



Local Government (Wales) Measure 2011

2011 nawm 4

PART 1

STRENGTHENING LOCAL DEMOCRACY

CHAPTER 1

PROMOTING AND SUPPORTING MEMBERSHIP OF LOCAL AUTHORITIES

Survey of councillors and unsuccessful candidates for election as councillors

1 Duty to conduct a survey

- (1) A local authority must, in accordance with regulations under this section, conduct a survey of—
 - (a) councillors in its area, and
 - (b) unsuccessful candidates for election to the office of councillor in its area.
- (2) A local authority must conduct a survey after each ordinary election to—
 - (a) the council of the county or county borough, and
 - (b) a community council in the local authority's area.
- (3) The survey must be conducted by—
 - (a) asking prescribed questions in any prescribed form or manner, and
 - (b) collating the information in any prescribed form or manner.
- (4) The questions that may be prescribed under subsection (3) include (but are not limited to) questions about the individual to whom they are addressed which relate to—
 - (a) gender;
 - (b) sexual orientation;
 - (c) language;
 - (d) race;

- (e) age;
 - (f) disability;
 - (g) religion or belief;
 - (h) health;
 - (i) education and qualifications;
 - (j) employment;
 - (k) work as a councillor.
- (5) Nothing in this section places a duty on a councillor or an unsuccessful candidate for election to the office of councillor to provide any information.
- (6) A local authority must make arrangements for councillors and unsuccessful candidates for election to the office of councillor to provide information under this section anonymously.
- (7) section—
- “belief” (“*cred*”) means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief;
 - “councillor” (“*cyngorydd*”) includes community councillor;
 - “disability” (“*anabled*”) means a physical or mental impairment that has a substantial and long-term adverse effect on a person’s ability to carry out normal day to day activities;
 - “race” (“*hi*”) means colour, nationality or ethnic or national origins;
 - “religion” (“*crefydd*”) means any religion and a reference to religion includes a reference to a lack of religion;
 - “sexual orientation” (“*cyfeiriadedd rhywiol*”) means a person’s sexual orientation towards—
 - (a) persons of the same sex,
 - (b) persons of the opposite sex, or
 - (c) persons of either sex.

2 Completion of a survey and publication of information

- (1) A local authority must complete its survey and provide the information collated in it to the Welsh Ministers within six months of the date of the ordinary election to which it relates.
- (2) A local authority must provide the information in any prescribed form or manner.
- (3) A local authority may publish the information collated in a survey in such manner as it considers appropriate, subject to subsection (6).
- (4) The Welsh Ministers must—
- (a) collate the information they receive from local authorities under this section, and
 - (b) publish it within twelve months of the date of the ordinary election to which it relates.
- (5) The Welsh Ministers may—
- (a) publish information under subsection (4)(b) in such manner as they consider appropriate, subject to subsection (6);

- (b) share any information provided to them under subsection (1) with any body representing the interests of county, county borough or community councils in Wales.
- (6) No information received under section 1 or this section is to be published or shared in any form that, either by itself or in combination with any other information, identifies any individual to whom it relates or enables that individual to be identified.

3 Guidance about surveys

In exercising its functions under sections 1 and 2, a local authority must have regard to guidance given by the Welsh Ministers.

