welsh Ministers may by regulations make such incidental, consequential, supplemental or transitional provision as they consider necessary or expedient for the purposes of, or in connection with, giving full effect to orders made under section 158, 159 or 160.
- (2) Regulations under this section may in particular make provision –
- (a) about the functions, area or jurisdiction in or over an area (or part of an area), of any public body or office within an area (or community ward) affected by an order made under this Chapter;
  - (b) about the costs and expenses of a public body or office affected by such an order;
  - (c) for the transfer of staff of any such public body or office;
  - (d) for the transfer, management or custody of property (whether real or personal) and the transfer of rights and liabilities (including criminal liabilities);
  - (e) for the transfer of civil or criminal proceedings;
  - (f) in respect of charter trustees.
- (3) Regulations under this section may apply (with or without modifications), amend, repeal or revoke any charter, whenever made or granted, or enactment.
- (4) In this section, “public body” has the same meaning as in section 161.

### 164 Transfer of staff

- (1) This section applies to a transfer of staff which is provided for by an order or regulations made under this Chapter.
- (2) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) (“the TUPE Regulations”) apply to a transfer of staff to which this section applies (whether or not the transfer is a relevant transfer for the purposes of the TUPE Regulations), subject to subsection (3).
- (3) The following regulations of the TUPE Regulations do not apply to a transfer of staff to which this section applies –
- (a) regulation 4(6) (criminal liability), and
  - (b) regulation 10 (pensions).

### 165 Directions and guidance

- (1) The Welsh Ministers may give the Commission directions relating to the exercise of its functions under this Chapter.
- (2) Before giving a direction under this section, the Welsh Ministers must consult the



Commission and such bodies representing the interests of county councils (and, before 1 April 2020, county borough councils), councils for communities and common community councils as they consider appropriate.

- 5 (3) In exercising any function under this Chapter, the Commission and every county council (and, before 1 April 2020, every county council and county borough council established under section 20 of the 1972 Act) must have regard to any guidance issued by the Welsh Ministers.

#### 166 **Modification and amendment of section 30 of the 1972 Act**

- 10 (1) In section 30 of the 1972 Act (restriction on community applications during and after reviews), subsection (1) is to be read as if after paragraph (ba) there were inserted –

“(bb) during the period of two years beginning with the coming into force of an order relating to the community made under section 158, 159 or 160 of the Local Government (Wales) Act 2017; or”.

- 15 (2) Section 30 of the 1972 Act is to be read as if for subsection (3) there were substituted –

“(3) The Welsh Ministers may direct that no community applications may be made until the Welsh Ministers further direct.”

- (3) The Welsh Ministers may by regulations repeal subsection (2).

- (4) In section 30 of the 1972 Act, in subsection (3) for “or Part 3” substitute “under Part 3”.

## 20 **CHAPTER 2**

### **MEMBERS OF COMMUNITY COUNCILS TO COMPLETE TRAINING**

#### *Training for members of community councils*

#### 25 **167 County councils to consider the training needs of community councillors and to provide training**

- (1) A county council must –

- (a) consider whether it should be compulsory for members of community councils in the area of the county to complete any training (see section 168), and  
(b) secure the provision of any training which it is compulsory for members of those councils to complete.

- 30 (2) In exercising its functions under this section a county council must have regard to any guidance issued by the Welsh Ministers.

#### *Duty to complete training*

#### **168 Members of community councils to complete training**

- (1) A member of a community council must complete all compulsory training .

- 35 (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.

- (3) Training is compulsory if –

(a) the community council has been notified in writing by the county council in whose area the area of the community council falls that it is compulsory for the member to complete the training, and

(b) the community council has notified the member in writing that he or she must complete the training.

(4) If a county council notifies a community council that it is compulsory for a member to complete training specified in the notice, the community council must notify the member that he or she must complete that training.

### **169 Complaints about a member's failure to complete training**

(1) A person may make a complaint about a possible breach by a member of a community council of the duty imposed by section 168 to the clerk of that council.

(2) A complaint under subsection (1) must be made in writing.

### **170 Notifying the community council that a member has failed to complete training**

(1) If the clerk of a community council –

(a) receives a complaint that a member of the community council has breached the duty under section 168, or

(b) otherwise has reason to believe that a member has breached that duty,

the clerk must give the member written notice that he or she may make representations to him or to her, either orally or in writing, in respect of the alleged failure.

(2) The clerk must determine the period within which a member may make representations under subsection (1); but the period must not be less than 28 days starting with the date on which the member is given notice under that subsection.

(3) After the period determined under subsection (2) for making representations has ended, the clerk must determine whether the member has breached the duty, having first –

(a) considered any representations made to him or to her, and

(b) in cases where the member in question is not the chair of the community council, consulted the chair of the community council.

(4) If the clerk determines that the member has breached the duty, the clerk must notify the community council of that determination at a meeting of the council.

## **CHAPTER 3**

### **COMMUNITY COUNCIL ELECTION DATES**

### **171 Change to date of community council elections and extension of term of office**

(1) Subsections (2) and (3) come into force on a date specified by the Welsh Ministers by order under section 183, which must be after the date in 2017 on which the ordinary elections of community councillors take place.

(2) In the 1972 Act, in subsection (2) of section 35 (election years) –

(a) for “2017” substitute “2023”, and

(b) for “fourth” substitute “fifth”.

- (3) In the 1972 Act, in subsection (2A) of section 35 (community councillors’ terms of office) for “four years” substitute “five years”.
- (4) During the period starting with the coming into force of subsections (2) and (3) and ending with the ordinary elections of community councillors in 2023, subsection (2A) of section 35 of the 1972 Act is to be read as if for “five years” there were substituted “six years”.

## PART 7

### WORKFORCE MATTERS

#### CHAPTER 1

#### GUIDANCE TO PUBLIC BODIES ON WORKFORCE MATTERS

#### 172 Ministerial guidance to public bodies on workforce matters

- (1) The Welsh Ministers may issue guidance to public bodies about workforce matters.
- (2) A public body to which guidance is issued must have regard to it.
- (3) Guidance under this section may be issued to a particular public body, public bodies of a particular description or to public bodies generally.
- (4) Before issuing, revising or withdrawing guidance under this section, the Welsh Ministers must consult –
- (a) each public body to which the guidance relates,
  - (b) any trade union which is recognised (within the meaning given by the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by a public body to which the guidance relates, and
  - (c) such other persons as the Welsh Ministers consider appropriate.
- (5) The Welsh Ministers must publish any guidance issued under this section (including revised guidance) on a website and in such other form as they think fit.

#### 173 Meaning of “workforce matters”

In this Part “workforce matters” means –

- (a) planning by public bodies in relation to the size and composition of their workforce;
- (b) the recruitment and retention of staff of public bodies;
- (c) the management, organisation and remuneration of staff of public bodies;
- (d) training and development of staff of public bodies;
- (e) the provision of information to staff of public bodies (including trade unions representing staff) about decisions affecting their work and about opportunities to contribute to those decisions;
- (f) arrangements about any of the matters mentioned in paragraphs (a) to (e) where

two or more public bodies collaborate in exercising their functions;

- (g) sharing information for the purpose of facilitating any of the matters mentioned in paragraphs (a) to (f).

#### 174 Meaning of “public body”

- 5 (1) In this Part “public body” means –
- (a) a county council;
  - (b) a community council;
  - (c) a fire and rescue authority;
  - (d) the governing body of a maintained school or federation;
  - 10 (e) a Local Health Board;
  - (f) a National Health Service trust established under section 18 of the National Health Service (Wales) Act (c.42);
  - (g) a National Park authority for a National Park in Wales;
  - (h) the Arts Council of Wales;
  - 15 (i) the Higher Education Funding Council for Wales;
  - (j) the Local Democracy and Boundary Commission for Wales;
  - (k) the National Library of Wales;
  - (l) the National Museum of Wales;
  - (m) the Natural Resources Body for Wales;
  - 20 (n) the Royal Commission on the Ancient and Historical Monuments of Wales;
  - (o) Social Care Wales;
  - (p) the Sports Council for Wales.
- (2) The reference to a county council in subsection (1)(a) includes a reference to a shadow authority for a county set out in the table in Schedule 1 (on which, see section 15).
- 25 (3) In subsection (1)(d) –
- “maintained school” (*“ysgol a gynhelir”*) means a school in Wales that is a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school;
- “federation” (*“ffederasiwn”*) means a group of maintained schools that are
- 30 federated by virtue of section 24 of the Education Act 2002 (c.32) or Chapter 1 of Part 2 of the Education (Wales) Measure 2011 (nawm 7).

#### 175 Power to amend definition of “public body”

- (1) The Welsh Ministers may by regulations amend the definition of “public body” in section 174.
- 35 (2) Before making regulations under subsection (1) which add or remove a person from the definition the Welsh Ministers must consult –
- (a) the person who is to be added or removed;

- (b) any trade union which is recognised (within the meaning given by the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by such a person;
- (c) any other persons they consider appropriate.
- (3) Regulations under subsection (1) may add a person to the definition only if the person exercises functions of a public nature which –
- (a) have been conferred by or under an Act or Measure of the National Assembly for Wales, or
- (b) could be conferred by an Act of the National Assembly for Wales.

## CHAPTER 2

### PUBLIC SERVICES STAFF COMMISSION

#### 176 Public services staff commission

- (1) There is to be a public services staff commission (referred to in this Part as “the Commission”).
- (2) The Commission is to consist of not more than 7 members appointed by the Welsh Ministers.
- (3) The Welsh Ministers must appoint one of the members to chair the Commission.
- (4) A person appointed to the Commission holds and vacates office subject to the terms of his or her appointment.
- (5) The Welsh Ministers may pay expenses, remuneration and allowances in respect of a member of the Commission.
- (6) The Welsh Ministers must provide the Commission with such staff, accommodation and other resources as the Welsh Ministers consider necessary for the Commission to perform the functions conferred upon it by section 177.

#### 177 Commission’s functions etc.

- (1) The Commission must provide such advice on workforce matters as the Welsh Ministers may request.
- (2) The Commission may, for the purpose of preparing any advice, request such information from a public body as the Commission considers necessary or appropriate.
- (3) A public body to which a request for information is made under subsection (2) must comply with the request unless the body considers that doing so would –
- (a) be incompatible with its own duties, or
- (b) otherwise have an adverse effect on the exercise of its functions.
- (4) A public body which decides not to comply with a request for information made under subsection (2) must notify the Commission in writing of the reasons for the decision.
- (5) Before 30 September in each financial year the Commission must send a report (an “annual report”) to the Welsh Ministers about the exercise of its functions during the previous financial year.
- (6) The Welsh Ministers must publish a copy of each annual report sent to them by the

Commission on a website and in such other form as they think fit.

### 178 Repeal of this Chapter

- (1) Subsections (1) to (4) of section 177 are repealed on 1 April 2021.
- (2) Section 176 and subsections (5) and (6) of section 177 are repealed on 1 October 2021.
- 5 (3) This section is repealed at the end of the period of one year starting with the date on which the repeals in subsection (1) take effect.
- (4) The Welsh Ministers may by regulations substitute a different date for the date for the time being specified in subsection (1), but the new date may not be a date which is later than 1 April 2023.
- 10 (5) Regulations under subsection (4) may also substitute a different date for the date for the time being specified in subsection (2).

## PART 8

### GENERAL

### 179 Interpretation

15 In this Act—

“elected mayor” (“*maer etholedig*”) has the same meaning as in section 39(1) of the 2000 Act;

“executive” (“*gweithrediaeth*”) has the same meaning as in section 11 of the 2000 Act;

20 “executive arrangements” (“*trefniadau gweithrediaeth*”) has the same meaning as in section 10 of the 2000 Act;

“financial year” (“*blwyddyn ariannol*”) means a period of 12 months ending on 31 March;

25 “fire and rescue authority” (“*awdurdod tân ac achub*”) means a 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;

“mayor and cabinet executive” (“*gweithrediaeth maer a chabinet*”) has the same meaning as in section 11(2) of the 2000 Act;

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972 (c.70);

30 “the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000 (c.22);

“the 2011 Measure” (“*Mesur 2011*”) means the Local Government (Wales) Measure 2011 (nawm 4);

35 “voluntary body” (“*corff gwirfoddol*”), other than in section 64, means a body, other than a body exercising functions of a public nature, whose activities are not carried out for profit.

**180 Application of Act in relation to counties and county boroughs until 1 April 2020**

- (1) Until 1 April 2020 this Act, other than Part 1 and Chapter 1 of Part 6, is to be read in accordance with this section.
- (2) Any reference to a county is to be read as a reference to a county or county borough established under section 20 of the 1972 Act.
- (3) Any reference to a county council is to be read as a reference to a council for a county or county borough council established under that section.

**181 Power to make consequential and transitional provision etc.**

- (1) If the Welsh Ministers consider it necessary or expedient for the purpose of giving full effect to any provision of Parts 2 to 7 (other than Chapter 1 of Part 6) of this Act, or in consequence of any such provision, they may by regulations make—
- (a) any supplemental, incidental, or consequential provision;
  - (b) any transitory, transitional or saving provision.
- (2) Regulations under subsection (1) may amend, modify, repeal or revoke any enactment.

**182 Regulations and orders under this Act**

- (1) A power of the Welsh Ministers to make regulations or orders under this Act—
- (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes and areas.
- (2) A statutory instrument to which this subsection applies 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.
- (3) Subsection (2) applies to a statutory instrument containing regulations under any of the following provisions—
- (a) section 20(1) (power to amend certain dates specified in legislation);
  - (b) section 27(1) or (2), where the regulations amend, repeal or disapply a provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales, unless the regulations are made only for a purpose described in subsection (7) of that section;
  - (c) section 27(3) or (4), unless the regulations are made only for a purpose described in subsection (7) of that section;
  - (d) section 34(1) (competent community councils: competency requirements);
  - (e) section 37(4) (public participation duty: meaning of authorities connected with a county council);
  - (f) section 64(6)(b) (improvement requests: prescribing a “relevant authority”);
  - (g) section 74(3) (improvement requests: further provision);
  - (h) section 111(3) (principles etc. relating to good governance);

(i) section 178(4) (changing date on which repeal of Chapter 2 of Part 7 takes effect).

(4) Subsection (2) also applies to any other statutory instrument containing regulations under this Act, other than regulations made under section 175 or paragraph 2(1) of Schedule 1, which amend, modify, disapply or repeal a provision of –

(a) an Act or Measure of the National Assembly for Wales, or

(b) an Act of Parliament.

(5) A statutory instrument containing regulations under this Act to which subsection (2) does not apply, other than regulations made under paragraph 2(1) of Schedule 1, is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

### 10 **183 Coming into force**

(1) This Part comes into force on the day on which this Act receives Royal Assent.

(2) The following provisions come into force 2 months after Royal Assent –

(a) Chapters 1, 3 and 4 of Part 1 (local government areas and county councils), other than section 21;

(b) Part 2 (general power of competence);

(c) Chapter 4 of Part 3 (promoting access to local government: improvement requests);

(d) Chapter 1 of Part 6 (review of community council arrangements by the Local Democracy and Boundary Commission).

(3) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.

(4) An order under subsection (3) may –

(a) make transitional, transitory or saving provision;

(b) appoint different days for different purposes or areas.

### 25 **184 Short title**

The short title of this Act is the Local Government (Wales) Act 2017.



SCHEDULE 1  
(introduced by section 1)

COUNTIES IN WALES

1 Tables 1 and 2, below, set out alternative proposals for the constitution of counties in  
5 Wales on and after 1 April 2020 –

TABLE 1

Name	Area (determined by reference to the areas which were counties and county boroughs immediately before 1 April 2020)
County 1	The counties of the Isle of Anglesey and Gwynedd, and the county borough of Conwy
County 2	The counties of Denbighshire and Flintshire and the county borough of Wrexham
County 3	The counties of Ceredigion, Pembrokeshire and Carmarthenshire
County 4	The county of Swansea and the county borough of Neath Port Talbot
County 5	The county boroughs of Bridgend, Rhondda Cynon Taff and Merthyr Tydfil
County 6	The county boroughs of Cardiff and the Vale of Glamorgan
County 7	The county of Monmouthshire and the county boroughs of Blaenau Gwent, Caerphilly, Torfaen and Newport
Powys	The county of Powys

OR

TABLE 2

Name	Area (determined by reference to the areas which were counties and county boroughs immediately before 1 April 2020)
County 1	The counties of the Isle of Anglesey and Gwynedd
County 2	The county borough of Conwy and the county of Denbighshire
County 3	The county of Flintshire and the county borough of Wrexham
County 4	The counties of Ceredigion, Pembrokeshire and Carmarthenshire
County 5	The county of Swansea and the county borough of Neath Port Talbot

County 6	The county boroughs of Bridgend, Rhondda Cynon Taff and Merthyr Tydfil
County 7	The county boroughs of Cardiff and the Vale of Glamorgan
County 8	The county of Monmouthshire and the county boroughs of Blaenau Gwent, Caerphilly, Torfaen and Newport
Powys	The county of Powys

5

- 2 (1) The Welsh Ministers may by regulations amend the entries in the first column (name of county) in each of the above Tables, other than the entries for the county of Powys.
- (2) Regulations under sub-paragraph (1) may make consequential amendments to other provisions of this Part.

10

SCHEDULE 2  
(introduced by section 14)

NEW COUNCILS: FIRST ORDINARY ELECTIONS AND MEETINGS

*Returning officers at first ordinary elections*

- 5 1 (1) At the first ordinary elections of councillors of each new council, the returning officer is to be appointed by the county council or county borough council directed by the Welsh Ministers to make that appointment (subject to sub-paragraph (3)); and accordingly section 35(1A) of the Representation of the People Act 1983 (c.2) (requirement to appoint officer of the council) does not apply.
- 10 (2) A county council or county borough council to whom a direction has been given under sub-paragraph (1) must appoint one of its officers.
- (3) The Welsh Ministers may give a direction under sub-paragraph (1) to a council only if—
- (a) the council is to be abolished by this Act, and
- (b) it is the council for an area that will be part of the new county to which the election
- 15 relates.
- (4) Section 36(4) of the Representation of the People Act 1983 does not apply to the first ordinary elections of councillors of each new council (payment of expenditure).
- (5) All expenditure properly incurred by a returning officer or other officer in relation to the holding of the first ordinary elections of councillors of a new council must be paid by the council that appointed the returning officer; and that council may recover some or all of that expenditure from the councils in the area of the new county—
- 20 (a) in such proportions as they may agree, or
- (b) if they cannot reach agreement, in such proportions as the Welsh Ministers determine.
- 25 (6) In Parts 2 and 3 of the Representation of the People Act 1983 as they apply in relation to the first ordinary elections of councillors of a new council, references to “the appropriate officer” are to be read as references to the returning officer appointed under this paragraph (accordingly, the definition of “appropriate officer” in section 67(7) of that Act does not apply).

