

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: General Power Of Competence

Chapter 2: Eligible community councils

Section 30 - Becoming an eligible community council

191. **Section 30** sets out the criteria a community council must meet, and the procedure it must follow, in order to become an “eligible community council”. Becoming an eligible community council enables a council to exercise the general power of competence provided for in Chapter 1 of this Part (because “eligible community councils” fall within the definition of “qualifying local authorities”).
192. Subsection (1) provides that in order to become an eligible community council a council must pass a resolution that it meets all of the eligibility conditions set out in subsections (2) to (4) and that it is an eligible community council.
193. The first eligibility condition is that at least two-thirds of the members of the community council must have been declared elected. This means that they must have stood for election at an ordinary election or by-election, even if they stood unopposed, rather than having been co-opted.
194. The second eligibility condition is that the council’s clerk must hold one of the qualifications specified by the Welsh Ministers in regulations made under subsection (5). An example of a qualification that may be specified is CiLCA (Certificate in Local Council Administration), a Level 3 qualification in the National Qualifications Framework.
195. The final eligibility condition relates to the annual audit of the accounts of a community council. For a council to be able to resolve that it is an eligible community council it must have received two unqualified auditor’s opinions for two consecutive financial years, the latest of which must have been received during the 12 month period ending on the day on which the council’s resolution is passed.
196. A community council’s accounts are audited annually by, or on behalf of, the Auditor General, who provides an opinion on the accounts under section 23 of the Public Audit (Wales) Act 2004 (“the 2004 Act”).
197. For an Auditor General opinion to be unqualified, the Auditor General must be satisfied as to the matters set out in section 17 of the 2004 Act, including that:
 - the accounts have been prepared in accordance with regulations under section 39 of the 2004 Act;

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

- they comply with the relevant statutory requirements (such as the date by which the accounts must be submitted and the information the accounts must contain); and
- proper practices have been observed.