Supporting membership

4 Remote attendance at meetings

- (1) A reference in any enactment to a meeting of a local authority is not limited to a meeting of persons all of whom are present in the same place.
- (2) For the purposes of any such enactment, a member of a local authority who is not present in the place where a meeting of that authority is held (a “member in remote attendance”) attends the meeting at any time if all of the conditions in subsection (3) are satisfied.
- (3) Those conditions are that—
- (a) the member in remote attendance is able at that time—
 - (i) to see and hear, and be seen and heard by, the members in actual attendance,
 - (ii) to see and hear, and be seen and heard by, any members of the public entitled to attend the meeting who are present in that place and who exercise a right to speak at the meeting, and
 - (iii) to be seen and heard by any other members of the public so entitled who are present in that place;
 - (b) the member in remote attendance is able at that time to hear, and be heard by, any other member in remote attendance in respect of whom the condition in paragraph (a) is satisfied at that time;
 - (c) use of facilities enabling the conditions in paragraphs (a) and (b) to be satisfied in respect of the member in remote attendance is not prohibited by the standing orders or any other rules of the authority governing the meeting.
- (4) The standing orders of a local authority must secure that there is no quorum for a meeting of the local authority at any time when the number of members in remote attendance is equal to, or greater than, the number of members in actual attendance.
- (5) A local authority may make other standing orders about remote attendance at meetings of a local authority.
- (6) A local authority must have regard to guidance given by the Welsh Ministers in relation to meetings of the authority attended remotely in accordance with this section.
- (7) This section applies in relation to a meeting of a committee or sub-committee of a local authority as it applies in relation to a meeting of a local authority.

- (8) But a person who is a co-opted member of a committee or sub-committee may not be a member in remote attendance at a meeting by virtue of this section.
- (9) For the purpose of this section—
- (a) a reference to a person (A) seeing another person (B) is to be interpreted as a reference to A seeing B when B is speaking at the meeting;
 - (b) a reference to a person (C) being seen by another person (D) is to be interpreted as a reference to C being seen by D when C is speaking at the meeting.
- (10) In this section—
- “co-opted member” (“*aelod cyfetholedig*”), in relation to a committee or sub-committee of a local authority, means a person who is a member of the committee or sub-committee, but not a member of the authority;
 - “member in actual attendance” (“*aelod sy'n mynychu'r fangre*”), in relation to a meeting of a local authority, means a member of the authority who is attending the meeting at the place where the meeting is held.

5 Annual reports by members of a local authority

- (1) A local authority must make arrangements for—
- (a) each person who is a member of the authority to make an annual report about the person’s activities as a member of the authority during the year to which the report relates,
 - (b) each person who is a member of the authority’s executive to make an annual report about the person’s activities as a member of the executive during the year to which the report relates, and
 - (c) the authority to publish all annual reports produced by its members and by the members of its executive.
- (2) The arrangements may include conditions as to the content of a report that must be satisfied by the person making it.
- (3) A local authority must publicise its arrangements.
- (4) In exercising its functions under this section a local authority must have regard to guidance given by the Welsh Ministers.

6 Timing of council meetings

- (1) The Welsh Ministers may give guidance about the times at which meetings of a local authority are held.
- (2) A local authority must have regard to guidance given under subsection (1).
- (3) In subsection (1), “meetings of a local authority” means—
- (a) meetings of the local authority;
 - (b) meetings of any committee or sub-committee of the authority.

7 Training and development of members of a local authority

- (1) A local authority must secure the provision of reasonable training and development opportunities for its members.

Status: This is the original version (as it was originally enacted).

- (2) A local authority must make available to each member of the authority an annual review of the member's training and development needs.
- (3) The review must include an opportunity for an interview with a person who is, in the opinion of the authority, suitably qualified to provide advice about the training and development needs of a member of a local authority.
- (4) In exercising its functions under this section a local authority must have regard to guidance given by the Welsh Ministers.
- (5) In the case of an authority which operates a leader and cabinet executive (Wales), a reference in this section to a member of a local authority does not include the executive leader.

CHAPTER 2

LOCAL AUTHORITY DEMOCRATIC SERVICES

8 Head of democratic services

- (1) A local authority must—
 - (a) designate one of its officers to discharge the functions in section 9 (“democratic services functions”);
 - (b) provide that officer with such staff, accommodation and other resources as are, in its opinion, sufficient to allow his or her functions to be discharged.
- (2) A head of democratic services may arrange for the discharge of democratic services functions by staff provided under this section.
- (3) An officer designated by a local authority under this section is to be known as the head of democratic services.
- (4) A local authority may not designate any of the following under this section—
 - (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
 - (b) the authority's monitoring officer designated under section 5 of that Act;
 - (c) the authority's chief finance officer, within the meaning of that section.

