

Report To:	Corporate Governance and Audit Committee
Date of Meeting:	27 January 2021
Lead Member / Officer:	Cllr Hugh Evans, Leader of the Council
Report Author:	Gary Williams, Head of Legal, HR and Democratic Services
Title:	Local Government and Elections (Wales) Bill 2021

1. What is the report about?

The report is about the Local Government and Elections (Wales) Bill 2019 (the Bill) which has been passed by the Senedd and is currently awaiting Royal Assent.

2. What is the reason for making this report?

To brief members on the main provisions of the Bill as passed by the Senedd and make them aware of the changes required to be implemented by the Council.

3. What are the Recommendations?

That members consider the content of this report and comment upon the proposals for wider engagement with elected members and implementation of the Bill.

4. Report details

The Bill was first introduced into the Senedd in November 2019 and was finally passed on 18th November 2020. The Bill is currently awaiting Royal Assent which is expected in early 2021. The Bill is a substantial piece of legislation containing 176 sections and 14 Schedules, covering a broad range of topics including electoral reform, public participation, governance and performance and regional working. There are many reforms within the Bill, however, in summary the Bill introduces:

Reforms to electoral arrangements for local government, including:

- extending the voting franchise to 16 and 17 year olds and foreign citizens legally resident in Wales,
- enabling councils to choose between ‘first past the post’ or the ‘single transferable vote’ voting systems
- Change of electoral cycle for principal councils from four years to five years
- Allowing non-politically restricted council staff to stand for election in their own authority (but who should resign if elected)
- Removal of Returning Officers’ Fees for local elections

Introduction of a general power of competence;

- A “qualifying local authority” which includes principal councils and “eligible community councils” will have a general power of competence.
- Limitations - An authority cannot do anything under the general power that it is currently expressly prohibited from doing, nor anything which may be expressly prohibited in future legislation.
- Local Government Act 2000 ‘well-being power’ repealed.

Reforms to public participation in local government;

- Duty to encourage local people to participate in local government (and to produce a strategy to that effect);
- Duty to make a petition scheme (and repeal of community polls);
- Duty to broadcast certain meetings;
- Greater flexibility around remote attendance of members.
- Duty to produce a guide to the Council's Constitution in ordinary language.

Reforms around democratic governance and leadership, including:

- Creation of a statutory role of 'Chief Executive' (rather than a head of paid service) with specific duties;
- appointment of assistants to cabinets and allowing job-sharing leaders or cabinet members;
- introduction of job-sharing for non-executive roles such as committee chairs.
- updating family absence provisions in line with those available to employees (via regulations);
- requiring leaders of political groups to promote and maintain high standards of conduct by members of their groups.
- Power for Welsh Ministers to introduce statutory guidance on equality and diversity to which Council Leaders must have regard.

Collaborative Working:

- Powers for councils to initiate the establishment of Corporate Joint Committees (CJCs) covering any functions;
- Powers for Ministers to establish CJCs covering the four functions of economic wellbeing, transport, strategic planning and school improvement.
- Power for Welsh Ministers to issue statutory guidance on collaborative working to which councils must have regard.

Reforms of the performance and governance regime:

- Duty to keep under review the 'performance requirements'
- Annual stakeholder survey
- Repeal of the 2009 Measure duties, replacing audit and reporting duties with self-assessment and panel assessment (peer review);
- Reforms to Audit Committees, renaming as Governance and Audit Committees and prescribing membership and chair.
- Auditor General powers to undertake 'special inspections'

Mergers and restructuring of principal council areas.

- Voluntary mergers of principal areas may be implemented by regulations
- Abolition requests may be made by principal councils
- Power for Welsh Ministers to make 'restructuring regulations' in certain circumstances

The 'Coming into Force' provisions of the Bill are complex, with some provisions coming into force within days of Royal Assent, others within two months and the majority via Ministerial statutory instrument. Some provisions will not be commenced until after the local government elections in May 2022.

