

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6: Performance and Governance Of Principal Councils

Chapter 1: Performance, Performance Assessments and Intervention

Section 99 - Auditor General's powers of entry and inspection etc.: notice and evidence of identity

479. [Section 99](#) sets out requirements which apply to the Auditor General's exercise of the powers under section 98.
480. The effect of subsection (1) is that, subject to subsection (3), the Auditor General may exercise the power under section 98(1) to enter a council's premises only if at least three clear working days' notice in writing has been given to the principal council.
481. The meaning of the term "working day" is given by the Legislation (Wales) Act 2019 (anaw 4) (see Schedule 1 to that Act). It means a day which is not a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in England and Wales under the Banking and [Financial Dealings Act 1971 \(c. 80\)](#).
482. Notice must be given to the council using one of the methods set out in subsection (5), though the method in paragraph (c) of subsection (5) can be used only if the council has notified the Auditor General of an email address to be used for that purpose. Paragraph (c) does not require councils to provide an email address for that purpose.
483. For example, if notice is posted first class to the principal office of the council on a Monday, the Auditor General can exercise the power under section 98(1) to enter the council's premises no earlier than the Friday of that week.
484. Subsection (2) contains equivalent notice requirements applying to the exercise of the powers under section 98(2). Again, notice must be given to a council using one of the methods in subsection (5).
485. The effect of subsection (3) is that the Auditor General is not required to give notice before exercising a power under section 98(1) or (2) if the Auditor General considers that giving notice would prejudice, or would be likely to prejudice, the special inspection (for example, if the Auditor General considered it was necessary to inspect urgently certain information before it was deleted).
486. Subsection (4) contains notice requirements applying to the exercise of the powers under section 98(3) to require a person to appear before the Auditor General.
487. If the person required to appear is a member of a principal council or a member of the staff of a principal council, at least three clear working days' notice in writing is required. Notice must be given using one of the methods in subsection (6). In the case

*These notes refer to the Local Government and Elections (Wales)
Act 2021 (c.1) which received Royal Assent on 20 January 2021*

of other persons who are required to appear, seven clear working days' notice in writing is required and notice must be given using one of the methods in subsection (7).

488. A council etc., against whom a person is attempting to exercise a power under section 98, may request evidence of that person's authority to exercise the power. If the person does not produce the evidence they cannot exercise the power.