9 Democratic services functions

- (1) The functions of the head of democratic services are—
 - (a) to provide support and advice to the authority in relation to its meetings, subject to subsection (2);
 - (b) to provide support and advice to committees of the authority (other than the committees mentioned in paragraph (e)) and the members of those committees, subject to subsection (2);
 - (c) to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to subsection (2);
 - (d) to promote the role of the authority's overview and scrutiny committee or committees;

Status: This is the original version (as it was originally enacted).

- (e) to provide support and advice to—
 - (i) the authority’s overview and scrutiny committee or committees and the members of that committee or those committees, and
 - (ii) the authority’s democratic services committee and the members of that committee;
 - (f) to provide support and advice in relation to the functions of the authority’s overview and scrutiny committee or committees to each of the following—
 - (i) members of the authority;
 - (ii) members of the executive of the authority;
 - (iii) officers of the authority;
 - (g) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to subsection (3);
 - (h) to make reports and recommendations in respect of any of the following—
 - (i) the number and grades of staff required to discharge democratic services functions;
 - (ii) the appointment of staff to discharge democratic services functions;
 - (iii) the organisation and proper management of staff discharging democratic services functions;
 - (i) such other functions as may be prescribed.
- (2) The references to “advice” in paragraphs (a) to (c) do not include advice about whether or how the authority’s functions should be, or should have been, exercised.
- (3) The following kinds of support and advice are not to be considered as support and advice for the purposes of subsection (1)(g)—
- (a) support and advice to a member of the authority in discharging that member’s functions as part of the executive of the authority (except as provided for under subsection (1)(f));
 - (b) advice about whether or how the authority’s functions should be, or should have been, exercised in relation to any matter under consideration, or to be considered, at a meeting of the authority, a committee referred to in subsection (1)(b) or a joint committee which a local authority is responsible for organising.
- (4) Nothing in subsection (1)(h) affects the duty of the head of paid service in section 4(2) of the Local Government and Housing Act 1989.
- (5) In this section, references to a committee (or joint committee) include references to any sub-committee of that committee.

10 Duty to adopt standing orders about management of staff

- (1) The Welsh Ministers may by regulations require a local authority—
- (a) to incorporate prescribed provision relating to the management of staff provided under section 8(1)(b) in its standing orders;
 - (b) to make other modifications of those of its standing orders which relate to the management of staff.
- (2) In this section “management of staff” does not include appointment of staff or dismissal of staff or the taking of other disciplinary action against staff.

11 Local authorities to appoint democratic services committees

- (1) A local authority must appoint a committee (“a democratic services committee”) to—
 - (a) exercise the function of the local authority under section 8(1)(a) (designation of head of democratic services),
 - (b) review the adequacy of provision by the authority of staff, accommodation and other resources to discharge democratic services functions, and
 - (c) make reports and recommendations to the authority in relation to such provision.
- (2) It is for a democratic services committee to determine how to exercise those functions.

12 Membership

- (1) A local authority is to appoint the members of its democratic services committee.
- (2) A local authority must secure that—
 - (a) each member of its democratic services committee is a member of the authority;
 - (b) no more than one of the members of its democratic services committee is a member of the authority’s executive;
 - (c) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader is not a member of its democratic services committee.
- (3) The appointment of a person as a member of a democratic services committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).
- (4) In a case where one or more persons are to become, or to cease to be, members of a democratic services committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).
- (5) A democratic services committee of a local authority is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

13 Sub-committees

- (1) A democratic services committee—
 - (a) may appoint one or more sub-committees, and
 - (b) may arrange for the discharge of any of its functions by such a sub-committee.
- (2) A sub-committee of a democratic services committee may not discharge functions other than those conferred on it under subsection (1)(b).

