



# Local Government (Wales) Measure 2011

**2011 nawm 4**

## **PART 6**

### **OVERVIEW AND SCRUTINY**

#### **CHAPTER 1**

##### **OVERVIEW AND SCRUTINY COMMITTEES**

###### *Appointing persons to chair committees*

###### **66 Provision in standing orders about appointment of persons to chair committees**

- (1) The standing orders of a local authority must make provision (“appointment provision”) for the appointment of the persons who are to chair the local authority’s overview and scrutiny committee or committees (“committee chairs”).
- (2) The appointment provision must comply with—
  - (a) section 67,
  - (b) section 68, and
  - (c) section 69 (and accordingly with sections 70 to 73 or with section 74).
- (3) Appointment provision must not prevent a person from being appointed as a committee chair because the person—
  - (a) is, or is not, a member of any political group, or
  - (b) is, or is not, a member of a particular political group.

###### **67 When appointments to be made by committee**

- (1) The appointment provision must provide for the appointment of committee chairs in cases A to C set out in this section.

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- (2) The appointment provision must provide that, in those cases, the committee chair, or each committee chair, is to be appointed by the committee which that person is to chair.
- (3) Case A is where there are no political groups on the authority.
- (4) Case B is where there is only one political group on the authority.
- (5) Case C is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority’s executive—
    - (i) includes members of both political groups, or
    - (ii) does not include any member of either political group.

### **68 When appointments to be made by non-executive group**

- (1) The appointment provision must provide for the appointment of the committee chair in the case set out in this section.
- (2) The appointment provision must provide that, in that case, the committee chair is to be appointed by the non-executive political group.
- (3) That case is where—
  - (a) there are two (but not more) political groups on the authority,
  - (b) the authority has only one overview and scrutiny committee, and
  - (c) the authority’s executive—
    - (i) includes one or more members of one political group, but
    - (ii) does not include any member of the other political group.
- (4) In this section “non-executive political group” means the group described in subsection (3)(c)(ii).

### **69 How appointments to be made in other cases**

- (1) The appointment provision must provide for the appointment of committee chairs in cases other than those set out in section 67 and 68.
- (2) The appointment provision applicable in the other cases must comply with—
  - (a) sections 70 to 73, or
  - (b) section 74.

### **70 Appointments to be made by political groups**

- (1) A local authority’s appointment provision complies with this section if it provides—
  - (a) for the authority to be required, on each occasion when all of its committee chairs fall to be appointed, to make a determination under subsection (2) of which political groups on the authority are entitled to make which appointments, and
  - (b) for the groups to be able to make the appointments accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.

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- (3) The first principle is that—
- (a) if there is only one executive group, the proportion of committee chairs which the executive group is entitled to appoint corresponds to the proportion of members of the authority who are in the group;
  - (b) if there are two or more executive groups, the proportion of committee chairs which the executive groups are (when taken together) entitled to appoint corresponds to the proportion of members of the authority who are members of those groups (when taken together).
- (4) The second principle is that—
- (a) if there is only one opposition group, the group is entitled to appoint all the opposition allocation of committee chairs, or
  - (b) if there are two or more opposition groups—
    - (i) the opposition groups are (when taken together) entitled to appoint all the opposition allocation of committee chairs, and
    - (ii) the proportion of the opposition allocation of committee chairs which each opposition group (a “relevant group”) is entitled to appoint corresponds to the proportion of members of the opposition groups who are members of the relevant group.
- (5) In giving effect to the principles in subsections (3)(a) and (b) and (4)(b)(ii), the appointment provision—
- (a) must provide for a political group’s entitlement to appoint committee chairs to be an entitlement to appoint a whole number of committee chairs, and
  - (b) accordingly, must provide for an entitlement to be rounded off to the nearest whole number if it would not otherwise be a whole number.
- (6) In giving effect to the principles in subsection (3)(a) and (b), the appointment provision made in accordance with subsection (5)(b) must provide for the entitlement of the executive group, or executive groups, to be rounded down to the nearest whole number.
- (7) For the purposes of subsections (5) and (6), zero is to be taken to be a whole number.
- (8) In this section—
- “executive allocation of committee chairs” (*“dyraniad y weithrediaeth o gadeiryddion pwyllgor”*) means the number of committee chairs which—
    - (a) the executive group is entitled to appoint in accordance with subsection (3)(a), or
    - (b) the executive groups are entitled to appoint in accordance with subsection (3)(b);
  - “opposition allocation of committee chairs” (*“dyraniad yr wrthblaid o gadeiryddion pwyllgor”*) means the number of committee chairs remaining after deducting the executive allocation of committee chairs.