30 *Declarations of acceptance of office*

- 2 For the purpose of taking and receiving delivery of declarations of acceptance of the office of councillor of any new council before the first meeting of that council, the chief executive of a designated council—
- (a) is deemed to be the proper officer of the new council, and
- 35 (b) must transfer any declaration which has been delivered to him or her to the custody of the proper officer of the new council on the appointment of that proper officer.

*First meetings of new councils*

- 3 (1) The first meeting of each new council (which, under section 15, will be a shadow  
authority at the time of the meeting) must be held before the end of the period of 14 days  
5 starting with the day of the election held under section 14; this meeting is to be treated as  
the annual meeting of the new council for the year in which it takes place.
- (2) The meeting must be convened by the chief executive of a designated council (“the  
designated chief executive”), and must be held at the place appointed by that chief  
executive.
- 10 (3) The notice of the meeting required by paragraph 4(2) of Schedule 12 to the 1972 Act must  
be published at the place where the meeting is to be held, and the summons to attend the  
meeting must be signed by the designated chief executive (and paragraph 4 of Schedule  
12 to the 1972 Act is to be read accordingly).
- (4) If a member of a new council provides the designated chief executive with an e-mail  
15 address before the summons to attend the meeting is sent, the designated chief executive  
may send the summons to the member by sending it to the e-mail address provided.
- 4 (1) Until the election of a chair at the first meeting of a new council, the persons designated  
by the relevant transition committee are to exercise the functions of the chair and vice-  
chair of the council.
- 20 (2) Any person designated by the relevant transition committee under sub-paragraph (1)  
must not vote in the first instance at the election of the chair, unless that person is a  
councillor for the new county (but he or she may give a casting vote in accordance with  
section 23(3) of the 1972 Act).
- (3) At the first meeting of a new council the designated chief executive must exercise any  
functions of the proper officer of the new council relating to the meeting.
- 25 (4) At the first meeting of a new council, the standing orders of the designated council apply.

*Qualification for membership of new council*

- 5 For the purposes of section 79 of the 1972 Act (qualifications for election and holding  
office), in its application to a candidate for membership of a new council, the new  
counties are to be treated as having been established not less than 12 months before the  
30 day of the candidate’s nomination.

*Interpretation*

- 6 In this Schedule –
- “chief executive” (“*prif weithredwr*”), in relation to a county or county borough  
council, means the person appointed as chief executive under section 103;
- 35 “designated council” (“*cyngor dynodedig*”), in relation to a new council, means a  
county or county borough council which is to be abolished by this Act, and which  
is the council for an area that will be part of the new county, designated by the  
relevant transition committee (and the relevant transition committee may  
designate different county and county borough councils for different purposes  
40 under this Schedule);

“proper officer of the new council” (*“swyddog priodol y cyngor newydd”*), in relation to a purpose or function specified in this Schedule, means an officer of the new council appointed for that purpose or as the case may be to exercise that function;

“the relevant transition committee” (*“y pwyllgor pontio perthnasol”*), in relation to a new council, means the committee established by virtue of section 11 of the Local Government (Wales) Act 2015 by the councils abolished by this Act whose areas will constitute the area of the new council.

5

SCHEDULE 3  
(introduced by section 16)

NEW COUNCILS: FINANCE

*Council tax and non-domestic rating*

- 5 1 (1) The new councils are billing authorities in relation to the financial year starting on 1 April 2020 and in relation to subsequent financial years.
- (2) In this Schedule, “billing authority” means an authority which is a a billing authority for the purposes of –
- 10 (a) Part 1 of the Local Government Finance Act 1992 (c.14) (council tax), and
- (b) Part 3 of the Local Government Finance Act 1988 (c.41) (non-domestic rating).
- (3) From 1 April 2020 the new councils have the same functions in relation to council tax and non-domestic rating as the abolished councils had in relation to any financial year starting before 1 April 2020.

*Valuation lists*

- 15 2 After section 22B of the Local Government Finance Act 1992 (c.14) insert –

**“22C Amalgamated valuation lists for new Welsh billing authorities**

- 20 (1) Every new listing officer must, on 1 April 2020, compile a list (“the amalgamated list”) for the new billing authority for which the officer is appointed, based on the information provided to the officer under this section.
- (2) The amalgamated list must contain all relevant information which was included in the current valuation lists compiled for the old billing authorities.
- 25 (3) The amalgamated list must also include all relevant information which was included in any current valuation list by way of an alteration.
- (4) A new listing officer's amalgamated list –
- 30 (a) is to be treated for the purposes of this Act as the valuation list for the officer’s new billing authority,
- (b) is deemed to have come into force on –
- (i) 1 April 2005, or
- (ii) if an order made under section 22B(3) specified a date which is before 1 April 2020, the date specified in the order, and
- 35 (c) remains in force until a new list is compiled under section 22B.
- (5) An amalgamated list must be maintained for so long as is necessary for the purposes of this Part, and the duty to maintain the list is not affected by the list ceasing to be in force.

- (6) Section 22B(4) does not apply in relation to an amalgamated list.
- (7) Where an amalgamated list contains information which is derived from any alteration made to any valuation list or lists from which it is derived, the amalgamated list is to be treated as having been varied on the date on which the alteration was made.
- (8) Every old listing officer must –
- (a) on or before 15 November 2019, provide the appropriate new listing officer with all relevant information recorded in the old listing officer's valuation list as at 31 October 2019, and
  - (b) on the day before 1 April 2020, provide the appropriate new listing officer with all relevant information recorded in the old listing officer's valuation list as at that date.
- (9) A new listing officer receiving any information under subsection (8)(a) must send a copy of it to his or her new billing authority as soon as is reasonably practicable.
- (10) As soon as is reasonably practicable after compiling the amalgamated list, a new listing officer must send a copy of it to his or her new billing authority.
- (11) A new billing authority receiving a copy of an amalgamated list under subsection (10) must, as soon as is reasonably practicable, deposit it at its principal office.
- (12) For the purposes of this section –
- (a) references to an old listing officer's valuation list are references to the valuation list maintained by him or her under this Act,
  - (b) a new listing officer's area is the area of the new billing authority for which he or she is appointed,
  - (c) the appropriate new listing officer, in relation to any information which relates to a dwelling, is the new listing officer for the new billing authority in whose area the dwelling is situated, and
  - (d) information is relevant in relation to a new listing officer, or the officer's area, if it relates to a dwelling which is in the officer's area.
- (13) In this section –
- “current valuation list” means a valuation list that was compiled on 1 April 2005 (see section 22B(2)(b)), unless an order has been made under section 22B(3) specifying a date before 1 April 2020; in which case, it means a valuation list compiled on the date specified in the order;
- “old listing officer” means a listing officer for an old billing authority;
- “new billing authority” means a billing authority which is a

new council;

“new council” has the same meaning as in the Local Government (Wales) Act 2017 (see section 13 of that Act);

“new listing officer” means a listing officer for a new billing authority;

“old billing authority” means a billing authority which is a council for a county or county borough abolished by the Local Government (Wales) Act 2017.”

*Local non-domestic rating lists*

10 3 After section 41A of the Local Government Finance Act 1988 (c.41) insert –

**“41B Local non-domestic rating lists for new Welsh billing authorities**

- 15 (1) Every new valuation officer must, on 1 April 2020, compile a list (“the amalgamated list”) for the new billing authority for which the officer is appointed, based on the information provided to the officer under this section.
- (2) The amalgamated list must contain all relevant information which was included in the current local non-domestic rating lists.
- 20 (3) The amalgamated list must also include all relevant information which was included in any current local non-domestic rating list by way of an alteration.
- (4) A new valuation officer's amalgamated list –
- (a) is to be treated for the purposes of this Act as the local non-domestic rating list for the officer's new billing authority,
- (b) is deemed to have come into force on –
- 25 (i) 1 April 2017, or
- (ii) if another date is specified in an order made under section 54A, that date, and
- (c) remains in force until the next list is compiled under section 41.
- 30 (5) Where an amalgamated list contains information which is derived from any alteration made to any list or lists from which it is derived, the amalgamated list is to be treated as having been varied on the date on which the alteration was made.
- (6) Subsections (2) to (6B) of section 41 do not apply in relation to an amalgamated list.
- 35 (7) Every old valuation officer must –
- (a) on or before 15 October 2019, provide the appropriate new valuation officer with all relevant information recorded in the old valuation officer's local non-domestic rating list as at 30 September 2019, and



(b) on the day before 1 April 2020, provide the appropriate new valuation officer with all relevant information recorded in the old valuation officer's local non-domestic rating list as at that date.

5 (8) A new valuation officer receiving any information under subsection (7)(a) must send a copy of it to his or her new billing authority as soon as is reasonably practicable.

10 (9) As soon as is reasonably practicable after compiling an amalgamated list, a new valuation officer must send a copy of it to his or her new billing authority.

(10) A new billing authority receiving a copy of an amalgamated list under subsection (9) must deposit it at its principal office as soon as is reasonably practicable.

(11) For the purposes of this section –

15 (a) references to an old valuation officer's local non-domestic rating list are references to the local non-domestic rating list maintained by him or her under this Act,

(b) a new valuation officer's area is the area of the new billing authority for which he or she is appointed,

20 (c) the appropriate new valuation officer, in relation to any information which relates to any hereditament is the new valuation officer for the new billing authority in whose area the hereditament is situated, and

25 (d) information is relevant in relation to a new valuation officer, or the officer's area, if it relates to a hereditament which is in the officer's area.

(12) In this section –

30 "current local non-domestic rating list" means a local non-domestic rating list compiled on 1 April 2017, unless another date is specified in an order made under section 54A, in which case it means a valuation list compiled on the date specified in the order;

"old valuation officer" means a valuation officer for an old billing authority;

35 "new billing authority" means a billing authority which is a new council;

"new council" has the same meaning as in the Local Government (Wales) Act 2017 (see section 13 of that Act);

40 "new valuation officer" means a valuation officer for a new billing authority;

"old billing authority" means a billing authority which is a council for a county or county borough abolished by the Local

## Government (Wales) Act 2017.”

*Council funds*

- 4 (1) Each new council must, on 1 April 2020, establish a fund to be known as its council fund.
- (2) Each new council must maintain its council fund.
- 5 (3) Any sums received by a new council must be paid into its council fund.
- (4) All payments by a new council must be made out of its council fund.
- (5) Sub-paragraphs (3) and (4) do not apply in relation to any sums to be paid into, or payments to be made out of, a trust fund.
- 10 (6) Section 101(1)(b) of the 1972 Act (delegation) does not apply as regards the functions of a new council in relation to its council fund.
- (7) Each new council must keep accounts of sums paid into, and of payments made out of, its council fund.
- (8) Any account kept only in respect of the general expenses of a new council is to be known as the council’s general account and any account kept only in respect of any class of the council’s special expenses (see section 35 of the Local Government Finance Act 1992 (c.14)) is to be known as a special account.
- 15 (9) The Welsh Ministers may make regulations –
- (a) requiring assets of a description specified in the regulations which fall within a council fund to be held in a separate fund within the council fund;
- 20 (b) requiring any fund (other than a trust fund) of a description specified in the regulations which is established by a new council to be maintained as a separate fund within its council fund.
- (10) The Welsh Ministers may by regulations make provision with respect to the liability of new councils to make payments from their council funds in respect of precepts issued under Chapter 4 of Part 1 of the Local Government Finance Act 1992 (c.14).
- 25 (11) The Welsh Ministers may by regulations make provision for the sharing among a new council and major precepting authorities, in accordance with rules specified in the regulations, of an amount equal to all or part of any deduction that, in accordance with provision under paragraph 4(4A) of Schedule 8 to the Local Government Finance Act 1988 (c.41) (local retention of rates), falls to be made in calculating the council’s non-domestic rating contribution for a financial year.
- 30 (12) Regulations under sub-paragraph (10) or (11) may, in particular, include provision –
- (a) that anything falling to be paid must be paid –
- (i) within a period specified in the regulations, and
- 35 (ii) in instalments of such amounts, and at such times, as are determined by the billing authority in accordance with rules specified in the regulations;
- (b) that the billing authority must inform any precepting authorities when instalments will be paid and how they are to be calculated;
- 40 (c) that if an instalment is not paid to a precepting authority in accordance with the regulations, it is to be entitled to interest on the amount of the instalment;

(d) as to the circumstances in which the billing authority is to be treated as having discharged the liability mentioned in sub-paragraph (10) or any liability arising under sub-paragraph (11);

5 (e) as to the recovery (by deduction or otherwise) of any excess amount paid by the billing authority to any precepting authority in purported discharge of the liability mentioned in sub-paragraph (10) or any liability arising under sub-paragraph (11).

(13) In this paragraph—

“major precepting authority” (“*prif awdurdod praeseptio*”) has the meaning given by section 39(1) of the Local Government Finance Act 1992 (c.14);

10 “precepting authority” (“*awdurdod praeseptio*”) means a major precepting authority or a local precepting authority (which has the meaning given by section 39(2) of that Act).

SCHEDULE 4  
(introduced by section 18)

TRANSITIONAL ETC. PROVISION

PART 1

5 MISCELLANEOUS TRANSITIONAL PROVISION

*Suspension of elections of councillors to councils to be abolished by this Act*

- 1 (1) No election of councillors of a council which is to be abolished by this Act is to be held after 31 December 2018 (“the suspension date”) except –
- 10 (a) to fill a casual vacancy in the office of councillor of that council where before the suspension date –
- (i) the office has been declared to be vacant, or
- (ii) notice of the vacancy has been given under section 89(1) of the 1972 Act, or
- 15 (b) where the number of casual vacancies in the office of councillor of the council occurring after the suspension date exceeds half of the total number of such offices.
- (2) Any councillor of a council which is to be abolished by this Act holding office immediately before the suspension date, or elected after that date to fill a casual vacancy, must, unless he or she resigns his or her office or it otherwise becomes vacant, continue to hold office until 1 April 2020.
- 20 (3) There is no requirement to fill any casual vacancy in the office of councillor of a council which is to be abolished by this Act which occurs after the suspension date; section 89 of the 1972 Act is to be read accordingly.
- (4) There is no requirement to fill any casual vacancy occurring during March 2020 in the office of chair or vice-chair of a council which is to be abolished by this Act.

25 *Existing and new local government areas with the same name*

- 2 (1) Where a new county has the same name as a local government area in existence at any time before 1 April 2020, references in any enactment passed before this Act to the local government area by name are not to be read as references to the new county.
- (2) This section is subject to any provision to the contrary made by or under this Act.

30 *Fire and rescue authorities*

- 3 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 changes to local government areas made by or under this Part 1 of this Act.

## PART 2

## TRANSFER OF STAFF, PROPERTY, RIGHTS AND LIABILITIES

*“Relevant new council”*

- 4            In this Part of this Schedule “relevant new council”, in relation to an abolished council,  
5            means the new council for the area which includes the area which was the area of the  
                 abolished council.

*Transfer of staff of abolished councils*

- 5            (1) On 1 April 2020, the members of staff of an abolished council are transferred to the  
                 employment of the relevant new council.
- 10           (2) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I.  
                 2006/246) (“the TUPE Regulations”) apply to a transfer under sub-paragraph (1) or  
                 regulations under section 19 (whether or not the transfer is a relevant transfer for the  
                 purposes of the TUPE Regulations), subject to sub-paragraph (3).
- 15           (3) The following regulations of the TUPE Regulations do not apply to a transfer under sub-  
                 paragraph (1) or regulations under section 19—  
                 (a) regulation 4(6) (criminal liability), and  
                 (b) regulation 10 (pensions).

*Transfer of property, rights and liabilities*

- 6            (1) On 1 April 2020, the property, rights and liabilities (including criminal liabilities) to  
20            which an abolished council was entitled or subject are transferred to and vest in the  
                 relevant new council.
- (2) Anything (including civil or criminal proceedings) which—  
                 (a) relates to any property, rights or liabilities transferred under sub-paragraph (1) or  
                 regulations under section 19, and  
25            (b) is in the process of being done by or in relation to an abolished council  
                 immediately before 1 April 2020,  
                 may be continued on and after that day by or in relation to the relevant new council.
- (3) Anything which was done by or in relation to an abolished council—  
                 (a) for the purposes of or in connection with any property, rights or liabilities  
30            transferred under sub-paragraph (1) or regulations under section 19, and  
                 (b) which is in effect immediately before 1 April 2020,  
                 has effect on and after that day as if done by or in relation to the relevant new council.
- (4) In any instruments, contracts or civil or criminal proceedings which—  
                 (a) relate to any property, rights or liabilities transferred under sub-paragraph (1) or  
35            regulations under section 19, and  
                 (b) are made or commenced before 1 April 2020,  
                 a reference to an abolished council is to be treated on and after that day as a reference to,

or as including a reference to, the relevant new council.

(5) This paragraph does not apply in relation to rights and liabilities under a contract of employment transferred to a relevant new council under paragraph 5 or regulations under section 19.

5 7 (1) A certificate issued by the Welsh Ministers that property has been transferred under paragraph 6(1) or regulations under section 19 is conclusive evidence of the transfer.

10 (2) Paragraph 6, and regulations under section 19, have effect in relation to property, rights or liabilities to which they apply in spite of any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.