14 Proceedings etc

- (1) A local authority is to appoint the person who is to chair the democratic services committee (who must not be a member of an executive group).

Status: This is the original version (as it was originally enacted).

- (2) If there are no opposition groups, the person who is to chair the democratic services committee may be a member of an executive group but must not be a member of the local authority's executive.
- (3) A democratic services committee is to appoint the person who is to chair any sub-committee of such a committee.
- (4) All members of a democratic services committee, or of a sub-committee of such a committee, may vote on any question that falls to be decided by the committee.
- (5) A democratic services committee of a local authority, or a sub-committee of such a committee—
 - (a) may require members and officers of the authority to attend before it to answer questions, and
 - (b) may invite other persons to attend meetings of the committee.
- (6) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (5)(a).
- (7) A person is not obliged by subsection (6) 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.
- (8) A democratic services committee, or a sub-committee of such a committee, is to be treated as a committee, or sub-committee, of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).
- (9) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

15 Frequency of meetings

- (1) A democratic services committee must meet once in every calendar year.
- (2) The democratic services committee of a local authority must also meet if—
 - (a) the local authority resolves that the committee should meet, or
 - (b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.
- (3) It is the duty of the person who chairs a democratic services committee to secure that meetings of the committee are held as required by subsections (1) and (2).
- (4) This section does not prevent a democratic services committee from meeting otherwise than as required by this section.

16 Discharging functions

- (1) A democratic services committee may not exercise any functions other than its functions under this Chapter.
- (2) In exercising, or deciding whether to exercise any of its functions, a democratic services committee, or a sub-committee of such a committee, must have regard to guidance given by the Welsh Ministers.

17 Termination of membership on ceasing to be member of authority

- (1) This section applies to a person (P) who is—
 - (a) appointed to be a member of a democratic services committee of a local authority, or of a sub-committee of such a committee, and
 - (b) is a member of the authority at the time of that appointment.
- (2) If P ceases to be a member of the authority, P also ceases to be a member of the democratic services committee or sub-committee.
- (3) But subsection (2) does not apply if P—
 - (a) ceases to be a member of the authority by reason of retirement, and
 - (b) is re-elected a member of the authority not later than the day of retirement.
- (4) Subsection (3) is subject to the standing orders of the authority or the democratic services committee or sub-committee.

18 Reports and recommendations by head of democratic services

- (1) The head of democratic services for a local authority must, as soon as practicable after preparing a report or making a recommendation under section 9(1)(h), send to each member of the authority’s democratic services committee a copy of the report or recommendation.
- (2) A democratic services committee must consider any report or recommendation sent to the members of the committee under this section at a meeting held not more than three months after copies of the report are first sent to members of the committee.

19 Reports and recommendations by democratic services committees

- (1) A democratic services committee for a local authority must, as soon as practicable after it has prepared a report or made a recommendation under section 11(1)(c), arrange for a copy of it to be sent to each member of the authority who is not a member of the committee.
- (2) A local authority must consider any report or recommendations at a meeting held not more than three months after copies of the report or recommendation are first sent to members of the authority.

20 Local authority functions not to be delegated

The functions of a local authority under sections 8(1), 11, 12(1) and (2), 14(1), 15(2) (a) and 19(2) are not to be delegated under section 101 of the Local Government Act 1972.

21 Head of democratic services to be a politically restricted post

- (1) Section 2(1) of the Local Government and Housing Act 1989 is amended as follows.
- (2) In paragraph (f) omit “and”.
- (3) After “delegated)” in paragraph (g) insert—

“; and

Status: This is the original version (as it was originally enacted).

- (h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011”.

CHAPTER 3

INTERPRETATION

22 Meaning of “member”

In this Part, a reference to a member of a local authority includes a reference to an elected executive member (within the meaning of section 39(4) of the Local Government Act 2000).