## **71 Failure to make appointments in accordance with section 70**

- (1) A local authority’s appointment provision complies with this section if it provides—
- (a) for the authority to be required, on each occasion when some or all of the committee chairs (“the unappointed chairs”) which fall to be appointed in accordance with appointment provision that complies with section 70 are

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- not so appointed, to make a determination under subsection (2) of how the unappointed chairs are to be appointed, and
- (b) for the unappointed chairs to be appointed accordingly.
- (2) The determination referred to in subsection (1) is a determination which, so far as reasonably practicable, gives effect to the following principles.
- (3) The first principle is that no executive group is entitled to appoint any of the unappointed chairs.
- (4) The second principle is that—
- (a) if there is only one opposition group and it has made all of its initial appointments, or
- (b) if there are two or more opposition groups and one or more of them have made all of their initial appointments,
- each appointing group is entitled to appoint the proportion of unappointed committee chairs which corresponds to the proportion of completed initial appointments which were appointments made by that group.
- (5) The third principle is that if—
- (a) there are unappointed committee chairs, but
- (b) none of them fall to be appointed as mentioned in subsection (4),
- each unappointed committee chair is to be appointed by the committee which that person is to chair.
- (6) The fourth principle is that if—
- (a) one or more unappointed committee chairs fall to be appointed as mentioned in subsection (4), but
- (b) one or more of them are not so appointed,
- each committee chair not so appointed is to be appointed by the committee which that person is to chair.
- (7) In this section—
- “appointing group” (“*grŵp penodi*”) means an opposition group which makes all of its initial appointments;
- “completed initial appointment” (“*penodiad cychwynnol gorffenedig*”) means an initial appointment that is made;
- “initial appointment” (“*penodiad cychwynnol*”), in relation to a political group, means an appointment which the group is entitled to make in accordance with appointment provision that complies with section 70.

## **72 Changes in composition of executive**

- (1) A local authority’s appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where either or both of the following happen—
- (a) a political group ceases to be an executive group;
- (b) a political group begins to be an executive group;
- and it is not the case set out in section 70.

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- (3) The appointment provision must provide for the making of—
  - (a) a section 70 determination (as if all of the local authority’s committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated by either or both of the following—
  - (a) the termination of existing appointments of committee chairs;
  - (b) the making of new appointments of committee chairs.
- (5) For the purposes of this section, a political group is to be taken to cease to be an executive group only if, after ceasing to be an executive group, the period of two months (beginning with the day on which it ceases to be an executive group) passes without it becoming an executive group again.

### **73 Occasional vacancies in committee chairs**

- (1) A local authority’s appointment provision complies with this section if it provides for the case set out in subsection (2) by means of provision of the kind referred to in subsections (3) and (4).
- (2) That case is where—
  - (a) some, but not all, of the authority’s committee chairs fall to be appointed, and
  - (b) it is not the case set out in section 72.
- (3) The appointment provision must provide for the making of—
  - (a) a section 70 determination (as if all of the local authority’s committee chairs had fallen to be appointed), and
  - (b) a determination of whether there is a difference between—
    - (i) the number of committee chairs that a political group would be entitled to appoint in accordance with the section 70 determination, and
    - (ii) the number of committee chairs holding office at that time who were appointed by that group.
- (4) The appointment provision must provide for any difference of the kind referred to in subsection (3)(b) to be eliminated, so far as possible, by the appointment of the committee chair or chairs.

### **74 Appointment provision determined by authority**

- (1) A local authority’s appointment provision complies with this section if the provision—
  - (a) is no less favourable to opposition groups than section 70, and
  - (b) is approved by a resolution of the local authority which has cross-group support.

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- (2) Appointment provision is no less favourable to opposition groups than section 70 if it provides—
- (a) for opposition groups on the local authority (when taken together) to be given the opportunity to appoint a greater number of committee chairs than would be the case with provision made in accordance with section 70, and
  - (b) for each opposition group on the local authority to be given the opportunity to appoint at least the number of committee chairs as would be the case with provision made in accordance with section 70.
- (3) A resolution of the local authority has cross-group support if—
- (a) the persons voting in favour of the resolution include members of every political group on the authority, and
  - (b) each political group on the authority gives majority support to the resolution.
- (4) A political group on the authority gives majority support to the resolution if the number of members of that group who vote in favour of the resolution is greater than the number of members of that group who vote against the resolution.

## 75 Supplementary provision and interpretation

- (1) The Welsh Ministers may, by regulations, make provision about—
- (a) appointment provision, and
  - (b) the appointment of committee chairs in accordance with appointment provision.
- (2) A local authority must, in exercising or deciding whether to exercise a function in connection with appointment provision or the appointment of committee chairs—
- (a) have regard to guidance given by the Welsh Ministers, and
  - (b) comply with any directions given by the Welsh Ministers.
- (3) In sections 66 to 74 and this section—
- “appointment provision” (“*darpariaeth benodi*”) has the meaning given in section 66;
  - “committee chair” (“*cadeirydd pwyllgor*”) has the meaning given in section 66;
  - “executive group” (“*grŵp gweithrediaeth*”) means a political group some or all of whose members comprise, or are included in, the executive of the authority;
  - “opposition group” (“*grŵp gwrthblaid*”) means a political group none of whose members are included in the executive of the authority;
  - “political group” (“*grŵp gwleidyddol*”), in relation to a local authority, means a group of members of the authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989;
  - “section 70 determination” (“*dyfarniad adran 70*”) means a determination of the kind referred to in section 70.
- (4) In section 21 of the Local Government Act 2000 (overview and scrutiny committees), after subsection (10) insert—
- “(10A) For provision about the appointment of persons to chair overview and scrutiny committees of local authorities in Wales, see sections 66 to 75 of the Local Government (Wales) Measure 2011.”.