SCHEDULE 5  
(introduced by section 21)

THE 1972 ACT: AMENDMENTS AND TRANSITIONAL PROVISION

PART 1

5

MINOR AND CONSEQUENTIAL AMENDMENTS

1 The 1972 Act is amended in accordance with this Part of this Schedule.

2 In section 2 (constitution of principal councils in England) omit subsection (2B).

3 (1) Section 20 (new principal local government areas in Wales) is amended as follows.

(2) Before subsection (1) insert—

10

“(A1) Section 1 of the Local Government (Wales) Act 2017 makes provision about—

15

(a) the local government areas in Wales (which are the counties set out in the table in Schedule 1 to that Act, and the communities originally established under this section subject to any subsequent changes to those communities), and

(b) councils for the counties set out in the table in Schedule 1 to that Act.”

(3) Omit subsections (1) to (7).

(4) For subsections (9) and (10) substitute—

20

“(9) The Welsh Ministers may by regulations change the name by which any of the preserved counties is for the time being known.

(10) A statutory instrument containing regulations under subsection (9) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

25

(5) Omit subsection (11).

(6) For the title of section 20, substitute “Local government areas and preserved counties in Wales”.

(7) Accordingly, for the cross-heading preceding section 20 substitute “Local government areas and preserved counties after 1 April 2020”.

30

4 (1) Schedule 4 is amended as follows.

(2) Omit Parts 1 and 2.

(3) For the title of that Schedule substitute “PRESERVED COUNTIES”

5 Sections 21 to 26 (councils and their members) are repealed (see Part 2 of this Schedule for further provision about the repeal of section 26 (elections)).

35

6 (1) Section 74 (change of name of county) is amended as follows.

(2) In subsection (1), omit “, county borough” from both places it occurs.

(3) Omit subsection (2A).

(4) In subsection (3), for “the relevant Minister”, in both places it occurs, substitute “the

Secretary of State”.

(5) Omit subsection (3A).

(6) In subsection (4) omit “, county borough”.

(7) Omit subsections (7) and (8).

(8) In the title, for “county, district” substitute “county or district in England”.

Section 245A (petition by council of a county to Her Majesty for grant of a charter conferring county borough status) is repealed.

In section 270(1) of the 1972 Act (definitions) after the definition of “mayor and cabinet executive” insert—

““member”, in relation to a principal council which is operating executive arrangements which involve a mayor and cabinet executive, means—

(a) the elected mayor of the council;

(b) the chair of the council;

(c) a councillor of the council;”.

## PART 2

### PROVISION RELATED TO REPEAL OF SECTION 26 OF THE 1972 ACT (ELECTIONS)

#### *Ordinary elections of councillors of the council for the county of Powys in 2020*

(1) There is to be an ordinary election of councillors of the council for the county of Powys in 2020 (and the subsequent ordinary election of such councillors will take place in 2023, in accordance with section 10).

(2) Until the ordinary elections of councillors of the county councils in 2023, section 10(3) applies in relation to the councillors of the council for the county of Powys as if for “five years” there were substituted “three years”.

#### *Councillors’ terms of office*

(1) Sub-paragraph (2) applies during the period starting with the coming into force of section 10 and ending with the ordinary elections of councillors of the county councils in 2023.

(2) Section 10(3) applies in relation to the councillors of the councils of the descriptions set out in the first column of table 1 as if for “five years” there were substituted the words set out in the second column of table 3—

TABLE 3

Description of council	Period of years
new councils (to be elected on 2 May 2019)	“four years”
councils which are to be abolished by this Act	“three years”



*Consequential amendments of Local Government Act 2000 (c.22)*

11 (1) The Local Government Act 2000 (c.22) is amended as follows.

(2) In section 85 (options for elections) –

5 (a) in subsection (1) after “Part” insert “as it applies in relation to a principal council for an area in England,”,

(b) in that subsection, before “a principal council” insert “such”, and

(c) in the title, after “election” insert “: England”.

(3) In section 86 (power to specify a scheme for elections), omit subsection (1).

SCHEDULE 6  
(introduced by section 101)

ASSISTANTS TO LOCAL AUTHORITY EXECUTIVES: FURTHER AMENDMENTS

*Local Government Act 1972 (c.70)*

- 5 1 (1) The 1972 Act is amended as follows.
- (2) In each of sections 22(1A), 24(1A), 24A(5) and 24B(3), after “principal council” insert “, or an assistant to the executive,”.
- (3) In section 80(1)(a), for “or member of the executive” substitute “, member of the executive or assistant to the executive”.
- 10 (4) In section 116, for “or member of the executive” substitute “, member of the executive or assistant to the executive”.
- (5) In section 270(1), after the definition of “appropriate Minister” insert –
- ““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 paragraph 3A of that Schedule);”.
- 15 (6) In Schedule 12, in paragraph 5(4), after “principal council” insert “, or an assistant to the executive,”.

*Pilotage Act 1987 (c.21)*

- 2 In section 3 of the Pilotage Act 1987 –
- 20 (a) in subsection (9A)(a), after “local authority” insert “, or an assistant to the executive,”;
- (b) in subsection (10), after the opening words insert –
- ““assistant to the executive” has the same meaning as in Schedule 1 to the Local Government Act 2000 (see paragraph 3A of that Schedule);”.
- 25

*Local Government Finance Act 1992 (c.14)*

- 3 In section 106(2A) of the Local Government Finance Act 1992, after “to whom this section applies” insert “, and no assistant to the executive (within the meaning of paragraph 3A of Schedule 1 to the Local Government Act 2000) to whom this section applies,”.

30 *Local Government Act 2000 (c.22)*

- 4 In section 21(9) of the 2000 Act (overview and scrutiny committee not to include members of executive), after “executive” insert “or any assistant to the executive (within the meaning of paragraph 3A of Schedule 1)”.

*Local Government (Wales) Measure 2011 (nawm 4)*

- 35 5 In each of the following provisions of the 2011 Measure, after “authority’s executive”

insert “or an assistant to its executive” –

- (a) section 12(2)(b);
- (b) section 14(2);
- (c) in section 82, subsections (2)(c) and (3);
- (d) section 83(2).

5

SCHEDULE 7  
(introduced by section 103)

CONSEQUENTIAL AMENDMENTS: CHIEF EXECUTIVE

*Local Government Act 1972 (c.70)*

- 5 1 In section 112(2A) of the 1972 Act (appointment of staff), for “heads of paid service” substitute “chief executives”.

*Local Government Finance Act 1988 (c.41)*

- 2 The Local Government Finance Act 1988 is amended as follows.
- 3 In section 114(3A) (consultation by chief finance officer in preparing reports), at the end  
10 of paragraph (a) insert “or, in the case of a council of a county or county borough in Wales, its chief executive”.
- 4 In section 114A(3) (consultation by chief finance officer of authority operating executive arrangements), at the end of paragraph (a) insert “or, in the case of a council of a county or county borough in Wales, its chief executive”.

15 *Local Government and Housing Act 1989 (c.42)*

- 5 The Local Government and Housing Act 1989 is amended as follows.
- 6 In section 2 (politically restricted posts), at the end of paragraph (a) insert “or, in the case of a council of a county or county borough in Wales, the person appointed as its chief executive under section 103 of the Local Government (Wales) Act 2017”.
- 20 7 In section 4(6) (definition of “relevant authority”) –
- (a) in paragraph (a), omit “and Wales”;
  - (b) omit the “and” after paragraph (a);
  - (c) after that paragraph insert –
    - 25 “(aa) in relation to Wales, means an elected local policing body; and”.
- 8 In section 5 (designation and reports of monitoring officer) –
- (a) in subsection (1), omit the words after paragraph (b) (and substitute a full stop for the semi-colon at the end);
  - (b) after subsection (1) insert –
    - 30 “(1ZA) But a relevant authority may not designate its chief finance officer as the monitoring officer.
    - (1ZB) In the case of a relevant authority which is a council of a county or county borough in Wales, the officer designated under subsection (1) above may not be the authority’s chief executive.”;
  - (c) in subsection (1B) –
    - 35 (i) omit “and Wales”, and

(ii) omit paragraph (b);

(d) in subsection (3)(a), after “above” insert “or, in the case of a council of a county or county borough in Wales, its chief executive,”.

9 In section 5A(5)(a) (consultation by monitoring officer on reports: executive  
5 arrangements), after “above” insert “or, in the case of a council of a county or county  
borough in Wales, its chief executive,”.

*Local Government (Wales) Measure 2011 (nawm 4)*

10 The 2011 Measure is amended as follows.

11 In section 8(4) (officers who may not be designated head of democratic services), for  
10 paragraph (a) substitute –

“(a) the authority’s chief executive appointed under section 103 of  
the Local Government (Wales) Act 2017;”.

12 In section 9(4) (functions of head of democratic services), for the words from “head of  
15 paid service” to the end substitute “chief executive in section 103(2) of the Local  
Government (Wales) Act 2017”.

13 In section 143A (functions of the Independent Remuneration Panel for Wales in respect of  
salaries of chief executives) –

(a) in subsection (1)(a) and (b), for “head of paid service” substitute “chief executive”;

(b) in subsection (3), for “head of paid service” substitute “chief executive”;

20 (c) in subsection (3B), for “head of paid service” substitute “chief executive”;

(d) in subsection (5A), for “head of paid service” substitute “chief executive”;

(e) in subsection (7) –

(i) omit the definition of “head of paid service”, and

25 (ii) in the definition of “salary”, for “head of paid service”, at both places it  
occurs, substitute “chief executive”;

(f) accordingly, the heading becomes “Functions relating to salaries of chief  
executives”.

*Localism Act 2011 (c.20)*

14 In section 43(2) of the Localism Act 2011 (definition of “chief officer”: pay policy  
30 statements), at the end of paragraph (a) insert “or, in the case of a council of a county or  
county borough in Wales, its chief executive”.

*Anti-social Behaviour, Crime and Policing Act 2014 (c.12)*

15 In section 77 of the Anti-social Behaviour, Crime and Policing Act 2014 (duration of  
notices prohibiting access to certain premises), for subsection (6) substitute –

35 “(6) In this section “chief executive officer” means –

(a) in relation to a local authority in England, the authority’s head  
of paid service designated under section 4 of the Local

Government and Housing Act 1989;

- (b) in relation to a local authority in Wales, the authority's chief executive appointed under section 103 of the Local Government (Wales) Act 2017."

5 *Well-being of Future Generations (Wales) Act 2015 (anaw 2)*

- 16 In the second column of the table in paragraph 7 of Schedule 3 to the Well-being of  
Future Generations (Wales) Act 2015 (representation at meetings of public services  
boards), for "head of the authority's paid service designated under section 4 of the Local  
Government and Housing Act 1989 (c.42)" substitute "authority's chief executive (see  
10 section 103 of the Local Government (Wales) Act 2017)".

*Local Government (Wales) Act 2015*

- 17 The Local Government (Wales) Act 2015 is amended as follows.
- 18 In section 1(2)(a) (overview of Act), for "heads of paid service" substitute "chief  
executives".
- 15 19 In section 29(4) (restraining appointment of chief officers by direction), for paragraph (a)  
substitute—
- "(a) its chief executive appointed under section 103 of the Local  
Government (Wales) Act 2017;"
- 20 In section 39 (temporary extension of functions of Independent Remuneration Panel for  
20 Wales)—
- (a) in subsection (1)—
- (i) for "heads of paid service" substitute "chief executives", and
- (ii) for "head of paid service" at both places it occurs substitute "chief  
executive";
- 25 (b) in subsection (2), for "'head of paid service" ("*pennaeth gwasanaeth cyflogedig*") and  
"salary" ("*cyflog*") have the meanings" substitute "'salary" ("*cyflog*") has the  
meaning";
- (c) in the heading, for "heads of paid service" substitute "chief executives".

SCHEDULE 8  
(introduced by section 63)

COMMUNITY AREA COMMITTEES: FURTHER AMENDMENTS AND REPEALS

*Local Government Act 1972 (c.70)*

- 5 21 (1) The 1972 Act is amended as follows.
- (2) In section 101, after subsection (6A) insert—
- “(6B) A principal council in Wales may not make arrangements under this section for a function of the council to be discharged by a community area committee appointed under section 43 of the Local Government (Wales) Act 2017 or by a sub-committee of such a committee (but see sections 55, 58 and 61 of that Act).”
- 10
- (3) In section 102(1A), omit “or under regulations made under section 18 of that Act”.

*Local Government and Housing Act 1989 (c.42)*

- 22 In section 9 of the Local Government and Housing Act 1989—
- 15 (a) in subsection (8A), for “18” substitute “17”;
- (b) for subsection (8B) substitute—
- “(8B) A community area committee appointed by a relevant authority in Wales under section 43 of the Local Government (Wales) Act 2017 shall not exercise any power under—
- 20 (a) section 58 of that Act (delegation of functions by community area committee), or
- (b) section 14 or 15 of the Local Government Act 2000 (discharge of functions under executive arrangements),
- so as to arrange for the discharge of any of the authority’s functions by any person who holds a post under the authority to which the person was appointed in pursuance of this section.”;
- 25 (c) in subsection (11), omit the definition of “community area committee”.

*Local Government (Wales) Act 1994 (c.19)*

- 23 (1) The Local Government (Wales) Act 1994 is amended as follows.
- 30 (2) Sections 27 to 31 are repealed.
- (3) In section 64(1), omit the definition of “decentralisation scheme”.

*Local Government Act 2000 (c.22)*

- 24 (1) The 2000 Act is amended as follows.
- (2) In section 14—
- 35 (a) in subsection (1), for “18, 19 or 20,” substitute “19 or 20, or under section 57 of the

Local Government (Wales) Act 2017;”;

(b) in subsection (2)(b), omit the “or” after sub-paragraph (iii) and insert –

“(iia) by a community area committee of the authority, or”;

(c) in subsection (3), omit the “or” after paragraph (a) and insert –

“(aa) by a community area committee of the authority, or”;

(d) in subsection (4), after “those functions” insert –

“ –

(a) by a community area committee of the authority, or

(b) “;

(e) in subsection (5), after “those functions” insert –

“ –

(a) by a community area committee of the authority, or

(b) “;

(f) after subsection (5) insert –

“(5A) Where by virtue of this section any functions may be discharged by a community area committee of a local authority, then, unless the elected mayor otherwise directs, the committee may arrange for the discharge of any of those functions –

(a) by a sub-committee of the community area committee, or

(b) by an officer of the authority.

(5B) Arrangements under this section may not provide for a community area committee of a local authority to discharge functions otherwise than in relation to the area of the committee.”

(3) In section 15 –

(a) in subsection (1), for “18, 19 or 20,” substitute “19 or 20, or under section 57 of the Local Government (Wales) Act 2017;”;

(b) in subsection (4)(b), omit the “or” after sub-paragraph (iii) and insert –

“(iia) by a community area committee of the authority, or”;

(c) in subsection (5), omit the “or” after paragraph (a) and insert –

“(aa) by a community area committee of the authority, or”;

(d) in subsection (6), after “those functions” insert –

“ –

(a) by a community area committee of the authority, or

(b) “;

(e) in subsection (7), after “those functions” insert –

“ –

(a) by a community area committee of the authority, or



(b) “;

(f) after subsection (7) insert –

“(7A) Where by virtue of this section any functions may be discharged by a community area committee of a local authority, the committee may arrange for the discharge of any of those functions –

(a) by a sub-committee of the community area committee, or

(b) by an officer of the authority.

(7B) Arrangements under this section may not provide for a community area committee of a local authority to discharge functions otherwise than in relation to the area of the committee.”;

(g) in subsection (8) –

(i) for “or (iii)” substitute “, (iii) or (iiia)”;

(ii) for “or (7)” substitute “, (7) or (7A)”.

(4) In section 17(4), omit “18,”.

(5) Section 18 is repealed.

(6) In section 21 –

(a) in subsection (13), after paragraph (a) insert –

“(aza) may require any member of a community area committee of the authority to attend before it to answer questions relating to any function which is exercisable by the community area committee by virtue of –

(i) section 14 or 15, or

(ii) section 55 of the Local Government (Wales) Act 2017,”;

(b) in subsection (14), after “(a)” insert “, (aza)”.

(7) In section 48(1), at the appropriate place insert –

““community area committee” means a committee appointed under section 43 of the Local Government (Wales) Act 2017,”.

*Localism Act 2011 (c.20)*

In Schedule 3 to the Localism Act 2011 –

(a) omit paragraph 4(b);

(b) omit paragraph 16.

*Local Government (Wales) Measure 2011 (nawm 4)*

Section 55 of the 2011 Measure is repealed.

*Well-being of Future Generations (Wales) Act 2015 (anaw 2)*

In section 38(3) of the Well-being of Future Generations (Wales) Act 2015, after paragraph (ga) insert –

“(gb) the most recent statement of priorities and objectives submitted to the local authority by each of its community area committees under section 52 of the Local Government (Wales) Act 2017;”.

SCHEDULE 9  
(introduced by section 148)

RENAMING OF COUNTY COUNCIL AUDIT COMMITTEES

- 1 The 2011 Measure is amended as follows.
- 5 2 In the heading of Chapter 2 of Part 6, before “AUDIT COMMITTEES” insert  
“CORPORATE GOVERNANCE AND”.
- 3 In section 81 (local authorities to appoint audit committees) –
- (a) in the heading, after “appoint” insert “corporate governance and”;
  - (b) in subsection (2), after “its” insert “corporate governance and”;
  - 10 (c) in subsection (3), for “an” substitute “a corporate governance and”.
- 4 In section 82 (membership) –
- (a) in subsection (1), after “of its” insert “corporate governance and”;
  - (b) in subsection (2) –
    - (i) in paragraph (a) for “its audit committee” substitute “that committee”;
    - 15 (ii) in paragraph (c) for “its audit committee” substitute “that committee”;
    - (iii) in paragraph (d) for “its audit committee” substitute “that committee”;
  - (c) in subsection (3), after “local authority’s” insert “corporate governance and”;
  - (d) in subsection (4), for “an” substitute “a corporate governance and”;
  - (e) in subsection (5), for “an” substitute “a corporate governance and”;
  - 20 (f) in subsection (7), for “an” substitute “a corporate governance and”.
- 5 In section 83 (proceedings etc.) –
- (a) in subsection (3), for “an” substitute “a corporate governance and”;
  - (b) in subsection (4), for “an” substitute “a corporate governance and”;
  - (c) in subsection (7), for “an” substitute “a corporate governance and”.
- 25 6 In section 84 (frequency of meetings) –
- (a) in subsection (1), for “an” substitute “a corporate governance and”;
  - (b) in subsection (2), after “the” insert “corporate governance and”;
  - (c) in subsection (3), for “an” substitute “a corporate governance and”;
  - (d) in subsection (4), for “an” substitute “a corporate governance and”.
- 30 7 In section 85 (guidance) –
- (a) in subsection (1) –
    - (i) in paragraph (a) after “functions of” insert “corporate governance and”;
    - (ii) in paragraph (b) for “audit” substitute “such”;
  - (b) in subsection (2), after “and its” insert “corporate governance and”.
- 35 8 In section 86 (termination of membership) –
- (a) in subsection (1), for “an” substitute “a corporate governance and”;

(b) in subsection (2), after “member of the” in the second place insert “corporate governance and”;

(c) in subsection (4), after “or the” insert “corporate governance and”.

