

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 of Schedule 4 - Notice of local authority meetings and access to documents

262. Part 5A of the 1972 Act (sections 100A to 100K) makes provision about access to meetings of principal councils (and certain other local government bodies), and access to documents relating to those meetings and their publication.
263. [Paragraph 1](#) amends section 100A of the 1972 Act (new subsection (6)(aa)), so that the public notice of meetings of principal councils in Wales (as defined in section 100J) must be published electronically and must include information providing details of the arrangements for a meeting (including whether it is open to the public, being held through remote means and how to access a remote meeting). The notice is no longer required to be posted in the offices of the principal council.
264. [Paragraph 2](#) amends section 100K(3) of the 1972 Act and is consequential on the new subsection (6)(aa) in section 100A; the existing power in section 100K(3), enabling the Welsh Ministers by order to substitute the reference in section 100A(6)(a) (a subsection which will no longer apply in Wales) to three days with a greater number of days, applies to the new section 100A(6)(aa).
265. Schedule 12 to the 1972 Act makes further provision about the meetings and proceedings of principal councils and other local government bodies.
266. Paragraph 3 amends paragraph 4 of Schedule 12 to the 1972 Act, so as to make its provisions about publishing public notice of meetings of principal councils consistent with the requirements set out in the amended section 100A of the 1972 Act. The new sub-paragraph (2B) defines “a meeting held through remote means”.
267. Paragraph 4 amends paragraph 26 of Schedule 12 to the 1972 Act, so that public notices of meetings of community councils must contain the information set out in new sub-paragraph (2ZA) (including whether the meeting is open to the public, is being held through remote means and if so how to access the meeting). The new sub-paragraph (2ZB) defines “a meeting held through remote means”. No change is made to the existing requirements that notices of community council meetings must be published electronically and must be posted in a conspicuous place in the community.
268. The Public Bodies (Admission to Meetings) Act 1960 (“the 1960 Act”) makes provision about the admission of the public and the press to meetings of local authorities and other public bodies, and also about documents relating to those meetings.
269. Paragraph 5 amends section 1 of the 1960 Act so that notices of meetings of the bodies listed in new subsection (4ZA) must comply with the requirements set out in new subsection (4ZB).

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270. The requirements are similar to those inserted into section 100A of the 1972 Act (requiring electronic publication and information on how to access meetings held through remote means). The new subsection (4ZC) defines “a meeting held through remote means” and also provides that a requirement to publish a notice electronically is a requirement to publish on the body’s website if that body has a website.
271. Paragraph 6 amends section 100B of the 1972 Act (access to agenda and connected reports), so it applies to principal councils in England only.
272. Paragraph 7 inserts into Part 5A of the 1972 Act a new section 100BA (access to agenda and connected reports: principal councils in Wales). This new section provides that copies of the agenda and connected reports, for a meeting of a principal council in Wales, must be published electronically. The restrictions concerning publication of certain exempt information (as set out in Schedule 12A to the 1972 Act) continue to apply (see sections 100BA(2) and (7)).
273. Where a meeting is not held by remote means only and members of the public are present, a reasonable number of copies of the agenda and reports must be provided for their use. Subsection (9) provides for the supply (on request and subject to payment) of certain meeting documents to any newspaper.
274. Paragraph 8 amends section 100C of the 1972 Act (inspection of minutes and other documents after meetings) so that subsection (1) applies to principal councils in England only and new subsections (1A) to (1C) apply to principal councils in Wales.
275. Subsection (1A) provides that the documents listed in subsection (1B) must be published electronically and must remain accessible electronically for six years from the date of the meeting, whilst subsection (1C) requires a principal council, after a meeting, to publish electronically a note setting out the information listed in subsection (1C).
276. Paragraph 9 amends section 100D of the 1972 Act (inspection of background papers) to provide that copies of any documents included in the list of background papers for a report at a meeting of a principal council in Wales must be published electronically.
277. New subsection (1)(c) provides that if the proper officer considers that it is not reasonably practicable to publish a background document electronically, for example a background document that is very lengthy, at least one copy of the document must be made available for inspection at the offices of the council (a “proper officer” is one appointed for this purpose by the council: see section 270(3) of the 1972 Act).
278. New subsection (2A) provides that copies of the documents included in the list of background papers (whether published electronically or open to inspection) must remain accessible for six years from the date of the meeting; the period of retention for such background papers is increased from 4 to 6 years to be consistent with the retention requirements for other meeting documents.
279. Paragraph 10 amends section 100H of the 1972 Act (supplemental provision about access to meetings and documents); if a document is open to inspection under Part 5A of the 1972 Act, a person may make a copy or request a copy be provided of part, or all, of the document, and may be charged a reasonable fee.
280. New subsection (3A) provides that, in publishing documents, a principal council must not do anything which infringes copyright (except where the owner of the copyright is the council).
281. New subsection (5)(aa) provides that where any accessible document is published electronically, the publication of any defamatory matter will be privileged unless the publication is proved to be made with malice.
282. New subsection (8) requires a principal council in Wales to put in place facilities to enable members of the public who would otherwise be unable to do so, to access documents which are required to be published electronically. The types of facilities

that could be put in place may include access to computers, arrangements for providing copies of document, access to offices for inspections etc.

