

LOCAL GOVERNMENT (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Strengthening local democracy

Section 1 - Duty to conduct a survey

7. Requires each principal council in Wales to conduct a survey of unsuccessful candidates who have stood for election as councillors at ordinary elections to principal and community councils in Wales (normally held concurrently every four years), and also of those persons who have been successfully elected as councillors at these elections.
8. The survey is intended to cover various issues and help inform policy makers about the success or otherwise of initiatives to encourage a wider range of persons to stand for election to councils. The survey questions, the survey form and the manner of collating the information will be prescribed in regulations to be made by the Welsh Ministers.
9. The local authority undertaking the survey must ensure that councillors and candidates are able to provide the information anonymously; councillors and candidates are under no obligation to respond to the survey.

Section 2 – Completion of a survey and publication of information

10. Requires local authorities to complete the survey and to have provided the collated information to the Welsh Ministers within six months of the date of the elections to which the survey relates. The local authorities may publish the information they have collated.
11. The Welsh Ministers must collate the information received and publish it within twelve months of the date of the elections to which the survey relates. The Welsh Ministers may share the information as received from the local authorities (i.e. before any further collation by the Welsh Ministers) with any representative body of local government in Wales.
12. In publishing or sharing any survey information, the Welsh Ministers and a local authority must ensure that no survey contributors are named or could be identified in any way.

Section 3 – Guidance about surveys

13. Empowers the Welsh Ministers to issue guidance about surveys and requires local authorities to have regard to that guidance.

Section 4 – Remote attendance at meetings

14. Has the effect of expanding a reference in any enactment (including contained in the Measure and in subordinate legislation) to a meeting of a local authority to include

members of a local authority who are in remote attendance providing all the conditions, which are set out in subsection (3) are met.

15. The standing orders of a local authority must ensure that, in effect, the number of members in actual attendance (i.e. who is attending the meeting at the place where the meeting is held) are greater in number than those in remote attendance. In addition, the local authority may make other standing orders about remote attendance.
16. The change is intended to introduce more flexibility for meeting arrangements to accommodate the needs of councillors from more diverse backgrounds.
17. Local authorities must have regard to guidance which the Welsh Ministers may issue on remote attendance.

Section 5 – Annual reports by members of a local authority

18. Requires a local authority to make arrangements to publish annual reports by its members and by members of its executive upon their activities pursuant to either or both roles in the year to which the report relates.
19. The arrangements made by the authority may include conditions as to the content of a report that must be satisfied by the person making it and the authority must publicise those arrangements. Local authorities must have regard to guidance which the Welsh Ministers may issue on annual reports.

Section 6 – Timing of council meetings

20. Empowers the Welsh Ministers to issue guidance about the timing of meetings of a local authority (including meetings of any committee or sub-committee) with a view to introducing more flexible arrangements to accommodate councillors from more diverse backgrounds. It requires local authorities to have regard to that guidance.

Section 7 – Training and development of members of a local authority

21. Places a duty on principal councils to secure the provision of reasonable training and development opportunities for their members. Each principal council must make available to its members an annual review of their training and development needs, including an opportunity for an interview with a person considered suitably qualified to advise upon the same. Local authorities must have regard to guidance which the Welsh Ministers may issue on these matters.

Section 8 – Head of democratic services

22. Requires the Democratic Services Committee of each principal council to designate one of the authority's officers to be the Head of Democratic Services ("HDS"), but its head of paid service, monitoring officer or chief finance officer cannot be designated in this respect.
23. The HDS may arrange for the discharge of democratic services functions by staff and the HDS must be provided with such staff, accommodation and other resources as are, in the opinion of the HDS, sufficient to allow their functions to be discharged.
24. The purpose of the post is to ensure that councillors outside the executive are provided with sufficient support to enable them to carry out their duties effectively, with the necessary administrative and research provision.

Section 9 – Democratic services functions

25. Sets out the functions that the Head of Democratic Services is charged with, which include:-
 - a) providing support and advice to the authority in relation to its meetings;

- b) providing support and advice to committees (including joint and sub-committees, but excluding overview and scrutiny committee and the democratic services committee);
 - c) promoting the role of the authority's overview and scrutiny committee/s;
 - d) providing support and advice to the authority's overview and scrutiny committee/s and the members of the same, and similarly to the authority's democratic services committee;
 - e) providing support and advice in relation to the functions of the authority's overview and scrutiny committee/s to the members of authority, members of the executive and officers of the authority;
 - f) providing support and advice to members of the authority in carrying out their role as a member of the authority. This does not extend to support and advice to a member in discharging his/her functions as a member of the executive (save for those functions captured by (e) above), and/or advice about how the authority's functions should be, or should have been, exercised in relation to a matter under consideration/to be considered at a meeting or committee of the authority (including joint or sub-committee); and
 - g) making reports and recommendation in respect of staffing issues in relation to the discharge of democratic services functions.
26. Other functions of the HDS may be prescribed in regulation by the Welsh Ministers; such subordinate legislation to follow the affirmative procedure. "Advice" in (a) and (b) above does not include advice about whether or how the authority's function should be, or should have been, exercised. Nothing in this section affects the duty of the authority's head of paid service.