9 In section 87 (Interpretation etc.), in subsection (2) omit the definition of “audit  
5 committee”.



Llywodraeth Cymru  
Welsh Government

# **Draft Local Government (Wales) Bill**

**Draft Explanatory Memorandum**  
Incorporating the Regulatory Impact  
Assessment and Explanatory Notes

**November 2015**

# DRAFT LOCAL GOVERNMENT (WALES) BILL

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

This Explanatory Memorandum has been prepared by the Education and Public Services Group of the Welsh Government and is published as part of the consultation on this Draft Bill.

**Leighton Andrews AM**  
Minister for Public Services

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## **ANNEX A – Explanatory Notes**

## Description

1. The provisions of the Draft Local Government (Wales) Bill are intended to establish new Counties and their Councils by the merger of two or more existing County or County Borough Councils and to establish a new and reformed legislative framework for Local Government democracy, accountability, performance and finance. The provisions of the Draft Bill will also establish a statutory Public Services Staff Commission.



## 2. Legislative background

2. The National Assembly for Wales (“the Assembly”) has the legislative competence to make provisions in the Draft Local Government (Wales) Bill under Part 4 of the Government of Wales Act 2006 (GOWA 2006). The relevant provisions of GOWA 2006 are set out in section 108 and Schedule 7.
3. Paragraphs 2, 3, 5, 6, 7, 9, 12, 14, 15, 16 and 19 of Part 1 of Schedule 7 to GOWA 2006 set out the relevant subjects which give the Assembly legislative competence to make the provisions in this Bill. The relevant paragraphs are reproduced below:

### *Ancient monuments and historic buildings*

2 Archaeological remains. Ancient monuments. Buildings and places of historical or architectural interest. Historic wrecks.

### *Culture*

3 Arts and crafts. Museums and galleries. Libraries. Archives and historical records. Cultural activities and projects.

### *Education and training*

5 Education, vocational, social and physical training and the careers service. Promotion of advancement and application of knowledge.

### *Environment*

6 Environmental protection, including pollution, nuisances and hazardous substances. Prevention, reduction, collection management, treatment and disposal of waste. Land drainage and land improvement. Countryside and open space. Nature conservation and sites of special scientific interest. Protection of natural habitats, coast and marine environment (including seabed). Biodiversity.

### *Fire and rescue services and fire safety*

7 Fire and rescue services. Promotion of fire safety otherwise than by prohibition or regulation.

### *Health and health services*

9 Promotion of health. Prevention, treatment, Provision of health services, including medical, dental, ophthalmic, pharmaceutical and ancillary services and facilities, Clinical governance and standards of health care, Organisation and funding of national health service.

### *Local Government*

12 Constitution, structure and areas of local authorities. Electoral arrangements for local authorities. Powers and duties of local authorities and their members and officers. Local government finance.

“Local authorities” does not include police authorities.

*Public Administration*

14 Equal opportunities in relation to equal opportunity public authorities.  
Access to information held by open access public authorities.

*Social welfare*

15 Social welfare including social services. Protection and well-being of children (including adoption and fostering) and of young adults. Care of children, young adults, vulnerable persons and older persons, including care standards.

*Sport and recreational activities*

16 Sport and recreational activities.

*Water and flood defences*

19 Water supply, water resources management (including reservoirs), water quality and representation of consumers of water and sewerage services.  
Flood risk management and coastal protection.

4. None of the provisions of the Draft Bill falls within any of the exceptions specified in Part 1 of Schedule 7 to GOWA 2006, or apply otherwise than in relation to Wales, or confer, impose, modify or remove (or give power to confer, impose, modify or remove) functions exercisable other than in relation to Wales, or breach any restrictions in Part 2 of Schedule 7, having regard to any exception in Part 3 of that Schedule from those restrictions.

### 3. Purpose and intended effect of the legislation

#### Background: Local Government Reform

5. The Programme for Government sets out the Welsh Government's Action Plan for the fourth Assembly term. Chapter 2 of the Programme for Government introduced commitments which aim to support continuous improvement in public services.
6. One of these commitments was to establish the Commission on Public Service Governance and Delivery. The Commission, established in April 2013, was remitted to produce an independent report on how public services in Wales are governed and delivered now, how this needs to change in order to meet the needs of people today, and how to build a sustainable basis for the future.
7. The Commission's report, published in January 2014<sup>1</sup>, contained a series of recommendations for action. It made a compelling argument for radical change to improve the ability of public services to respond to growing challenges. The recommendations were presented as a package, covering a range of areas including action to:
  - streamline delivery arrangements and reduce complexity;
  - generate the scale and capability to sustain and improve services;
  - strengthen the governance, scrutiny and delivery of services;
  - develop the right leadership, culture and values for public services; and
  - improve the performance and performance management of services.
8. The Commission concluded the public sector in Wales was too crowded and many public organisations were too small. It found this meant interrelationships were too complex, both formal structures and less formal partnerships and collaborative arrangements. Whilst some small public organisations in Wales may perform well (and some large organisations may perform badly), the smaller ones faced multiple and severe risks to governance and delivery which were likely to get worse in the medium term. Among its recommendations, the Commission stated the current 22 County or County Borough Councils should be combined by merging existing County or County Borough Councils to create new Councils and not by re-drawing boundaries. The Commission presented four options for merger, creating 12, 11 or 10 new Councils.
9. In July 2014, the Welsh Government responded to the Commission on Public Service Governance and Delivery's report through the publication of *Devolution, Democracy and Delivery – Improving public services for people in Wales*.<sup>2</sup> This accepted the Commission's recommendation for a

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<sup>1</sup><http://wales.gov.uk/topics/improvingservices/public-service-governance-and-delivery/report/?lang=en>

<sup>2</sup><http://gov.wales/topics/improvingservices/devolution-democracy-delivery/?lang=en>

reduction in the number of County or County Borough Councils in Wales through a process of merger.

10. In July 2014, the Welsh Ministers also published the *Devolution, Democracy and Delivery White Paper – Reforming Local Government*,<sup>3</sup> which stated the Welsh Ministers' intention to introduce legislation into the National Assembly for Wales to deliver Local Government reform.
11. The White Paper indicated the Welsh Government's preferred Option 1 of the Commission's recommendations for Council mergers i.e. to reduce the number of County or County Borough Councils from 22 to 12.
12. Within the Paper, the Welsh Ministers noted the Commission's argument of the principles for merger: the boundaries of merged County or County Borough Councils should support integrated service delivery through aligning with Local Health Board and Police Force boundaries and the reforms should be based on mergers to avoid the upheaval involved in splitting existing County or County Borough Councils. The Welsh Ministers, in keeping with these principles, stated their intention any new Local Government Area should be based upon the merger of two or more whole existing Local Government Areas.
13. The White Paper, however, acknowledged some County or County Borough Councils had suggested they might prefer alternative merger configurations. The Welsh Ministers indicated they remained open to possible alternatives, but any alternative proposal would need to be backed by evidence and supported by all the existing County or County Borough Councils directly and indirectly affected.
14. In addition to outlining the Welsh Ministers' preferred option for mergers, the White Paper provided details of the plan to deliver the full programme of mergers.
15. The White Paper acknowledged reducing the number of Councils through a process of mergers avoids many of the complexities and challenges which would be associated with a redrawing of boundaries, but nonetheless represents a significant undertaking. The Welsh Ministers considered there was insufficient time to develop, plan and legislate for a full programme of mergers before the next National Assembly elections in May 2016. The White Paper therefore detailed the Welsh Government's intention to publish a Draft Bill (this Draft Bill) for consultation in the autumn of 2015, which would set out the intentions for merging County or County Borough Councils and the wider reform of Local Government.
16. The White Paper also outlined the Welsh Government's commitment to support and facilitate those County or County Borough Councils who wished to begin a voluntary early process of merger, through making

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<sup>3</sup><http://gov.wales/consultations/localgovernment/white-paper-reforming-local-government/?lang=en>

specific legislative provision, by way of a first Local Government (Wales) Bill.

17. The *Invitation to Principal Local Authorities to Submit Proposals for Voluntary Mergers*<sup>4</sup> was issued in September 2014. It reiterated the preference for Option 1 of the Commission's recommendations for County or County Borough Councils' mergers, but noted Ministers would be willing to consider alternative proposals from Councils to create a new Council by seeking to group together into larger configurations than envisaged in 'Option 1'.
18. Councils wishing to merge voluntarily were invited to submit detailed expressions of interest by November 2014 and fully developed cases for merger by June 2015. Three expressions of interest were received, which were considered against set criteria. On 25 January 2015, the Minister for Public Services confirmed the decision not to pursue any of the expressions of interest. To date no further expressions of interest or cases for merger have been submitted. The deadline for applications under the first Bill is 30 November 2015.
19. The first Local Government (Wales) Bill was introduced into the Assembly on 26 January 2015, and was passed by the Assembly on 20 October. The legislation will enable preparations to be made for the programme of Local Government mergers and reform. The legislation puts in place safeguards to discourage and counter activities by existing County or County Borough Councils which might bring reputational or financial harm on any county councils created by future merger. It also amends provisions of the Local Government (Wales) Measure 2011 and the Local Government (Democracy) (Wales) Act 2013 to ensure the effective operation of those statutes.
20. A second White Paper published in October 2014 set out proposals for a Public Services Staff Commission to develop and disseminate good practice in workforce arrangements across public services.<sup>5</sup> The Staff Commission was established on a non-statutory basis in September 2015.
21. The third White Paper *Reforming Local Government: Power to Local People*<sup>6</sup> was published in February 2015. It focused on the internal redesign of Councils to complement and support the structural reform set out in the first White Paper, *Reforming Local Government*. This involves a range of fundamental reforms to ensure strong performance, robust democracy, good governance and effective delivery for communities.

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<sup>4</sup><http://gov.wales/topics/localgovernment/publications/local-authorities-proposals-for-voluntary-mergers/?lang=en>

<sup>5</sup><http://gov.wales/consultations/improving/public-services-staff-commission-consultation/?lang=en>

<sup>6</sup><http://gov.wales/consultations/localgovernment/power-to-local-people/?lang=en>

22. On 17 June 2015 the Welsh Government set out its preference for the future configuration of Local Government in Wales.<sup>7</sup> Two maps were published which show the preference for the future structure in south, mid and west Wales with two options (two or three Local Government Areas) in north Wales.
23. These proposals form the basis of this second Bill, the Local Government (Wales) Bill. This consultation provides the public, the current County or County Borough Councils and others with the opportunity to comment on the proposals, presenting the Welsh Government which takes office after May 2016 with the opportunity to make an early decision on how it wishes to proceed, with the benefit of a developed legislative proposition, assisted by a full understanding of the views of stakeholders.

### **Purpose of the provisions**

24. The purpose of the Draft Bill is to establish new Counties by the merger of existing Counties and County Boroughs, to establish a new and reformed legislative framework for Local Government democracy, accountability, performance and finance, and to establish a statutory Public Services Staff Commission. The following sections outline the changes to be made by this Draft Bill. In these sections, a reference to 'the White Paper' is a reference to the *Reforming Local Government: Power to Local People* White Paper, unless stated otherwise.

### **Intended effect of the provisions**

#### **Part 1: Local Government Areas and County Councils**

(Key references in the Draft Bill: Part 1, Chapters 1 to 4 and Schedules 1 to 5)

#### **Local Government Areas (Chapter 1)**

25. The Welsh Government has set out its preference for the future configuration of Local Government in Wales. The Welsh Ministers have stated publicly their guiding principle is that any new Local Government Area will be based on the merger of two or more whole existing Local Government Areas.<sup>8</sup>
26. Section 1 establishes new Counties in Wales from 1 April 2020. The White Paper proposed the new Local Government Areas should be known as 'Counties' and the term 'County Borough' should no longer be used. Sixty per cent of the online respondents to the consultation agreed. The Bill provides that from 1 April 2020, the Principal Local Government Areas in Wales will be known as Counties.
27. Schedule 1 sets out two alternative proposals for the number of Counties. One proposal envisages eight Counties, the other envisages nine Counties (including Powys in both cases) and they are described by reference to the

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<sup>7</sup> [Welsh Government | Written Statement - The Future of Local Government in Wales](#)

<sup>8</sup> Referred to as "principal areas" in the Local Government Act 1972

constituent existing Counties and County Boroughs. It is proposed Powys County and its Council will be retained within its existing boundary. This section also provides that the existing Counties and County Boroughs and their Councils (with the exception of the County of Powys and its Council) will cease to exist on 1 April 2020. The Local Government Areas for communities remain unchanged.

28. The make-up of the proposed new Counties is the subject of consultation.

### **County Councils (Chapter 2)**

29. Section 2 provides that the Councils for the new Counties are to be known by the name of the new County followed by 'County Council' or 'Council' (at the discretion of Councils).

30. With the exception of Powys, the proposed new Counties are simply referred to as County 1 etc. in the Tables presented in Schedule 1 to the Draft Bill. The intention is that Shadow Authorities, to be elected in 2019 will determine the names of their new County (in English and Welsh forms). The regulation-making power in paragraph 2(1) of Schedule 1 will enable the Welsh Ministers to give legal effect to the names determined by the Shadow Authorities

31. Sections 3-12 restate, with some modifications, sections 22 to 26 and 74 of the Local Government 1972 Act ("the 1972 Act"). These provide for:

- the election of the chair, vice-chair, presiding member and deputy presiding member of a County Council;
- the "ordinary" election of Councillors and their term of office ("ordinary election" is a term used in legislation for the election of the entire Council at regular intervals); and
- enabling a County Council to change the name of the County for which it is the Council.

32. The modifications include:

- The chair of a County Borough Council is entitled to the title of mayor; the title is not currently available to the chair of a County Council. Section 6 provides that a county council may determine that the chair is to have the title of mayor;
- Section 8 provides that the functions of a deputy presiding member will, subject to the standing orders of the Council, be consistent with the functions of a vice-chair;
- Section 9 provides that, in the event that a Council determines to have a presiding member and deputy presiding member, the chair of the council must have the title of mayor or civic chair as determined by the Council;
- The first elections to the new Councils established by the Draft Bill will be in May 2019 (see section 14). Section 10 provides that from the ordinary elections of Councillors of the new Councils in May 2023, the cycle of elections and the term of

Councillors will be five years. This is to avoid clashes with Assembly and UK Parliament elections which have both been moved to five-year terms.

33. The provision in section 12 is to enable a County Council at any future date to change the name of the County by a resolution passed by at least two thirds of members voting. This function will not be transferred to the Shadow Authorities by way of regulations made by the Welsh Ministers under the Bill and, therefore, will not apply to the first naming of the new Counties.

### **Establishing the Councils for the New Counties (Chapter 3)**

34. The Draft Bill provides for transitional arrangements relating to the establishment of the new County Councils (not including for Powys). Section 14 provides that the first ordinary elections of Councillors for the new Councils will be held on 2 May 2019. Schedule 2 makes provision relating to the first ordinary elections and first meetings of the new Councils. These provisions are necessary so as to ensure the effective operation of the first elections and first meetings of these Councils to accomplish the transition from the current Local Government structure to the new.
35. Section 15 provides that the new County Councils elected at the first elections will be Shadow Authorities from May 2019 to 1 April 2020. On 1 April 2020 the new County Councils will become responsible for the full range of Local Government functions.
36. The functions of the Shadow Authorities, and their funding, during the shadow period will be provided for under regulations made by the Welsh Ministers. The functions transferred will enable them to prepare and plan for their taking over the full range of Local Government functions. The Shadow Authorities will exist and work alongside the Councils they will replace. These regulations will include, for example, the crucial role of each Shadow Authority in relation to the immediate budget and medium term financial plans for the new Council and how those plans will be funded. The Welsh Ministers will have powers to issue guidance to the Shadow Authorities which will include matters such as the Welsh Minister's expectations in relation to financial planning. We will expect this important preparatory work to build on the planning and preparations initiated by Transition Committees. The existing County and County Borough Councils will continue to be responsible for the day-to-day operation and delivery of services in their areas until 1 April 2020. Further provision in relation to Transition Committees and Shadow Authorities is contained in the first Local Government (Wales) Bill (sections 11 to 15, 25 to 30 and 38).
37. Schedule 3, which is introduced by section 16, contains provisions which are necessary to ensure the exercise of finance functions by the new County Councils from 1 April 2020. Firstly, the new Councils will be the "billing authority" for the purposes of raising local tax revenue from domestic and non-domestic properties for the financial year beginning on 1



April 2020. This will enable Shadow Authorities to begin the preparatory work necessary in advance of the financial year beginning on 1 April 2020. This includes enabling Shadow Authorities to set the budget and council tax requirements in readiness for the first financial year (2020-21). By law, this will need to happen before 11 March 2020 to enable Shadow Authorities to issue bills to domestic and non-domestic local tax-payers before the start of the financial year.