283. New subsection (9) requires principal councils to have regard to any guidance issued by the Welsh Ministers about the exercise of functions relating to publication, provision and inspection of documents under Part 5A of the 1972 Act.
284. Section 228 of the 1972 Act includes provision about the inspection of certain local authority documents. Paragraph 11 amends section 228(1) (minutes of community council meetings) so as to remove the requirement for the minutes of community councils in Wales to be open to inspection. Community councils are already required, under section 55(1)(c) of the 2013 Act, to publish electronically the minutes of meetings and (in so far as is reasonably practicable) any documents which are referred to in the minutes. The requirements under the 2013 Act are unchanged.
285. Paragraph 12 inserts a new paragraph 26ZA into Schedule 12 to the 1972 Act to require community councils, after a meeting, to publish electronically a note setting out the information listed in sub-paragraph (1) and in compliance with sub-paragraph (2).
286. Paragraph 13 amends section 100E of the 1972 Act (application to committees and sub-committees) so as to provide for how the new duties included in the amendments to sections 100A to are to be discharged in relation to committees and sub-committees of principal councils. In the case of a joint committee, the requirements must be met by each constituent council of the joint committee.
287. Paragraph 14 amends section 100J of the 1972 Act to clarify that references to a "principal council in Wales" in Part 5A of the 1972 Act, include a National Park authority for a National Park in Wales, a fire and rescue authority for an area in Wales and a joint board or joint committee of principal councils in Wales.
288. Paragraph 15 amends section 100K of the 1972 Act to define what is meant by a "meeting held through remote means" in Part 5A of the 1972 Act.
289. Section 270 of the 1972 Act contains general provisions about the interpretation of terms and expressions used in the 1972 Act. Paragraph 16 amends section 270 to provide that a requirement to publish a notice electronically, imposed by the 1972 Act on a local authority in Wales, or by Part 5A of the 1972 Act on any other body or authority in Wales, is a requirement to publish on the authority's website, if it has one.
290. Under section 232 of the 1972 Act, local authorities must give public notices which are required to be given, by posting them in a conspicuous place in their area and in any other way desirable to give publicity. This applies unless there is express provision to the contrary.
291. Paragraph 17 amends section 232 so that a public notice must also be published electronically. The existing subsection (1ZA), which required community councils to publish such notices electronically, is omitted because community councils are included in the new subsection (1)(c).
292. Paragraph 17(4) inserts new provision in section 232 of the 1972 Act, enabling the Welsh Ministers to make, in regulations, further or different provision about the manner of giving public notice required to be given by a local authority. Such regulations may also make provision about the manner of giving public notice by National Park authorities in Wales and fire and rescue authorities in Wales. Regulations made under these powers are subject to the affirmative procedure in the Senedd.
293. Section 232 of the 1972 Act is applied to National Park authorities by paragraph 17(2)(d) of Schedule 7 to the Environment Act 1995. Paragraph 18 provides that new subsection (1)(c) in section 232 of the 1972 Act (see paragraph 17) does not apply to National Park authorities. A requirement on National Park authorities in Wales to publish public notices electronically could be achieved by the exercise of the regulation

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making powers under the new subsections (3) and (4) of section 232 of the 1972 Act (see paragraph 17).

294. Paragraph 19 amends paragraphs 4 and 26 of Schedule 12 to the 1972 Act so that summonses to attend principal council meetings and community council meetings must be sent electronically to members, and must be authenticated by the relevant proper officer in such manner as they consider appropriate (a “proper officer” is one appointed for this purpose by the council: see section 270(3) of the 1972 Act). If a member of a principal council or a community council requests, the summons must instead be sent to or left at a postal address specified by the member.
295. Paragraph 20 amends paragraph 26 of Schedule 12 to the 1972 Act to enable a community council to meet at any place the council directs, whether within or outside the council’s area. The restrictions on community councils holding meetings in licensed premises (previously in sub-paragraph 26(1) of Schedule 12 to the 1972 Act) is thereby removed.
296. Paragraph 21 amends paragraph 26 of Schedule 12 to the 1972 Act to provide that notice of meetings of committees and sub-committees of community councils must be published in the manner described in the new sub-paragraphs (2D) and (2E).
297. Sections 100A to 100D and 100H of the 1972 Act are applied to community health councils and community health committees by section 1 of the Community Health Councils (Access to Information) Act 1988. That Act is repealed by the Health and Social Care (Quality and Engagement) (Wales) Act 2020. Paragraph 22 makes a saving provision so that (until the repeal has effect) sections 100A to 100D and 100H of the 1972 Act continue to apply to community health councils and community health committees as if the amendments made to those sections by paragraphs 1, 2 and 6 to 10 of this Schedule 4 had not been made.