Section 10 – Duty to adopt standing orders about management of staff

27. Enables the Welsh Ministers to make regulations requiring local authorities to incorporate in standing orders prescribed provisions relating to the management of staff provided to the HDS and other modifications of the authority's standing orders relating to the management of staff. The regulations made by the Welsh Ministers could not cover the appointment, dismissal or disciplining of the staff referred to.

Section 11 – Local authorities to appoint democratic services committees

28. Requires local authorities to appoint a committee of the council to designate the Head of Democratic Services, oversee the work of Democratic Services, ensure that the work is adequately resourced and report to the full council accordingly.

Section 12 - Membership

29. Sets out the membership of the democratic services committee. Membership of the committee is limited to councillors (no co-opted members), only one member of the council's executive may be a member, and the leader of the council executive may not be a committee member. The chair may not be a member of the executive group (save in authorities where all political groups were represented on the authority's executive in which case the chair may not be a member of the executive). The committee membership must reflect the political balance on the full council in line with section 15 of the Local Government and Housing Act 1989.

Section 13 – Sub-committees

30. Allows the democratic services committee to establish sub-committees, which may discharge its functions.

Section 14 – Proceedings etc

31. Sets out provisions governing the proceedings of democratic services committees, including: that the chair should be appointed by the full council; the chair must not be a member of a group which forms part of the council's executive, except where all groups are represented on the executive (in which case the chair must not be a member of the executive); the chairs of any sub-committees should be appointed by the democratic services committee; that there are no restrictions on voting for members of the committee or sub-committees; that the committee (and a sub-committee) may call witnesses (who will be under a duty to attend if they are members or officers of the authority, but a witness of any description will not be obliged to answer any question which they would be entitled to refuse to answer in, or in connection with, court proceedings in England and Wales); and that committee (and sub-committee) meetings, papers and minutes will be subject to the requirements regarding access, publication and inspection as are set out in Part VA of the 1972 Act.

Section 15 – Frequency of meetings

32. Requires that the democratic services committee must meet at least once a calendar year, but may meet more frequently than that. In addition, the democratic services committee must meet if the local authority resolves that it should, or at least one-third of its members requisition a meeting in the manner set out.

Section 16 – Discharging functions

33. Limits the exercise of functions by the democratic services committee to those set out in this chapter of the measure; the committee (and any sub-committees) must have regard to any guidance which the Welsh Ministers may issue on the discharge of functions.

Section 17 – Termination of membership on ceasing to be a member of authority

34. A councillor's membership of a democratic services committee (or sub-committee) will cease if that councillor ceases to be a member of the council, but will not be affected if the councillor's membership of the council ceased because his/her term of office as a councillor has expired and he/she is re-elected at the next elections (this is subject to the standing orders of the authority or the democratic services sub/committee).

Section 18 – Reports and recommendations by head of democratic services

35. Requires the head of democratic services to send a copy of any report or recommendations he or she has prepared on the staffing issues in relation to the discharge of democratic services functions to all members of the democratic services committee. A meeting of the committee must be held to consider such reports or recommendations within three months of their being sent to committee members.

Section 19 – Reports and recommendations by democratic services committees

36. If a democratic services committee prepares any report or makes recommendations about the provision of staff, accommodation and other resources provided by the local authority for the discharge of democratic service functions, a copy must be sent to each member of the authority who is not a member of the committee, as soon as practicable. A meeting of the full council must be held to consider such reports or recommendations within three months of their being sent to authority members.

Section 20 – Local authority functions not to be delegated

37. This section ensures that the local authority is not permitted to delegate the duties and functions bestowed on it by this Measure in respect of: designating the head of democratic services; providing him/her with staff, accommodation and other resources; appointment of a democratic services committee, its members (in compliance with

the provisions) and its chair; resolving that a democratic services committee should meet; and considering a report or recommendations prepared by the democratic services committee.

Section 21 – Head of democratic services to be a politically restricted post

38. Amends section 2(1) of the Local Government and Housing Act 1989 to include the head of democratic services as a politically restricted post. The effect is that the post-holder is prevented from having any active political role either in or outside the workplace. Politically restricted employees will automatically be disqualified from standing for or holding elected office and these restrictions must be incorporated as terms in the employee's contract of employment under section 3 of the Local Government (Political Restrictions) Regulations 1990.

Section 22 – Meaning of “member”

39. Provides that in this Part of the Measure, a reference to an elected member includes a member of a local authority executive but does not include an elected mayor.