38. To enable a smooth transition in respect of billing activities for the new areas, the Draft Bill proposes that the valuation lists for the purposes of council tax and non-domestic rating for the new County Councils will be the amalgamation of existing valuation lists. This is in line with the approach adopted when there have been changes to the structure of Local Government in the past.
39. Further provision is made in relation to the establishment of council funds, the keeping of general and special accounts, and payments to precepting authorities.
40. Section 17 includes the necessary provisions for transferring functions from the abolished County and County borough Councils to the successor County Councils.
41. Schedule 4, which is introduced by section 18, make provision for the transfer of staff, property, liabilities and other transitional requirements. In terms of the transfer of staff, the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply to staff being transferred under the Bill. This is, however, subject to two exceptions in relation to criminal liability and pensions. The first is to ensure that any criminal liability arising in respect of a contract of employment will be transferred to the new County Councils. The second is to ensure that any accrued rights or liabilities under an occupational pension schemes are transferred so that transferring staff are not disadvantaged.

#### **Miscellaneous Provision (Chapter 4)**

42. Section 19 provides the Welsh Ministers with the power to make consequential, supplementary, incidental, transitional or saving provision by regulations. This may include regulations in relation to the transfer of staff, property, rights and liabilities where the default position in the Bill would not be appropriate. Regulations under this section include provision to maintain historic privileges and rights, such as those associated with city and borough status.
43. Section 21 includes consequential amendments to the Local Government Act 1972. There will be other consequential amendments to other legislation arising from this Bill which will be included in the Bill at introduction.
44. Section 21 also introduces Schedule 5 which makes further amendments to the 1972 Act and transitional provision relating to elections in

consequence of the reform of Local Government. Moving to a new Local Government structure, including a period of transition where a Shadow Authority will be in existence, has an impact on the term of office of Councillors. Schedule 5 makes the necessary provisions in relation to elections in consequence of the reform of Local Government. It provides that the last term of office of the Councillors of the abolished Councils will be three years. The last elections to the abolished Councils will be held in May 2017 and the term of office of the Councillors will come to an end on 1 April 2020.

45. The term of office of the Councillors of the new County Councils elected in May 2019 will be four years, coming to an end in May 2023.
46. The period of reform also impacts the elections of Powys County Council even though Powys is not affected by the merger provisions in this Part of the Draft Bill. In consequence of the need to bring the elections in Powys in line with the remainder of Wales, provision is made so that elections in Powys will take place in May 2020 and May 2023. This means Councillors in Powys will serve two three-year terms from the elections of 2017 and 2020.
47. Elections will take place in all the new Counties in 2023. Thereafter elections to all Counties will take place every five years in accordance with section 10.

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

(Key references in the Draft Bill: Part 2, Chapters 1 to 2)

### **The General Power (Chapter 1)**

48. There was strong support from respondents to the consultation on the White Paper for County and County Borough Councils to be granted a general power of competence (referred to as 'a general power'). Accordingly, sections 23 to 26 provide County Councils and 'Community Councils with competence' ("qualifying Local Authorities"), with a general power. 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 a general power. Section 27 provides the Welsh Ministers with power to vary the application of the general power, and its exercise, by regulation. The section also enables the Welsh Ministers to, by regulation, repeal or amend existing legislation which obstructs qualifying Local Authorities' use of the general power.
49. 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. 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 the Local Government Act 2000 (which will be repealed by the

provisions in section 28). For example, it would enable them to provide certain indemnities and guarantees. 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.

### **Community Councils with Competence (Chapter 2)**

50. These provisions are aimed at improving the professionalism and competency of the Community Council sector so that it is capable of making a greater contribution to local well-being and community resilience. Community Councils achieving this will be able to make use of the general power of competence. This is the most significant additional power granted to Community Councils since civil parishes were first created in the 1890s and will enable them to be ambitious and innovative.
51. The provisions in section 31 to 33 establish requirements which Community Councils must meet, and pass a resolution that they meet, in order to be considered 'competent' and able to exercise the general power of competence. The conditions are:
- *Democracy*: at least two-thirds of Councillors on a Community Council have been elected (whether at an ordinary election or a by-election);
  - *Capability*: the Community Council must employ a clerk with a relevant professional qualification;
  - *Governance*: the Council has received an unqualified auditor's opinion in respect of its accounts for two consecutive financial years, with the latest opinion having been received within the last 12 months.
52. Being deemed 'competent' will provide other organisations dealing with the Community Council with a degree of confidence that the Council in question has met certain conditions and, therefore, has the knowledge, capability and reliability to 'do business'. There will also be a reputational benefit whereby communities will be able to see their Council is meeting certain standards in the way they are undertaking their functions.
53. Community Councils will be required to assess and resolve whether they have 'competence' at each annual meeting held in the year of an ordinary election. They will remain 'with competence' until the next annual general meeting following an ordinary election. This holds true whether or not they continue to satisfy the competence requirements, unless they pass a resolution to the contrary. A Community Council which ceases to be a Community Council with competence may continue to exercise the general power of competence in relation to any activities begun using the general power of competence.
54. It is our intention to commence the provisions in respect of the general power of competence and Community Councils with competence as soon as possible after Royal Assent.

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

(Key references in the Draft Bill: Part 3, Chapters 1 to 6)

#### **Public Participation in Local Government (Chapter 2)**

55. The policy intention is to encourage members of the public to engage with local democracy. The respondents to the White Paper consultation agreed Local Authorities should engage more effectively with residents. The provisions in this chapter provide that new County Councils will be required to promote participation by the public in their decision-making and scrutiny procedures. Authorities will be required to prepare, consult on, publish and review a 'public participation strategy'.

56. The White Paper asked for views regarding engagement about spending priorities. Some of the responses from Local Authorities recognised the positives of effective engagement and a desire to share good practice. This contrasted with other views from Local Authorities that this type of engagement is not always effective and formalising the process is unnecessary. The responses from individuals and other organisations (including many Town and Community Councils) were overwhelmingly in favour of detailed and comprehensive consultation about Local Government spending. The comments suggested a lack of trust between communities and Councils and a perception that consultation is undertaken to ratify decisions which have already been made.

57. The Welsh Government believes full and wide-ranging engagement about how Councils use public money is essential if they are to be transparent, trusted, and truly responsive to the changing needs of their communities. This will become imperative as continuing austerity forces County Councils to make difficult decisions about service delivery.

58. Section 40 puts a duty on County Councils to carry out consultation and engagement activities before formally setting their budget. These provisions work with the other provisions relating to public participation but specific provision is being made for budget-setting processes because they directly affect a much wider range of stakeholders, as well as the whole population of local people.

59. County Councils will be subject to guidance from the Welsh Ministers as to how they facilitate participation.

#### **Community Area Committees (Chapter 3)**

60. The provisions in sections 43 to 58 require County Councils to implement an inclusive area-based approach to community governance through the establishment of statutory community area committees in each community area, as defined in the Well-being of Future Generations (Wales) Act 2015. Community area committees will comprise all the County Councillors in the community area, and representation from Community Councils, other public bodies and voluntary bodies. Community area committees are intended to give Councillors and community representatives direct influence over local spending by making an annual statement about local

priorities and objectives. The provisions permit a county council to delegate functions to community area committees.

61. Community area committees will be framed in an inclusive manner, but it is essential they remain within the sphere of democratic governance as committees of the County Council. This will enable Councillors to undertake a more active community leadership role and provide a counterbalance to the power of the Executive, as well as making sure County Councils are in touch with their communities and alive to their aspirations and concerns. This will ensure open and transparent decision-making and enable people to see the difference their involvement in local democracy makes.
62. There is a very clear opportunity for community area committees to forge a strong relationship with the local Public Services Board (PSB). The PSB will have conducted its assessment of well-being across the County Council area by considering the needs of each community area. In so doing, and in shaping and delivering its local well-being plan, we would expect the PSB to engage actively with community area committees so that community priorities are recognised in the preparation of the local well-being plan and the community area committees' actions to improve local well-being are acknowledged in the PSB's annual reports.

#### **Improvement Requests (Chapter 4)**

63. Sections 64 to 72 include provisions which give community bodies the power to submit an improvement request to a County Council with the aim of entering a dialogue about how services could be improved. The definition of 'interested bodies' is drawn widely, to include groups working for the benefit of the community, voluntary groups, charities and others, in order to be as inclusive as possible and ensure some communities (of place or interest) are not further disadvantaged by stringent conditions.
64. The procedure sets out that at the end of a period of dialogue, the County Council will set out in a report, to be published on its website, a summary of the discussions and the actions that have been agreed by the interested body and the County Council. The County Council will be required to publish an annual report of all the improvement requests it has received and the changes they have resulted. Both County Council and interested bodies will be expected to hold to the matters they have agreed publicly. We do not believe it would be conducive to good relations between County Councils and community groups or to fostering a culture of working together if we were to impose more heavily prescribed duties on the County Council.
65. Section 70 requires the County Council to establish a complaints procedure relating to improvement requests. The Welsh Ministers may, by regulation, make provision about matters which must be addressed in the complaints procedure. Section 74 includes further regulation making powers for the Welsh Ministers, including in relation to the procedures to

be followed, promotion of improvement requests and support to be provided to interested bodies.

### **Access to Meetings etc. of Local Authorities (Chapter 5)**

66. Section 75 requires the Leader of the Council, at least once a year, to attend a meeting to provide members of the public with the opportunity to meet the Leader in person and ask him or her questions about the operation of the Council.
67. Section 76 requires County Councils to broadcast their meetings which are open to the public electronically as they take place. The broadcast must be available electronically for a reasonable period after the meeting. Councils will be under a duty to have regard to guidance published by the Welsh Ministers. Provisions also enable the Welsh Ministers, by regulations, to impose a similar requirement on Fire and Rescue Authorities and National Park Authorities (and their committees). The Welsh Ministers will also have power to issue regulations and guidance which would address which meetings must not be broadcast.
68. Furthermore, section 77 provides that by regulations, the Welsh Ministers may make provision for the filming and recording of Council meetings by the public. The prohibition of such activities puts councils at loggerheads with the norms of public life and militates against an open and transparent approach. The making of regulations under this section should reduce bureaucracy and administration for the County Council and requires the Council to think about public involvement in all its activities, leading to more joined up and effective involvement.
69. Regulations under section 77 may also apply to the filming etc. of meetings of Community Councils, Fire and Rescue Authorities and National Park Authorities.
70. Section 78 also provides for public participation at Community Council meetings which are open to the public.

### **Further Duties of County Councils (Chapter 6)**

71. Section 37 of the Local Government Act 2000, requires County 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 Councillors, officers, the public and stakeholders to understand how the Council makes decisions and who is responsible for those decisions.
72. The result is County or County Borough Council constitutions in Wales which range from around 250 pages to over 450. While County 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 County Council to the people it serves.

73. In response to the consultation on the White Paper, 92% of online respondents agreed “Local Authorities should set out in plain language their values and the principles they will use to operate in 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.
74. The provisions in section 79 require County 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 County Council operates and makes decisions.
75. Councillors should also be freely accessible to local people. Section 80 requires County Councils to publish the official addresses of each Member of the Council on its website.

#### **Part 4: Functions of County Councils and their Members**

(Key references in the Draft Bill: Part 4, Chapters 1 to 8)

##### **Duties on Members of County Councils (Chapter 2)**

76. The majority of respondents to the White Paper consultation agreed the roles and responsibilities of Councillors should be defined in legislation. Sections 82 to 86 provide that Members of the new County Councils will be subject to certain statutory responsibilities, as described below.
77. Members of County Councils will be placed under an obligation to attend meetings of the full Council and any Committees of which they are members, and other meetings they would reasonably be expected to attend in the exercise of their functions as Members of the Council, unless they have a good reason.
78. Members will be subject to a requirement to hold regular ‘surgeries’, i.e. sessions held within their wards to which members of their electorates may attend and speak with their Councillor in private.
79. Members will also be subject to a requirement to answer correspondence sent to their official address, unless they have a good reason for not doing so.
80. Members will be required to complete all compulsory training courses. Councils will be enabled to decide what elements of the training and developmental courses made available to members should be compulsory for the Members to complete. The Welsh Ministers will produce guidance to which Councils and their Members should have regard.

81. At present, Members are encouraged to produce annual reports to summarise what they have achieved for local people in the previous year. However, not all do so. Section 86 will make it a requirement that all Members publish an annual report.

### **Breaches of Duties under Chapter 2 (Chapter 3)**

82. Section 87 provides that a person may make a complaint about an alleged failure by a Councillor to abide by the duties set out above to the monitoring officer of that Council. Sections 88 to 93 set out the procedure for handling such complaints. The procedure requires the monitoring officer to refer the matter to the chair of the Standards Committee. If the Monitoring Officer and the chair of the Standards Committee both consider that a matter should not be investigated, no investigation may take place. If either the Monitoring Officer or the chair of the Committee considers a matter should be investigated, the Monitoring Officer must investigate it. After conducting an investigation the Monitoring Officer must provide the Standards Committee of the Council with a report of the investigation. The provisions set out the role of the Standards Committee and the actions it may take if a Councillor has breached a duty.

### **Further Provision about Duties on Members (Chapter 4)**

83. Sections 94 and 95 provide that the Welsh Ministers may by regulation make further provision about the way in which a possible breach of the duties is to be dealt with, and issue guidance which Councillors, Monitoring Officers and Standards Committees must have regard to. Sections 96 and 97 amend the duties on Standards Committee to provide training for Members so that it includes the new duties.

84. Section 98 provides that a leader of a political group of a Council must take reasonable steps to promote and maintain high standards of conduct by the members of the group. This provision supports the policy intention of ensuring the promotion of diversity and combating bullying and harassment amongst Councillors and Council staff. The provisions in Chapter 7 of this Part place a duty on a Standards Committee to make an annual report which will include the Committee's assessment of the extent to which leaders of political groups on the Council have complied with their duties.

### **Executive of County Councils (Chapter 5)**

85. The White Paper sought views on defining the roles and responsibilities of Leaders and Elected Mayors in legislation. Most of the online respondents (73%) agreed with this proposal. Section 99 provides that the Leader of a County Council will have certain responsibilities placed upon them and be given responsibility for setting objectives for the Cabinet and, separately, under section 104, for the Council's Chief Executive.

86. After appointing the Cabinet, the Leader of the Council will be required to set objectives for the Cabinet which must be published. These will be subject to review with objectives capable of being revised at any time. The



Leader will be required to publish an annual report which outlines the Cabinet's progress towards achieving those objectives.

87. Section 100 requires each candidate for the post of Council Leader to produce a written manifesto. The Leader must be given the opportunity to promote their written manifesto at a meeting of the Council prior to the election of the Leader.
88. In the White Paper we consulted on whether there should be a role for deputy Cabinet members, with the aim of broadening the diversity of Executives and giving an opportunity for younger members to gain experience. The majority of respondents were in favour. The provisions in section 101 will enable the appointment of Councillors 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.

#### **Appointment etc. of Certain Chief Officers (Chapter 6)**

89. In the White Paper, we 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 our proposals.
90. As outlined in the White Paper, a County Council must, under the provisions of the Local Government and Housing Act 1989, designate an officer as its 'Head of Paid Service'. That officer is usually also described as the Council's Chief Executive Officer or, on occasion, the Managing Director. However, there is nothing in legislation to require the Head of Paid Service post to be combined with that of the Chief Executive and there is no obligation for a Council to appoint a Chief Executive. In addition, there is no statutory definition of any other duties of a Chief Executive in a County Council.
91. The provisions in section 103 require a County Council to appoint a Chief Executive. The provisions define in law the post of a County 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 becomes 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.
92. Section 104 requires the Leader to set the Chief Executive's objectives for the term of the Council and to review these on an annual basis at a performance review. The objectives will be published. The Leader will be required to prepare a report for the Council on the outcome of the review with the Chief Executive. This will provide for a clear delineation between

the roles of the Council Leader and that of the Council's Chief Executive. The Leader will have responsibility for developing policy and the Chief Executive will be responsible for ensuring the Council's officers carry through these policies.

93. The provisions in section 105 amend the Local Government (Wales) Measure 2011 and the Localism Act 2011 so that the head of Democratic Services is treated as a chief officer.

### **Overview and Scrutiny Committees and Standards Committees (Chapter 7)**

94. We consulted in the White Paper on proposals to make the role of scrutiny within a County Council more effective and to ensure the local community has a greater involvement in the scrutiny of Council policies.
95. Currently, the law permits co-opted members of advisory committees to the Council to have voting rights, but (with some exceptions) it does not permit co-opted members of Scrutiny Committees to have voting rights. The Welsh Government believes this restricts Scrutiny Committees from making the most of the experience and knowledge of experts, service users and under-represented people. The purpose of the provision in section 106 is to enable County Councils to grant voting rights to co-opted scrutiny members more generally. The Draft Bill provides that the Welsh Minister's may by regulations, make provision about the exercise of this new function.
96. Section 22(10) of the Local Government Act 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 we indicated in the White Paper, it is our intention 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. Section 107 amends section 22(10) of the 2000 Act so that regulations may require that Scrutiny Committees and their sub-committees are given such notice.
97. Section 108 of the Draft Bill provides that regulations may require County Councils to establish a Joint Scrutiny Committee. The 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.
98. Given the more significant role afforded to Standards Committees under the Draft Bill, it is important they have an opportunity to review their work periodically and report on significant matters they have dealt with and any emerging trends. Under section 109, Standards Committees will be

required after the end of each financial year to make an annual report to the Council describing how the Committee's functions have been discharged during the financial year.

### **Minor Amendments to other Legislation (Chapter 8)**

99. Section 110 makes minor amendments to the Local Government Act 2000 and the Local Government (Democracy) (Wales) Act 2013.

## **Part 5: County Councils: Improvement of Governance**

(Key references in the Draft Bill: Part 5, Chapters 1 to 7)

### **Duty to Make Arrangements to Secure Good Governance Etc. (Chapter 1)**

100. Section 111 provides that County Councils must make and implement governance arrangements for the purpose of securing good governance, accountability and economy, efficiency and effectiveness in the use of their resources. The Welsh Ministers must make regulations about the principles, processes and practices relating to good governance. This new duty is closely linked to the new provisions in this Part concerning assessments and governance reviews (see below) and together they replace the improvement regime established under Part 1 of the Local Government (Wales) Measure 2009 which will no longer apply to Local Authorities.