In addition, there will no doubt be a number of consultation exercises that will be conducted on either draft regulations to be made under the Bill, or statutory guidance produced as required by the Bill to which the Council will have to have regard. It is anticipated that there

will be at least 5 sets of statutory guidance and several sets of regulations introduced during the coming year, each being the subject of a consultation exercise.

There has already been one consultation exercise on the issue of the draft Establishment Regulations for the creation of a North Wales Corporate Joint Committee which required a response by 4th January 2021. A copy of the Council's consultation response is attached as Appendix 1.

There is also currently an open consultation on statutory guidance to be produced in respect of the Performance and Governance provisions contained in Part 6 (Performance and Governance) of the Act which invites responses by 3rd February 2021. This is the subject of a separate report.

There are a number of briefing opportunities that have been identified for various fora within the Council in terms of both specific and general application of the Bill, to include Corporate Governance and Audit Committee, Standards Committee, Democratic Services Committee, and perhaps a Council briefing session.

Many aspects of the Bill will require changes to the Council's Constitution and these will have to be presented to Corporate Governance and Audit Committee and Council for approval. Given the fragmented nature of the commencement provisions this will probably have to be done in piecemeal fashion.

Members of the Committee will be particularly interested in the changes to be introduced in respect of its membership and proceedings. The Bill requires that the Committee be renamed the Governance and Audit Committee. The membership of the Committee must consist of two thirds elected members and one third independent lay people. The Committee must appoint a Chair who must be one of the independent lay persons, and a Deputy Chair who must not be a member of the executive (Cabinet) nor an assistant to the executive. The Council will therefore have to conduct a recruitment exercise in order to appoint additional independent lay persons to the Committee as the Committee's current membership would be incompatible with the new requirements.

The Bill also amends the functions of the Committee as previously described in the Local Government (Wales) Measure 2011. These include the role to be played by the Committee in the performance assessment provisions of the Bill which are more particularly described in a separate report. The Bill also adds a function of reviewing, assessing and making reports and recommendations in respect of the Council's ability to deal with complaints effectively.

The provisions relating to the membership and proceedings of the committee will commence on a day to be appointed by Welsh Ministers in an order made by way of a statutory instrument. It is not yet known therefore when exactly these provisions will come into force.

It is likely that the various provisions of the Bill will require a significant amount of work to be done across different parts of the Council much of which will require political input. Members views are sought on the creation of a member/officer working group to oversee the implementation of the Bill.

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

No decision is required. This report seeks only to inform councillors as to the main provisions of the Bill and seek their views on wider member engagement.

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

There are no costs directly associated with this report. It is likely that there will be costs associated with the implementation of the Bill, however, at this stage it is difficult to calculate the amount in the absence of further detailed guidance and regulations.

7. What are the main conclusions of the Well-being Impact Assessment?

An impact assessment has not been conducted in respect of this report.

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

A briefing was held with elected members following the introduction of the Bill and a response to the Welsh Government's consultation exercise was submitted in January 2020. A further consultation exercise was recently conducted in respect of draft regulations for the establishment of Corporate Joint Committee in respect of which a member briefing was held resulting in the response attached as Appendix 1. The Scrutiny Chairs and Vice Chairs Group, and the Corporate Governance and Audit Committee are being consulted under separate cover about draft statutory guidance to be introduced under Part 6 of the Bill.

Further member engagement and consultation will take place as the various statutory instruments and statutory guidance documents are produced by government.

9. Chief Finance Officer Statement

As stated above there are no direct costs as a result of this report. However, there will be financial implications which will become clear as the legislation is implemented. The immediate area of impact is likely to be the need to resource any new structures to ensure proper governance (e.g. finance, legal and HR support). It will also be important that service size and structures are managed carefully if roles and responsibilities are transferred to regional bodies. The financial implications will be monitored carefully over the coming months and years and will, if necessary, form part of future budget proposals.

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

There are no risks directly resulting from this report. A more detailed appreciation of risk will develop as further detail emerges of the detail of the various statutory instruments and guidance documents to be produced under the Bill. Effective co-ordination and planning will mitigate any risk of the Council failing to properly implement the various changes required by the Bill.

11. Power to make the Decision

No decision is required.