

# LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 of Schedule 11: Transition committees of merging councils and restructuring councils**

##### *Chapter 4: Remuneration arrangements for new principal councils*

641. These sections make provision for the remuneration arrangements for new principal councils (including shadow councils) established under this Part, with reference to the existing arrangements under which the Independent Remuneration Panel for Wales exercises functions under Part 8 of the 2011 Measure. The Panel has statutory responsibility for determining the range and level of allowances payable to elected members of principal local authorities and in relation to the salaries of chief executives of principal councils.

##### *Section 142 - Directions to Independent Remuneration Panel for Wales*

642. **Section 142** enables the Welsh Ministers to direct the Independent Remuneration Panel for Wales to perform “the relevant functions” in relation to shadow councils, and new principal councils for the financial year in which the transfer date falls (i.e. the date on which the shadow council assumes the full range of principal council functions and replaces the merging or restructuring councils which are abolished).

643. The relevant functions are those set out in section 142 of the 2011 Measure (which concerns payments to be made to elected members) and section 143 of the 2011 Measure (pensions for elected members).

644. The Panel must follow the procedures set out in Part 8 of the 2011 Measure (other than section 143A of that Measure) subject to the provisions in subsection (4) of this section, which modify and disapply aspects of Part 8 of the 2011 Measure.

645. Subsection (4)(a) provides that the shadow council is a “relevant authority” for the purposes of Part 8 of the 2011 Measure; “relevant authority” being defined in section 144(2) of the 2011 Measure. Subsection (4)(b) relates to the requirements in sections 147 and 148 of the 2011 Measure about the dates by which the Panel must publish its annual report and drafts of the annual report.

646. As noted above, the transfer date for a new principal council will generally be 1 April, but the annual report and draft annual report in which the Independent Remuneration Panel will set out its determinations for the first year of that council will be published in the months before the transfer takes place. Subsection (4)(b) means that in this circumstance the Panel may make determinations in respect of “the council-in-waiting” before it is established, as if it were already established.

647. Subsection (5) will allow the Panel to address the circumstances where a designated shadow council has become the fully vested council on the transfer date (almost always 1 April) and is not replaced by the elected council for the new area until the first ordinary elections are held, probably in May of the same year. Subsection (5) enables the Panel, in making determinations for the first financial year of the new authority, to be able to make different determinations for the periods before and after the first set of elections.

### ***Section 143 - Reports of Panel relating to shadow councils and new principal councils***

648. **Section 143(2)** requires the Independent Remuneration Panel for Wales to include its first determinations on pay and pensions for members of the shadow council in a report which must be published by a date set out in the direction given to the Panel by the Welsh Ministers under section 142(1).
649. The “first report” in respect of the shadow council may be an annual report or a supplementary report; this will enable the report to be published at a time which is appropriate in relation to the establishment of the shadow council, rather than be conditioned by the timetable required under section 147 of the 2011 Measure. Additionally, section 148(1A)(b) of the 2011 Measure is dis-applied if the first report is a supplementary report, so the period for representations on a draft report in this circumstance is not conditioned by the restrictions in section 148(1A)(b) and may be as long as is considered appropriate.
650. Subsection (5) sets out to whom the Panel must send a draft of a report (whether an annual or a supplementary report) which relates to a shadow council or the council for a new principal area.
651. Where the first report is a supplementary report, subsections (6) to (8) provide that the specified requirements which may be applied by an annual report under the 2011 Measure may be applied in this particular circumstance by the supplementary report.

### ***Section 144 – Guidance to Panel***

652. **Section 144** requires the Independent Remuneration Panel for Wales to have regard to guidance issued by the Welsh Ministers about the exercise of its functions under sections 142 and 143.

### ***Section 145 - Pay policy statements***

653. **Section 145** requires a shadow council to prepare and approve a pay policy statement (as provided for in sections 38 and 39 of the Localism Act 2011) for the periods set out in subsection (3).
654. The purpose is to ensure the shadow council has in place a public statement which articulates the shadow council’s policies on a range of issues relating to the pay of its future workforce, particularly its chief officers and its lowest paid employees.
655. To assist the shadow council, subsection (1) requires a transition committee to publish recommendations for the pay policy statement to be prepared by the shadow council, no later than six weeks before the day the shadow council is elected or established. Shadow councils are prohibited from appointing a chief officer until the pay policy statement for the period mentioned in subsection (3) has been prepared and approved.
656. The term “chief officer” has the same meaning as in section 43(2) of the Localism Act 2011 and covers the following officers of a principal council:
- (a) its chief executive (appointed under section 54 of this Act; but until that section comes into force, it will include a principal council’s head of paid service);
  - (b) a monitoring officer (designated under section 5(1) of the 1989 Act);

- (c) a statutory chief officer mentioned in section 2(6) of the 1989 Act, i.e.:
- the director of children’s services;
  - the director of public health;
  - the chief education officer;
  - the director of social services;
  - an officer responsible for the administration of the authority’s financial affairs;
- (d) a non-statutory chief officer mentioned in section 2(7) of the 1989 Act, i.e.:
- a person for whom the chief executive is directly responsible;
  - a person who, as respects all or most of their duties, is required to report directly or is directly accountable to the chief executive;
  - any person who, as respects all or most of their duties, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority;
- (e) a deputy chief officer mentioned in section 2(8) of the 1989 Act, i.e. a person who, as respects all or most of their duties, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers. This does not include a person whose duties are solely secretarial or clerical or otherwise in the nature of support services.

657. Subsection (6) applies section 143A of the 2011 Measure to shadow councils. Accordingly, the Independent Remuneration Panel for Wales may make recommendations to a shadow council about any policy in the shadow council’s pay policy statement and any proposed change to the salary of the shadow council’s chief executive.

658. A shadow council must have regard to any recommendation from the Panel when performing its functions under section 38 and 39 of the Localism Act 2011. If the shadow council proposes to make a change to the salary of its chief executive which is not commensurate with a change to the salaries of the council’s other staff, the shadow council must consult the Panel about the change, and have regard to any recommendation received from the Panel.