### **Corporate Plans (Chapter 2)**

101. Consultation responses to the proposal that all County Councils are required to produce a corporate plan were largely supportive. Respondents felt the proposed list of items to be included in a corporate plan was reasonable, but in setting guidance the Welsh Government should not be too prescriptive. The one aspect respondents did not agree with was that the corporate plan should be the preserve of the Chief Executive, instead it should be 'owned' by the Council. The provisions in the section 112 reflect this feedback.

102. Sections 112 to 115 require County Councils to produce a corporate plan for the electoral term, refreshing the document on an annual basis to report, amongst other things, on previous performance. Consulting on and publishing, a corporate plan will be a way for County Councils to discharge a number of their planning and reporting duties under the Well-being of Future Generations (Wales) Act 2015.

103. Included within the corporate plan requirements is a requirement to set out information about a County Council's strategy relating to 'financial affairs and financial planning'. The linked regulation-making and guidance powers are intended to be used to encourage the new Councils to prepare ambitious plans for the delivery of services within their areas which are built on robust and sustainable resource plans. It is intended that County Councils will be required to prepare and publish financial plans as part of the corporate plan, having regard to guidance issued by the Welsh

Ministers on the principles and components of meaningful and strategic financial planning, including strategies for holding and using financial reserves.

### **Assessments of Governance Arrangements (Chapter 3)**

104. The responses to the White Paper consultation with regards to self assessment and peer assessment were supportive. Concerns were raised, however, about the burden of conducting a biennial peer assessment. County and County Borough Councils and the Welsh Local Government Association (WLGA) emphasised the benefits of peer assessment being sector-led. The Draft Bill reflects changes we have made to this proposal following feedback.
105. The basis for self/peer/combined assessments will be the County Council's compliance with its 'governance arrangements duty' (see paragraph 100). It is possible that elements of the CIPFA/Solace *Delivering Good Governance in Local Government: Framework*<sup>9</sup> could be adopted (by regulations made by the Welsh Ministers) within the principles, processes and practices relating to good governance etc. with which a County Council would need to comply in making its governance arrangements.
106. Section 117 requires each County Council to undertake an annual self assessment. The self assessment should be used by the County Council to consider and set out what action, if any, they will undertake to improve their governance arrangements.
107. Sections 118 to 121 require each County Council to undertake a peer assessment at least once per election cycle and set out the procedure to be followed. Following a peer assessment, the County Council should consider and set out what action, if any, they will undertake to improve their governance arrangements.
108. County Councils will be required to publish their self assessments and peer assessments as well as their responses. The County Council's Corporate Governance and Audit Committee will be required to consider these responses and provide constructive challenge. Self and peer assessment reports will be public documents and will be available to the relevant regulators. This will help inform the regulators' work programmes. The relevant regulators are Estyn, the Care and Social Services Inspectorate Wales and the Auditor General for Wales.
109. Sections 117 and 122 enable the Welsh Ministers by regulation to set out the form and content of self assessment and peer assessment reports, including when and how they are to be published.

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<sup>9</sup> <http://www.cipfa.org/policy-and-guidance/publications/d/delivering-good-governance-in-local-government-framework>

110. Online responses to the White Paper proposals regarding an external assessment of individual County Councils' governance arrangements were broadly supportive. There was limited discussion regarding these proposals in free-form responses. The WLGA and those County or County Borough Councils that did respond had concerns about the burden of a biennial 'health check'. Following further discussions with the relevant regulators, the Welsh Government accepts this argument and the Draft Bill provides for a less prescriptive regime of combined assessments.
111. Whilst sections 123 to 126 require that the relevant regulators collaborate to produce a combined assessment of each County Council's performance in relation to its 'governance arrangements duty', we asked the regulators to consider how this might work in practice. The system they propose includes:
- the regulators to review annually the corporate 'health' of each County Council drawing on existing information, such as audit and inspection reports, self assessments and peer reviews;
  - a discussion would take place with each County Council to discuss any emerging findings;
  - the regulators would then produce a combined assessment which would be issued to each County Council and copied to the Welsh Ministers, summarising emerging issues and the discussion held with the County Council;
  - County Councils would then need to consider the findings and decide if any action was required.
112. The regulators would use the information provided by the combined assessments to inform their forward work priorities with each County Council and to determine whether any additional work was required. We would expect them to draw on the expertise of other regulators when appropriate, such as the Welsh Language Commissioner and the Public Services Ombudsman for Wales.
113. It is proposed that the onus should be on the Corporate Governance and Audit Committee to challenge the County Council on their proposed action in response to self, peer and combined assessments. Section 126 provides that the Council must make these reports and draft responses available to its Corporate Governance and Audit Committee and have regard to any recommendations made by the Committee. This supports the approach we set out in the White Paper that County Councils must use their internal governance and accountability arrangements to secure opportunities for transformation and improvement.

#### **Governance Reviews and Intervention (Chapter 4)**

114. Responses to the White Paper supported retaining powers for the Welsh Ministers to intervene in cases of severe failure of corporate governance. The White Paper proposed that Welsh Ministers should have powers to commission an independent review of the corporate governance arrangements of a County Council prior to any possible intervention. Such

a review would be part of a number of mechanisms that could result in additional support being offered to a County Council or, where necessary, more formal intervention by Welsh Ministers.

115. Sections 128 to 134 set out the arrangements and procedures to be followed for conducting a review of a County Council's compliance with its 'governance arrangements duty'. The reviewer's report must be published within 14 days of being submitted to the County Council and the Welsh Ministers. In preparing its response to the report, the County Council must identify what action it proposes to take and send a copy of its draft response to the Corporate Governance and Audit Committee. The Council must publish its final response within 31 days of receiving the review report, having taken into account any recommendations made by the Corporate Governance and Audit Committee. A copy of the Council's final response must be sent to the Welsh Ministers and published.

116. Sections 135 to 141 provide the Welsh Ministers with powers of intervention following a governance review.

117. Sections 136 to 138 set out the options for intervention by the Welsh Ministers under the Bill:

- directing a County Council to obtain support services (section 136);
- directing a County Council to take specified action (section 137);
- directing that specified functions of the Council be exercised by, for example, commissioners (section 138).

118. Before any intervention, the Welsh Ministers would be required to consult the relevant County Council and the direction must be issued in writing. A County Council is required under section 140 to co-operate with people authorised to carry out an intervention by, for example, providing documents, records and other information. Section 141 provides that the people authorised to carry out an intervention have the right to enter the Council's premises, inspect and copy any records or documents, to access any computer and to require assistance in so doing.

### **Co-ordination between Regulators (Chapter 5)**

119. The aim of the provisions in section 143 is to promote effective working between the relevant regulators in order to minimise the burden on Local Government, enhance transparency for the public, and provide better information to support the work of the Corporate Governance and Audit Committee and Scrutiny Committees of a Council. The provisions will also enable regulations to be made by the Welsh Ministers so as to promote greater sharing of information between the regulators in order to:

- identify and address issues of potential concern with a specific County Council's performance earlier in order to address problems before they escalate;
- identify and address issues of potential concern across Local Government as a whole;

- identify areas of good practice to support sharing between County Councils.

### **Miscellaneous Provision about Chapters 1 to 5 (Chapter 6)**

120. This Chapter makes miscellaneous provision in relation to the exercise of functions under this Part. Section 147 amends the Local Government (Wales) Measure 2009 in order to remove County Councils from the improvement regime in Part 1 of that Measure.

### **Corporate Governance and Audit Committees (Chapter 7)**

121. The White Paper made a number of proposals for strengthening the internal governance and accountability arrangements in County Councils as a consequence of removing Councils from the improvement regime in Part 1 of the Local Government (Wales) Measure 2009. A key proposal was to clarify and strengthen the role of County Council Audit Committees, given the proposal to increase their functions significantly.

122. Section 148 changes the name of the Audit Committee to the Corporate Governance and Audit Committee to reflect this broader role. Section 149 sets out the new functions of the Committee which are to assess and report on the Council's ability (i) to comply with its duty in relation to governance arrangements, (ii) to make progress in relation to the priorities set out in the Council's corporate plan, (iii) to handle complaints effectively, and on the arrangements made for self assessment and peer assessment. Section 150 amends provisions concerning membership of the Committee including a requirement that one third of the membership of the Committee must consist of lay members, one of whom must be appointed as chair.

## **Part 6: Community Councils**

(Key references in the Draft Bill: Part 6, Chapters 1 to 3)

### **Review of Community Council Arrangements (Chapter 1)**

123. The White Paper sought views on proposals to give powers to County Councils to review the structure, role and governance of Community Councils within their areas. As a result of the responses to the consultation and further consideration of the matter, the proposal has been revised. In order to ensure the review is completed by the elections of 2023, the Local Democracy Boundary Commission for Wales will conduct the review (not the County Councils). Sections 153 to 166 set out the procedure for conducting and implementing a review of Community Council arrangements.

124. As originally proposed in the White Paper, the provisions are intended to reform the Community Council sector, resulting in more consistency, and it is anticipated smaller communities may be grouped under common Community Councils, increasing the capacity and capability of the sector to effectively contribute to the achievement of shared public service objectives. These provisions, taken with those relating to the general

power of competence which will be available to Community Councils with competence, will also further the principle of subsidiarity.

125. Section 153 subjects the Local Democracy and Boundary Commission for Wales to a duty to conduct a Community Council review in each of the new counties in Wales, with a view to recommending changes to those arrangements to secure effective and convenient Local Government. The procedure for conducting the review and implementing any changes is set out in sections 153 to 166.

126. Section 163 gives the Welsh Ministers powers to make transitional provision by regulation in relation to matters such as charter trustees and the transfer of staff, property, rights, liabilities and criminal proceedings. In terms of the transfer of staff, the Transfer of Undertakings (Protection of Employment) Regulations 2006 will apply to staff being transferred under implementation orders made under these provisions. This is, however, subject to two exceptions in relation to criminal liability and pensions. The first is to ensure that any criminal liability arising in respect of a contract of employment will be transferred to the new Community Councils. The second is to ensure that any accrued rights or liabilities under an occupational pension schemes are transferred so that transferring staff are not disadvantaged. The new County Councils will be required to implement those changes by the Local Government elections of 2023.

127. Community Councils, County Councils and people who live in areas where there is no Community Council at present will be consulted at each stage of the review. In order to provide the Commission with a stable context in which to conduct the review, section 166 provides that the existing legislation which enables the forming and dissolving etc. of Community Councils will be suspended for the duration of the review and for a period afterwards.

### **Members of Community Councils to Complete Training (Chapter 2)**

128. Sections 167 to 170 provide that County Councils must consider the training needs of Community Councillors and to provide the training. If the training is mandatory, Community Councillors must complete the training.

### **Community Council Election Dates (Chapter 3)**

129. Ordinary elections to Community Councils are usually held on the same day as ordinary elections to the County or County Borough Council in which the communities are located. Where the ordinary elections coincide, section 36(3AB) of the Representation of the People Act 1983 stipulates the polls will be combined and the costs shared between the two elections. This can represent a quite significant saving, particularly for the Community Council, since in many cases the County or County Borough Council will not charge them at all or will seek only a notional reimbursement for the costs of the Community Council election.

130. The provisions in section 171 provide for the postponement of Community Council elections from 2021 to 2023 in consequence of the



reform of Local Government. Elections to all Community Councils will be held in May 2017 and May 2023. The Draft Bill provides that the terms of Community Councillors elected in 2017, including Community Councils in Powys, would for this period be extended so they serve a six-year term. From 2023 Community Council ordinary elections will be held every five years, which will align with the ordinary elections to the County Council in which the communities are located.

## **Part 7: Workforce Matters**

(Key references in the Draft Bill: Part 7, Chapters 1 and 2)

### **Guidance to Public Bodies on Workforce Matters (Chapter 1)**

131. Section 172 provides Welsh Ministers with powers to issue guidance to specified public bodies about workforce matters and those bodies must have regard to it. Section 173 defines ‘workforce matters’ to include workforce planning, recruitment and retention, management and remuneration, training and development, workforce matters in the context of collaboration arrangements, and sharing of information. The specified public bodies are set out in section 174.

### **Public Services Staff Commission (Chapter 2)**

132. Following consideration of the responses to the issues raised in the Public Services Staff Commission White Paper,<sup>10</sup> provisions in the Draft Bill will establish a statutory Public Services Staff Commission to advise the Welsh Ministers on workforce matters in devolved public services in Wales. The statutory Public Services Staff Commission would replace the non-statutory Staff Commission which was established in September 2015. This reflects the comments from some respondents that a Commission established by law would have more status, independence and credibility than a non-statutory one.

133. The existing Commission is established under section 60 of the Government of Wales Act 2006 which permits the Welsh Ministers to do anything they consider appropriate to promote or improve the economic, social or environmental well-being of Wales. Depending on the outcome of continuing developments in the devolution settlement and the basis of the National Assembly’s legislative competence, it is possible that the statutory Public Services Staff Commission will be more restricted in the workforce matters that it may consider in comparison with the non-statutory Staff Commission. The Government will, with its partners, keep this issue under review.

134. In line with our intention that the Commission should not be a permanent body as its purpose is to provide advice on workforce matters during this period of public service reform, section 178 provides that the Commission will cease providing advice from 1 April 2021 and will cease altogether on

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<sup>10</sup><http://gov.wales/consultations/improving/public-services-staff-commission-consultation/?lang=en>

1 October 2021 after having submitted a final report to the Welsh Ministers. The Welsh Ministers may by regulations extend the life of the Commission to a date no later than 1 April 2023.

### **Part 8: General**

135. The provisions in Part 8 specify the Assembly procedure for regulations, set out how the different provisions will come into force, and the short title. They also provide a power for the Welsh Ministers to make consequential and transitional provision by regulation.

## 4. Consultation

136. The First Minister, in his Legislative Statement of July 2011, made a commitment to consult appropriately and engage meaningfully with our partners when developing legislation. In keeping with this commitment, as outlined in Chapter 3, the Welsh Government has published and consulted on three White Papers which have set out the reasons why we are proposing to reform local government in Wales and our proposed approach to the reform.
137. Consultation on the first White Paper *Reforming Local Government* ran from 8 July to 1 October 2014 and received 170 responses. A consultation summary report was published in December 2014, which is available at [Welsh Government | Devolution, Democracy and Delivery White Paper – Reforming Local Government](#). The primary purpose of the White Paper was to set out proposals for the first Local Government (Wales) Bill. It also set out the Welsh Government’s vision for the future of local government in Wales.
138. Fifty two responses were received to the consultation on the second White Paper *Public Services Staff Commission* which ran from 21 October 2014 to 13 January 2015. The consultation focused on a number of issues surrounding the remit, membership, timing, coverage and working arrangements of both a non-statutory Staff Commission and statutory Staff Commission. In the responses, there was general consensus regarding the potential value a Public Services Staff Commission could bring to support mergers of Local Authorities and to consider wider public service workforce issues. The consultation summary report, which was published in March 2015, is available at [Welsh Government | Devolution, Democracy and Delivery White Paper – Public Services Staff Commission](#)
139. Consultation on the third White Paper *Reforming Local Government: Power to Local People* ran from 3 February to 28 April 2015. The primary purpose of the third White Paper was to set out proposals for a Draft Bill (this Draft Bill), to be published for consultation in November 2015, to complete the programme of County or County Borough mergers and reform. The consultation covered a large number of matters, some technical in nature. Three versions of the White Paper were produced to support the consultation, a full version, an Everyday Summary and a Young People’s version. An online consultation questionnaire was developed. This gave respondents an option to address all the issues raised by the White Paper or to complete a shorter version of the consultation questionnaire which focused on the main matters of public interest. Respondents were encouraged to complete the online questionnaire, although the option to submit a written response was also available. The White Paper can be accessed at: [Welsh Government | Devolution, Democracy and Delivery White Paper - Reforming Local Government: Power to Local People](#)
140. A public awareness campaign ‘Councils in Wales are going to change’ ran during the consultation period to raise awareness of the White Paper

consultation, improve understanding about Local Government reform and increase the number of consultation responses from members of the general public. Uniquely, an online 'Opinion Poll' was set up, which sought views on key issues. This generated 3,166 responses from a wide age range of people from all Local Government areas in Wales.

141. During the consultation period 38 engagement events were held with Local Authorities and a broad range of stakeholders, attended by over 600 individuals. They were designed to give each stakeholder group an understanding of how they would be affected by the reforms and to help them respond effectively to the consultation.

142. A total of 726 responses were received to the consultation from a wide range of individuals and organisations. 452 respondents completed the full and everyday versions of the online questionnaire. 274 respondents chose to submit free-form responses.

<b>Respondent Type</b>	<b>No.</b>	<b>%</b>
Member of the Public	298	41%
Elected Member	49	7%
County or County Borough Council	40 <sup>11</sup>	5%
Town / Community Council	196	27%
Political Group / Party	31	4%
Trades Union	6	1%
Third Sector	20	3%
Representative body / Professional Body or Association	26	2%
Government Agency / Other Public Sector Body	17	4%
Other	43	6%

143. A published summary report of the consultation responses received to the White Paper consultation can be found at: [Welsh Government | Devolution, Democracy and Delivery White Paper - Reforming Local Government: Power to Local People](#)

144. Not all of the proposals discussed in the third White Paper are being taken forward within this Draft Bill. The proposals in the White Paper which have not been included in this Draft Bill are outlined in the Consultation Document which accompanies the publication of this Draft Bill.

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<sup>11</sup> All principal local authorities responded. Figures include responses from individual County or County Borough Council Departments

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

145. The Draft Bill contains proposed provisions to make subordinate legislation, directions and determinations and to issue guidance. Table 5.1 (subordinate legislation) and Table 5.2 (directions, determinations and guidance) set out in relation to these provisions:

- i) the person upon whom, or the body upon which, the power is conferred;
- ii) the form in which the power is to be exercised;
- iii) the appropriateness of the delegated power; and
- iv) the applied procedure, this is whether the subordinate legislation is subject to affirmative, negative, or no procedure, together with the reasons why that procedure is considered appropriate.

146. The Welsh Government will consult on the content of the subordinate legislation when and where it is considered appropriate to do so.

## 5.1 Subordinate legislation provisions with the Draft Bill

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 15(3)	Welsh Ministers	Regulations	Provides the power to specify the functions and funding of Shadow Authorities. Consultation and engagement with existing Councils is needed to determine precisely which functions will need to be exercised by Shadow Authorities.	Negative	These regulations will be temporary in nature and will only relate to existing local government functions to be exercised by the new County Councils during the shadow period.
Section 19(1)	Welsh Ministers	Regulations	Provides the power to make supplementary, incidental, consequential, transitional or saving provision. The regulations will deal with matters of detail.	Negative, unless they seek to modify etc. primary legislation, in which case they will be affirmative.	These regulations will be limited to matters for the general purposes of, arising from, or to give full effect, to the provisions of Part 2 of the Draft Bill and will therefore be relatively minor in detail. It is therefore appropriate to follow the negative resolution procedure. In the event that the regulations modify or amend etc. provisions in primary legislation, the affirmative procedure would apply.

Section 20(1)	Welsh Ministers	Regulations	Provides the power to substitute a later date for any date in this Part, other specified provisions in the Draft Bill and sections 2(8) and 39(2) of the Local Government (Wales) Act 2015. Circumstances may dictate that some of the dates in the provisions specified will need to change but whether this power will be exercised and what later date would be specified can not be foreseen at this point.	Affirmative	The regulations would amend primary legislation and therefore it is considered appropriate to follow the affirmative procedure.
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Section 27(1)	Welsh Ministers	Regulations	Enables the Welsh Ministers to amend, revoke, repeal or dis-apply existing legislation which they consider prevents local authorities from exercising the general power. It can not be foreseen how qualifying local authorities may wish to use the general power or what legislative obstructions they may face. It is appropriate for the Welsh Ministers to have the flexibility to deal with such obstructions by way of regulations.	Affirmative, unless regulations seek only to amend earlier regulations or secondary legislation (Negative).	Regulations under this section could amend primary legislation and as such it is considered appropriate to follow the Assembly's affirmative procedure in those circumstances. However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend secondary legislation or earlier regulations.
Section 27(2)	Welsh Ministers	Regulations	Enables the Welsh Ministers to reduce or remove any overlap between the general power and any existing powers. It can not be foreseen how qualifying local authorities may wish to use the general power or what legislative obstructions they may encounter. It is appropriate for the Welsh Ministers to have the flexibility to deal with such overlaps by way of regulations.	Affirmative, unless regulations seek only to amend earlier regulations or secondary legislation (Negative).	Regulations under this section could amend primary legislation and as such it is considered appropriate to follow the Assembly's affirmative procedure in those circumstances. However, it is considered appropriate to follow the negative procedure where the regulations seek only to amend secondary legislation or to amend earlier regulations.



Section 27(3)	Welsh Ministers	Regulations	Enables the Welsh Ministers to prevent qualifying local authorities from utilising the general power for specified purposes. It can not 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. It is appropriate for the Welsh Ministers to have the power to address such circumstances by way of regulations.	Affirmative, unless regulations seek only to 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 Assembly'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 (which will have been subject to the affirmative procedure)
Section 27(4)	Welsh Ministers	Regulations	Enables the Welsh Ministers to make the exercising of the general power subject to conditions. It can not be foreseen how 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. It is appropriate that the Welsh Ministers should be able to impose such conditions by way of regulations.	Affirmative, unless regulations seek only to amend earlier regulations (negative).	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 Assembly'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 (which will have been subject to the affirmative procedure)

Section 31(5)	Welsh Ministers	Regulations	Power for Welsh Ministers to prescribe the qualifications a Community Council clerk must hold to meet a condition of competence. The Draft Bill sets out that the clerk must hold a professional qualification for the Council to be with competence but the nature of professional qualifications changes regularly and the primary legislation would need to be changed frequently if the detail was prescribed in the Draft Bill. It is therefore appropriate for the Welsh Ministers to be able to prescribe qualifications in regulation.	Negative	It is technical/procedural in nature and therefore it is considered that the negative procedure is appropriate. .
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Section 34(1)	Welsh Ministers	Regulations	Provides the Welsh Ministers with the flexibility to amend the conditions relating to community Councils with competence. The conditions are set out in the Draft Bill but in the light of experience, there may be circumstances in which it would be beneficial to either amend, remove or add competency conditions in the future. Therefore it is considered appropriate for the Welsh Ministers to be able to have a regulation making power in order to address such circumstances.	Affirmative	As the regulation power will enable the primary legislation to be amended by removing, adding or changing a competency requirement or changing the circumstances in which a Council may cease to be competent, it is considered that the affirmative procedure will afford the appropriate level of Assembly scrutiny.
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Section 37(4)	Welsh Ministers	Regulations	Power to amend the list of bodies which are authorities connected with the County Council. The Draft Bill sets out those bodies which we consider now to be authorities connected with the County Council but there may be a need to amend the list at some point in the future so it is appropriate for the Welsh Ministers to have the flexibility of amending the list by way of regulations.	Affirmative	Being listed as an authority connected with a County Council could have a significant impact on a public body, therefore appropriate Assembly scrutiny is required.
Section 52(7)	Welsh Ministers	Regulations	Power to make further provision about the form and content of a statement of priorities and objectives. The Draft Bill sets out the main requirement to produce a statement. It is not considered the detail of form and content of the statement is of sufficient importance to warrant setting out in the Draft Bill.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.

Section 57(1)	Welsh Ministers	Regulations	<p>Power to require the making of arrangements regarding, or to restrict, delegation of functions to community area committees. In view of the large number of functions the new Councils will have, provisions regarding or restricting delegation of powers are likely to be detailed and technical and may need to be amended relatively often as existing functions are amended, as new functions are conferred or in light of experience. Accordingly, it is appropriate for the Welsh Ministers to have the flexibility to deal with such matters by way of regulations.</p>	Negative	<p>It is technical/procedural in nature and it may be necessary to amend it reasonably often.</p>
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Section 61(1)	Welsh Ministers	Regulations	Power to apply enactments to community area committees. It is appropriate to use regulations to make provision relating to the application of other enactments to community area committees because the provisions are likely to be very technical in nature and are likely to need to be updated relatively often to reflect amendments to existing legislation or the enactment of new legislation. It is appropriate for the Welsh Ministers to have the flexibility to deal with the application of enactments to community area committees by way of regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
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Section 64(3)(e)	Welsh Ministers	Regulations	The Draft Bill lists categories of bodies that may be interested bodies and is drawn widely in order to be inclusive. However, if there were a need to add to the list, this power enables to additional interested bodies to be specified. It is appropriate for the Welsh Ministers to have the flexibility of adding to the list by way of regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 64(6)(b)	Welsh Ministers	Regulations	Provides the power to specify additional relevant authorities to whom interested bodies can submit improvement requests. In the first instance, the intention is only County Councils will be subject to improvement requests. It could be, in the future, that it would be desirable to include other public bodies. So it is appropriate for the Welsh Ministers to have the flexibility of making such provision in regulations.	Affirmative	On basis that if used it would apply the duty to public bodies for the first time and that may justify the scrutiny involved in the affirmative procedure.

Section 65(c)	Welsh Ministers	Regulations	Provides the power to impose requirements about how improvement requests are made. The Draft Bill sets out in detail the procedure for managing improvement requests but it could be that, in the light of experience, further detail is required therefore this is an enabling power.	Negative	It is technical/procedural in nature so it may be necessary to amend it reasonably often.
Section 69(2)	Welsh Ministers	Regulations	Provides the power to require relevant authorities to publish information about decisions to enter into discussions with bodies who have made improvement requests. The Draft Bill sets out the main requirement. Regulations would be appropriate for making provision on matters of detail and procedure which may need to be amended relatively often.	Negative	It is technical/procedural in nature so it may be necessary to amend it reasonably often.



Section 70(2)	Welsh Ministers	Regulations	Provides the power to provide what matters must be addressed in a relevant authority's complaints procedure. The Draft Bill sets out the main requirement and Councils have established procedures which may well be sufficient. Regulations would only deal with matters of detail, if required.	Negative	It is technical/procedural in nature so it may be necessary to amend it reasonably often.
Section 74(1)	Welsh Ministers	Regulations	Provides the power to make further provision about improvement requests. Section 74(2) sets out the main issues regulations would need to address. Regulations would be appropriate to provide for the details of procedure for the matters referred to in section 74(2). It is appropriate for the Welsh Ministers to have the flexibility to deal with such matters by way of regulations.	Negative	It is technical/procedural and it may be necessary to amend it reasonably often.

Section 74(3)(a)-(c)	Welsh Ministers	Regulations	Power to amend or repeal the list of interested bodies, the definition of a voluntary body and to make amendments to this Part in consequence of exercising powers under section 64 or 74 (to alter definitions of or to specify additional interested bodies or relevant authorities). The Draft Bill sets out the Welsh Ministers' intentions but gives them an enabling power to make amendments if necessary in future. In any event, exercise of the power would be subject to the affirmative procedure.	Affirmative	It would alter provision on the face of primary legislation.
Section 76(4)	Welsh Ministers	Regulations	Power to specify proceedings of a County Council to which the duty to broadcast electronically does not apply. The Draft Bill sets out the main requirements clearly but there may be a need to provide flexibility to address particular circumstances.	Negative	It is technical/procedural and it may be necessary to amend it reasonably often.

Section 76(7)	Welsh Ministers	Regulations	Power to ensure proceedings of fire and rescue authorities and/or National Park authorities are broadcast electronically. The Draft Bill imposes requirements initially on County Councils but it might be considered appropriate in future to apply similar requirements on the other listed Authorities. This power would enable that to happen.	Negative	It is technical/procedural and it may be necessary to amend it reasonably often.
Section 77(1)	Welsh Ministers	Regulations	Power to specify principles of publicity e.g. filming or oral recording. Public access to meetings, as described in this section, has generally worked well with some exceptions. The powers would enable regulations to be made about the matters listed but may require amendment to existing primary legislation.	Affirmative	It would alter provision on the face of primary legislation.

Section 91(3)	Welsh Ministers	Regulations	<p>Power to make regulations about the publicity to be given to reports and recommendations made by monitoring officers after investigating alleged failures by members to comply with the performance duties of members. There may be a need to set out more detail about publicity, for example, so that the public are kept informed and also to protect the rights of Councillors. This is a matter of detail more appropriate for regulations, in the light of circumstances at the time.</p>	Negative	<p>It is technical/procedural in nature and it may be necessary to amend it reasonably often.</p>
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Section 93(4)	Welsh Ministers	Regulations	Power to make regulations about the publicity that is to be given to any determination under section 93 (the Standards Committee's determinations) and to any action taken against a member. The Draft Bill sets out the principal requirement for the Monitoring Officer to produce reports and make recommendations about breaches of duties in this part. There may be a need to set out more detail about publicity, for example, to keep the public informed and protect the rights of Councillors. This is a matter of detail more appropriate for regulations in the light of circumstances at the time.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
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Section 93(5)	Welsh Ministers	Regulations	Duty to make regulations conferring rights of appeal on Members of a County Council against any determination of a standards committee under section 93. The Draft Bill sets out that Members must have a right of appeal but the detailed procedure is more appropriately dealt with in regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 94(1)	Welsh Ministers	Regulations	Power to make further provision about the way in which a possible failure to comply with a duty imposed by Chapter 2 is to be dealt with. Section 94(2) provides detail about the key matters to be considered but the detail of procedures is more appropriately dealt with in regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.

Section 98(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 County 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 Draft Bill is clear who is intended to be affected by these provisions but the detailed definition of these categories of people is liable to change over time and would more appropriately be dealt with in regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 106 (2) Inserts paragraph 15 in Schedule 1 to the Local Government Act 2000	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make further provision for the procedure which Local Authorities are to follow when deciding whether to grant permission for co-opted members of Overview and Scrutiny Committees to vote.	Negative	The subject-matter is relatively minor in the overall legislative scheme and is technical/administrative in nature.

Section 111(3)	Welsh Ministers	Regulations	Duty to make provision about the principles, processes and practices relating to good governance, including prescribing any code of practice or guidance, whether or not issued by the Welsh Ministers. These provisions, including specifying any code of practice, are liable to change over time and therefore more appropriately dealt with in regulations.	Affirmative	To provide additional security for the Assembly that the principles etc. relating to good governance will be fully considered with the opportunity to debate. The principles etc. will be the most significant part of a local authority's duty to make and comply with governance arrangements, and it is compliance with that duty which will be assessed under the later provisions for self/peer/combined assessments and may be the subject of a governance review under section 128.
Section 111(4)	Welsh Ministers	Regulations	Suitable for delegated powers as this enables the Welsh Ministers to make further provision about governance arrangements – as to accountability and as to economy, efficiency and effectiveness in the use of a Local Authority's resources.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.



Section 112(7)	Welsh Ministers	Regulations	Power to make further provision about what must be included in the corporate plan. The Draft Bill sets out the main matters which must be included in the corporate plan but the requirements on County Councils change regularly over time and an enabling power is required to reflect changing circumstances.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 113(3)	Welsh Ministers	Regulations	Power to make provision about how and when a corporate plan is to be published. This is a requirement that is likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 117(7)	Welsh Ministers	Regulations	Power to make provision about the form and content of a self assessment report, and when and how it must be published. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.

Section 118(3)	Welsh Ministers	Regulations	Power to make provision about the appointment of panels to carry out peer assessments. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 119(3)	Welsh Ministers	Regulations	Power to amend section 119(1) and (2) in order to change when and how often a peer assessment must be carried out. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 122	Welsh Ministers	Regulations	Power to make provision about the form and content of a peer assessment report and response, and when and how the report and response must be published. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.

Section 123(3)	Welsh Ministers	Regulations	Power to change the definition of a relevant regulator by amending section 123(2) in order to add or remove any person or function, and to vary the description of a person or function. The Draft Bill sets out the regulators which are currently relevant. This is liable to change in unforeseen ways and so an enabling power is required.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 127	Welsh Ministers	Regulations	Power to make provision about when a combined assessment must be carried out, the form and content of a combined assessment report and response, and when and how the report and response must be published. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.

Section 132(6)	Welsh Ministers	Regulations	Power to change the list of people required to assist a reviewer carrying out a governance review by amending section 132(3) to add or remove a person, or to vary the description of a person. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 138(3)	Welsh Ministers	Regulations	Power to amend, repeal, revoke or apply any relevant statutory provision for the purposes of its application in respect of functions exercisable by the Welsh Ministers or their nominee by virtue of a direction under section 138 (1) that specified functions of a County 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.	Negative	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 section 138(1). Accordingly any amendment, etc. made by the regulations will be for a limited time only.

Section 143(2)	Welsh Ministers	Regulations	Power to make further provision in respect of the co-ordination of the exercise by relevant regulators of relevant functions. These are procedural details that are likely to change over time and so more appropriate for regulations.	Negative	It is technical/procedural in nature and it may be necessary to amend it reasonably often.
Section 157(3)	Welsh Ministers	Regulations	Gives the Welsh Ministers flexibility to set a suitable date by which the Commission must submit its final reports to the County Councils. It is therefore appropriate for the Welsh Ministers to have the flexibility to set such a date by way of regulations.	Negative	The subject matter of these regulations is technical/procedural in nature and just sets a date by which reports must be submitted.

Section 158(1)	County Council	Order	Power to implement recommendations for change to Community Council arrangements in a report of the Local Democracy Boundary Commission, without modifications or with such modifications as agreed with the Commission. The Council will only be able to implement the Commission's recommendations after the Commission has completed its review under the Draft Bill. An order power is necessary to give effect to the recommendations, which do not form part of the Draft Bill.	No Assembly procedure	The order will not be considered by the Assembly as it will be made by the County Council and therefore no Assembly procedure will attach.
Section 158(3)	Welsh Ministers	Regulations	Provides the Welsh Ministers with flexibility to set a date by which a County Council order in relation to Community Council arrangements must come into force. This a procedural matter and so appropriate for regulations.	Negative procedure	The subject matter of these regulations is technical/procedural in nature and just sets a date by which an order must come into force.

Section 159(2)	Welsh Ministers	Order	Gives the Welsh Ministers the flexibility to make provision for Community Council arrangements if the Commission does not submit a report containing its final recommendations so that the implementation of the review is not delayed. The circumstances in which such an order might ever need to be made are not known, are not known and, therefore, it is appropriate for the Welsh Ministers to have the power to address such circumstances by way of regulations.	No Assembly procedure	The procedure mirrors that already in place for the implementation of such review recommendations in the Local Democracy (Wales) Act 2013 and the first Local Government (Wales) Bill, which are regarded as "local orders". As part of the review procedure, the matters to be addressed within the regulations and any recommendations of the LDBCW will be subject to a substantive degree of public consultation.
Section 159(6)	Welsh Ministers	Order	Gives the Welsh Ministers the power to vary or revoke an order made under 159(2) where the Commission has not submitted a report containing its final recommendations. The circumstances in which an order might need to be varied cannot be known therefore an enabling power is required.	No Assembly procedure	Orders under section 159(2) are to be regarded as "local orders" and not subject to an Assembly procedure. It is considered appropriate that any orders varying or revoking them should also be considered as local orders and therefore not subject to Assembly procedure.

Section 160(1)	Welsh Ministers	Order	Provides the power to implement the recommendations of the Commission without modification or with such modification as agreed with the Commission if an order has not been made by a Council a specified date. The circumstances in which an order might need to be made cannot be known therefore an enabling power is required.	No Assembly procedure	The procedure mirrors that already in place for the implementation of such review recommendations in the Local Democracy (Wales) Act 2013 and the first Local Government (Wales) Bill, which are considered to be “local orders” having the character of local legislation and not subject to Assembly procedure.
Section 162(2)	Welsh Ministers and County Councils	Order	Enables a County Council or the Welsh Ministers (depending on who made the original order) to vary or revoke orders made under section 158(1) and 160(1), including any incidental, transitional, supplemental or transitional provision made under 161(2). The circumstances in which these orders will be made cannot be known in advance therefore an enabling power is required.	No Assembly procedure	Orders by the Welsh Ministers implementing Community Council reviews are to be regarded as “local orders” and not subject to Assembly procedure. It is therefore considered appropriate that any incidental etc. provision should also be regarded as local legislation and therefore not subject to Assembly procedure.  Orders made by county councils will not be considered by the Assembly and therefore no Assembly procedure will attach.



Section 163(1)	Welsh Ministers	Regulation	Provides the power to make incidental, consequential, supplemental or transitional provision in relation to orders made under sections 158(1), 159(2) or 160(1). In relation to the Welsh Ministers, the circumstances in which these orders will be made cannot be known in advance therefore an enabling power is required.	Negative procedure, but affirmative procedure if amending, revoking or modifying primary legislation	The subject matter of these regulations will be technical in nature and will not be introducing new policy. Therefore the negative procedure is appropriate, unless the regulations amend primary legislation, in which case the affirmative procedure is considered to afford the Assembly an appropriate level of scrutiny.
Section 166(3)	Welsh Ministers	Regulations	Section 166(2) gives the Welsh Ministers a direction power to suspend community applications (to create, merge etc. Community Councils) until a further direction is made. The direction power is only intended to be available for the duration of the Community Council review and implementation period, and for a short period afterwards. This regulation making power enables the Welsh Ministers to repeal the direction making power when it is no longer needed.	Negative	This is a procedural matter relating to local governance and does not introduce new policy.

Section 175(1)	Welsh Ministers	Regulations	Provides the power to add or remove a body from the remit of the Public Services Staff Commission. The list in the Draft Bill is comprehensive but the possible creation or dissolution of public bodies in the future means an enabling power is required.	Negative	The functions of the Staff Commission and Welsh Ministers are on the face of the Bill. The addition of new public bodies would not substantially affect the provision or confer further significant powers on the Welsh Ministers.
Section 178(4)	Welsh Ministers	Regulations	Provides the power to amend the date by which subsections (1) to (3) are repealed. The Bill provides for the dissolution of the Commission by a specified date but there may be circumstances in which it would be beneficial to change this date. This is an enabling power but is limited and may not be exercised to extend the life of the Commission beyond 1 April 2023.	Affirmative	An extension to the life of the Public Services Staff Commission would increase levels of Government expenditure in respect of it.

Section 181(1)	Welsh Ministers	Regulations	Provides a power to make supplemental etc. provision in relation to giving full effect to any of the provisions in Parts 2 to 7 of the Draft Bill, apart from Chapter 1 of Part 6. This is a standard regulation making power to make unforeseen consequential changes.	Negative	The subject matter of these regulations will be technical in nature and will not be introducing new policy.
Section 183(3)	Welsh Ministers	Order	Power to commence provisions in the Bill which are not already commenced in 183(2).	Negative	The subject matter of these regulations will be technical in nature and will be implementing provisions approved by the National Assembly for Wales.
Paragraph 1(2) of Schedule 1	Welsh Ministers	Regulations	A power to specify the names of the new counties (other than Powys). The determination of the names of the new counties is to be determined by the County Councils as Shadow Authorities. The Welsh Ministers' role is confined to reflecting the name determined by the County Council in the Draft Bill (when enacted).	No procedure	As this is a local matter.

Paragraph 4(9) of Schedule 3	Welsh Ministers	Regulations	<p>Provides the power to:</p> <ul style="list-style-type: none"> <li>• require assets of a description specified in the regulations falling within a Council fund to be held in a separate fund within the Council fund; and</li> <li>• require any fund of a description specified in the regulations which is established by a new Council to be maintained as a separate fund within its Council fund.</li> </ul> <p>The level of detail required is too onerous for including in the Draft Bill.</p>	Negative	This power is technical in nature and subject to change.
Paragraph 4(10) of Schedule 3	Welsh Ministers	Regulations	<p>A power to make provision with respect to the liability of new Councils to make payments from their Council funds in respect of precepts issued under Chapter 4 of Part 1 of the Local Government Finance Act 1992.</p> <p>The level of detail required is not appropriate for inclusion in the Draft Bill.</p>	Negative	This power is technical in nature and subject to change.

Paragraph 4(11) of Schedule 3	Welsh Ministers	Regulations	<p>Provides the power to make provision for the sharing among a Council and major precepting authorities of an amount equal to all or part of any deduction that falls to be made in calculating the Council's non-domestic rating contribution for a financial year.</p> <p>The level of detail required is too onerous for including in the Draft Bill.</p>	Negative	This power is technical in nature and subject to change.
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## 5.2 Powers to make directions and determinations and to issue guidance

Section or Schedule of Bill	Power conferred on	Form	Appropriateness	Procedure	Reason for procedure
Section 15(5)	Welsh Ministers	Guidance	Power to issue guidance in relation to the exercise of functions by Shadow Authorities. The detail cannot be known at this stage as circumstances may change, including in the light of advice from Councils and Transition Committees.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.

Section 35	Welsh Ministers	Guidance	Power to issue guidance to Community Councils in relation to the competency conditions. Community Councils will require a 'plain English' guide to the legislation. The sections relating to Community Councils with competence contain detailed provision in relation to the competency requirements and it is considered that issuing guidance on those matters would be appropriate to support the Councils in exercising the functions conferred by the provisions.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
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Section 40(4)	Welsh Ministers	Guidance	Power to issue guidance to County Councils on consultation on the budget requirement. Sections 40(1) and (2) set out a requirement for Councils to consult on their budget requirement and lists the main people with whom they should consult. It is appropriate for matters of detail and practice in the conduct of consultations to be covered in guidance.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
Section 41(1)	Welsh Ministers	Guidance	<p>Power to issue guidance in relation to public participation in Local Government.</p> <p>Section 38(2) sets out the main content of the public participation strategy and section 39 sets out the procedure for consultation and review. The guidance will deal with matters of detail and process and will be subject to periodic revision.</p>	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.



Section 59	Welsh Ministers	Guidance	<p>Power to issue guidance relating to community area committees.</p> <p>It is likely that the guidance will be subject to periodic revision. The provisions of Chapter 3 of Part 3 make detailed provision in relation to community area committees. Issuing guidance on those matters would be appropriate to support the bodies and persons on whom functions are conferred in performing their functions.</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 73	Welsh Ministers	Guidance	<p>Power to issue guidance to relevant Authorities on the application of the provisions relating to improvement requests.</p> <p>Guidance will be subject to periodic revision. The provisions of Chapter 4 of Part 3 make detailed provision in relation to improvement requests. Issuing guidance on those matters would be appropriate to support the relevant Authorities in performing their functions.</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 76 (5)	Welsh Ministers	Guidance	<p>Power to issue guidance on the broadcasting of the meetings of certain Local Authorities.</p> <p>Councils will benefit from periodic guidance in the context of rapidly changing technology. It would be appropriate to address such matters in the form of guidance, which can be easily updated to take account of new developments.</p>	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
Section 78	Welsh Ministers	Guidance	Power to issue guidance to the person presiding over meetings of community councils. Guidance is appropriate to support persons on whom the duty to give members of the public in attendance a reasonable opportunity to make representations is placed in complying with that duty.	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.

Section 95	Welsh Ministers	Guidance	<p>Power to issue guidance to Councillors and Standards Committees on the provisions relating to the performance duties of Councillors and handling possible breaches of the duties.</p> <p>Guidance will be subject to periodic revision. Chapters 2 and 3 of Part 4 make detailed provision in relation to the duties placed on County Councillors and the procedures for enforcing those duties. Guidance is appropriate to support Councillors in complying with those duties and persons with responsibility for investigating and enforcing those duties.</p>	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
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Section 98(2)	Welsh Ministers	Guidance	<p>Power to issue guidance to leaders of political groups on promoting and maintaining high standards of conduct by members of political groups.</p> <p>Guidance will be subject to periodic revision. Guidance is appropriate to support leaders of political group in ensuring compliance with the functions imposed on them.</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 102	Welsh Ministers	Guidance	<p>Power to issue guidance to Local Authorities, Elected Mayors and Executive Leaders about good practice in relation to equality and diversity in respect of executive arrangements in Local Authorities.</p> <p>Guidance will be subject to periodic revision. Guidance is appropriate to support Local Authorities, Elected Mayors and Executive Leaders in determining their executive arrangements and understanding the factors the Welsh Ministers consider are relevant to determining those arrangements.</p>	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
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Section 104(8)	Welsh Ministers	Guidance	<p>Power to issue guidance to senior Executive Members and County Councils on the setting of objectives for the Chief Executive.</p> <p>Guidance will be subject to periodic revision. Guidance is appropriate to support senior Executive Members and County Councils in exercising the functions involved in setting objectives for Chief Executives.</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 135(1) taken together with section 136 (1)	Welsh Ministers	Direction	<p>Power to give an intervention direction to obtain support services.</p> <p>If the Welsh Ministers consider that an intervention direction is necessary or appropriate following a governance review, they may issue a direction to a Council that it must make arrangements for specified support services to be obtained.</p> <p>Directions could only be drafted in the light of the circumstances and matters pertaining to a particular intervention.</p>	No Assembly procedure	<p>This power of direction is only available after the Welsh Ministers have initiated a governance review under section 128 and considered the report produced by that review and the council's response. If the Welsh Ministers consider that an intervention is necessary or appropriate, it will be their judgement (in the light of all the information and advice available to them) as to the type of intervention which is necessary and appropriate and as to the extent to which that direction will have effect – from directing the council to obtain support services (under section 136) to assuming responsibility for functions specified in the direction (under section 138). Any direction will be time-limited. A direction will also be under constant review with Welsh Ministers needing to consider from time to time whether the direction should be revoked or amended. A direction can only be given to the council which is the subject of a governance review: it cannot apply, for example, to all councils. Such directions are not legislative in nature: they are administrative in nature, the intention being to ensure a council's compliance with its duty under section 111.</p>
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<p>Section 135(1) taken with section 137 (1)</p>	<p>Welsh Ministers</p>	<p>Direction</p>	<p>Power to give an intervention direction to take specified steps.</p> <p>If the Welsh Ministers consider that an intervention direction is necessary or appropriate following a governance review, they may issue a direction to a Council that it must take specified steps within a specified period.</p> <p>Directions could only be drafted in the light of the circumstances and matters pertaining to a particular intervention.</p>	<p>No Assembly procedure</p>	<p>This power of direction is only available after the Welsh Ministers have initiated a governance review under section 128 and considered the report produced by that review and the council's response. If the Welsh Ministers consider that an intervention is necessary or appropriate, it will be their judgement (in the light of all the information and advice available to them) as to the type of intervention which is necessary and appropriate and as to the extent to which that direction will have effect – from directing the council to obtain support services (under section 136) to assuming responsibility for functions specified in the direction (under section 138). Any direction will be time-limited. A direction will also be under constant review with Welsh Ministers needing to consider from time to time whether the direction should be revoked or amended. A direction can only be given to the council which is the subject of a governance review: it cannot apply, for example, to all councils. Such directions are not legislative in nature: they are administrative in nature, the intention being to ensure a council's compliance with its duty under section 111.</p>
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<p>Section 135(1) taken with section 138 (1)</p>	<p>Welsh Ministers</p>	<p>Direction</p>	<p>Power to give a direction that specified functions be performed by the Welsh Ministers or their nominee.</p> <p>If the Welsh Ministers consider that an intervention direction is necessary or appropriate following a governance review, they may issue a direction that specified functions of a County Council are to be exercised by the Welsh Ministers or a person nominated by them.</p> <p>Directions could only be drafted in the light of the circumstances and matters pertaining to a particular intervention.</p>	<p>No Assembly procedure</p>	<p>This power of direction is only available after the Welsh Ministers have initiated a governance review under section 128 and considered the report produced by that review and the council's response. If the Welsh Ministers consider that an intervention is necessary or appropriate, it will be their judgement (in the light of all the information and advice available to them) as to the type of intervention which is necessary and appropriate and as to the extent to which that direction will have effect – from directing the council to obtain support services (under section 136) to assuming responsibility for functions specified in the direction (under section 138). Any direction will be time-limited. A direction will also be under constant review with Welsh Ministers needing to consider from time to time whether the direction should be revoked or amended. A direction can only be given to the council which is the subject of a governance review: it cannot apply, for example, to all councils. Such directions are not legislative in nature: they are administrative in nature, the intention being to ensure a council's compliance with its duty under section 111.</p>
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Section 144	Welsh Ministers	Guidance	<p>Power to provide guidance to those exercising functions in relation to governance arrangements, corporate plans, assessments of governance arrangements, governance reviews and intervention, and co-ordination between regulators.</p> <p>Guidance will be subject to periodic revision.</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 165(1)	Welsh Ministers	Direction	<p>Power to give directions to the Local Democracy Boundary Commission relating to the review of Community Council arrangements.</p> <p>The Welsh Ministers must consult with the Commission and bodies representing the interests of County or Community Councils before issuing a direction.</p> <p>A direction power is appropriate as directions will deal with matters of detail and subject to change according to the circumstances at the time.</p>	No Assembly procedure	The power to issue directions is a limited power as it applies only to the Commission and will relate to its functions in relation to these provisions.
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Section 165(3)	Welsh Ministers	Guidance	<p>Power to issue guidance to which the Commission and County (and County Borough) Councils must have regard in relation to the conduct and implementation of a review of Community Council arrangements.</p> <p>A guidance power is appropriate in order to support senior the Commission and Councils in exercising the functions conferred on them by the Bill.</p> <p>The content of the guidance will depend to a large extent on the content of a direction issued under section 165(1).</p>	No Assembly procedure	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with matters for which an Assembly procedure is not considered appropriate.</p>
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<p>Section 167</p>	<p>Welsh Ministers</p>	<p>Guidance</p>	<p>Power to issue guidance to which County Councils must have regard in relation to the training of Community Councillors.</p> <p>Guidance will be subject to periodic revision. Guidance is appropriate to support County Council in explaining the factors that the Welsh Ministers consider are relevant in deciding what training should be compulsory for Community Councillors.</p>	<p>No Assembly procedure</p>	<p>The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.</p>
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Section 172(1)	Welsh Ministers	Guidance	<p>Power to issue guidance on workforce matters to which some or all of the public bodies specified in section 174 must have regard.</p> <p>The Welsh Ministers must consult with the relevant public bodies, trade unions and other persons before issuing, revising or withdrawing guidance under this section.</p> <p>Guidance will be subject to periodic revision and is appropriate in order to support Welsh public authorities to follow best practice in relation to workforce matters.</p>	No Assembly procedure	The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance is largely concerned with process and, as such, to apply an Assembly procedure is not considered appropriate.
Paragraph 1(1) of Schedule 2	Welsh Ministers	Direction	Power to direct a County or County borough Council to appoint a returning officer for the elections of Councillors to new County Councils in May 2019. This is a power to resolve a technical issue of minor detail.	No Assembly Procedure	This power resolves a technical issue with regards the existing legislation and as such, to apply an Assembly procedure is not considered appropriate.







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COUNCIL FORWARD WORK PROGRAMME

Meeting	Item (Description / Title)		Purpose of Report	Council Decision Required (yes/no)	Lead member and Contact Officer
<b>23 February 2016</b>	1	Council Tax	For Council to set the level of Council Tax for 2016/17	Yes	CLlr Julian Thompson-Hill / Richard Weigh
	2	Consideration of Final Draft Procurement Strategy & CPR's			Tom Booty
	3	New Model Constitution	To adopt the Council's new Constitution	Yes	CLlr Barbara Smith/Gary Williams/Lisa Jones
	4	Capital Plan	To consider the Capital Plan		CLlr Julian Thompson-Hill/ Richard Weigh/Richard Humphreys
	5	Treasury Management Strategy	To approve the Council's Treasury Management Strategy	Yes	CLlr Julian Thompson-Hill/ Richard Weigh
	6	SLT Pay Review		Yes	CLlr Julian Thompson-Hill/ Catrin Roberts & Sophie Vaughan (HR)
<b>Council Briefing 7 March 2016</b>	1	Child Sexual Exploitation		N/A	CLlr Bobby Feeley / Nicola Stubbins / Colin Tucker
	2	Cemetery Rules	To consider the Council's approach to the management of memorabilia and dedication of memorial benches at its cemeteries	N/A	CLlr David Smith/Steve Parker/Simon Billington
<b>12 April 2016</b>	1	Nominations for the Posts of Chair and Vice of Council	To agree the nominations.	Yes	Gary Williams
	2	Committee Timetable / Annual Review of Political Balance	To approve the committee timetable until the end of 2017 and review the political balance of the committees	Yes	CLlr Barbara Smith/Steve Price
	3	Prestatyn Boundary Review (TBC)	To review ward arrangements for	Yes	CLlr Barbara Smith/Steve Price

COUNCIL FORWARD WORK PROGRAMME

			Prestatyn		
<b>Annual Meeting 10 May 2016</b>	1	Appointment of the Chair and Vice Chair of Council	For Council to appoint the Council's civic leaders for the 2016/17 municipal year	Yes	Gary Williams
	2	Annual Report of the Scrutiny Committees 2015/2016	To review the activities of the Scrutiny Committees	No	Rhian Evans/Steve Price
<b>COUNCIL BRIEFING 6 June 2016</b>	1	Learning from Rotherham – Corporate Safeguarding Panel		N/A	Cllr Bobby Feeley / Nicola Stubbins
<b>5 July 2016</b>					
<b>6 September 2016</b>					
<b>18 October 2016</b>	1	Annual Improvement Report		Yes	Cllr Julian Thompson-Hill / Alan Smith
<b>COUNCIL BRIEFING 14 November 2016</b>					
<b>6 December 2016</b>					

COUNCIL FORWARD WORK PROGRAMME

***Note for Officers – Full Council Report Deadlines***

<i>Meeting</i>	<b><i>Deadline</i></b>	<i>Meeting</i>	<b><i>Deadline</i></b>	<i>Meeting</i>	<b><i>Deadline</i></b>
<i>January 2016</i>	<b><i>11 Jan 2016</i></b>	<i>February</i>	<b><i>8 Feb 2016</i></b>	<i>April</i>	<b><i>24 Mar 2016</i></b>

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