



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 9

### MISCELLANEOUS

#### *Information sharing*

#### **159 Information sharing between regulators, the Auditor General for Wales and the Welsh Ministers**

- (1) A member of the information sharing group may, for the purposes of exercising that member's specified functions in relation to a principal council, request that another member of the information sharing group provide information or a document.
- (2) A member of the information sharing group must provide information or a document requested under subsection (1), to the extent that—
  - (a) the information or document was obtained or created by that member in exercising the member's specified functions, and
  - (b) it is reasonably practicable for that member to provide the information or document.
- (3) If the Auditor General for Wales or the Welsh Ministers, for the purpose of exercising a function specified in subsection (4), requests that another member of the information sharing group provide information or a document, and that member—
  - (a) is not required under subsection (2) or any other enactment to provide the information or document, and
  - (b) does not have a power under any enactment (other than this section) to provide the information or document,the member may provide that information or document.
- (4) The functions mentioned in subsection (3) are—

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- (a) functions of the Welsh Ministers under Part 5 (collaborative working by principal councils);
  - (b) functions of the Auditor General for Wales or the Welsh Ministers under Chapter 1 of Part 6 (performance and governance of principal councils);
  - (c) functions of the Welsh Ministers under Chapter 2 of Part 7 (restructuring of principal areas).
- (5) For the purposes of this section—
- (a) a person is a member of the information sharing group if that person is mentioned in the first column of table 2;
  - (b) the specified functions of the members of the information sharing group are the functions mentioned in the second column.

TABLE 2

Members of the information sharing group	Specified functions
Auditor General for Wales	<p>Functions under sections 13 and 41 of the Public Audit (Wales) Act 2004 (c. 23) (audit of accounts and studies for improving economy in services)</p> <p>Functions under section 15 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2) (assessments relating to the sustainable development principle)</p> <p>Functions under Chapter 1 of Part 6 of this Act (special inspections of performance of principal councils)</p>
Her Majesty's Chief Inspector of Education and Training in Wales	<p>Functions under section 38 of the Education Act 1997 (c. 44) (inspection of education functions etc. of principal councils)</p>
The Welsh Ministers	<p>Functions under section 149A and section 149B of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (reviews etc. of the exercise of social services functions of principal councils)</p> <p>Functions under Part 5 (collaborative working by principal councils), Chapter 1 of Part 6 (performance of principal councils) or Chapter 2 of Part 7 (restructuring of principal areas) of this Act</p>

- (6) The Welsh Ministers may by regulations amend table 2 to—
- (a) add an entry;
  - (b) amend an entry;
  - (c) omit an entry.

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- (7) Regulations under subsection (6) may amend, modify, repeal or revoke any enactment in consequence of, or for the purposes of giving full effect to, any amendment made to table 2 by regulations under subsection (6).
- (8) Before making regulations under subsection (6) which amend table 2, the Welsh Ministers must consult—
- (a) such persons representing principal councils as the Welsh Ministers consider appropriate;
  - (b) the Auditor General for Wales;
  - (c) the person to whom a new or amended entry will relate;
  - (d) the person to whom an entry to be omitted relates.
- (9) In this section "document" includes information recorded in any form.
- (10) Section 33 of the 2009 Measure (information sharing) ceases to have effect, other than for the purposes of the sharing of information and documents—
- (a) obtained by or produced to the Auditor General for Wales in the course of the exercise of functions under sections 17 to 19 of the 2009 Measure, or
  - (b) for the purpose of the exercise by the Auditor General for Wales of those functions.

#### Commencement Information

- I1** S. 159(1)-(3)(4)(a) in force at 21.1.2021, see [s. 175\(1\)\(g\)](#)
- I2** S. 159(5) in force at 21.1.2021 for specified purposes, see [s. 175\(1\)\(g\)\(7\)](#)
- I3** S. 159(6)-(10) in force at 21.1.2021, see [s. 175\(1\)\(g\)](#)

## 160 Amendment of the Public Audit (Wales) Act 2004 consequential on section 159

In section 54 of the Public Audit (Wales) Act 2004 (c. 23) (restriction on disclosure of information)—

- (a) in subsection (1), after paragraph (a) (and before the "or" which follows it) insert—
  - “(aa) pursuant to section 159 of the Local Government and Elections (Wales) Act 2021,”;
- (b) in subsection (2), after paragraph (b) insert—
  - “(ba) section 159 of the Local Government and Elections (Wales) Act 2021;
  - (bb) for the purposes of any functions of the Auditor General for Wales which are specified functions within the meaning of section 159 of the Local Government and Elections (Wales) Act 2021 (and are not mentioned elsewhere in this subsection);”.

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VALID FROM 04/03/2021

*Head of democratic services*

**161 Head of democratic services**

- (1) In section 8 of the 2011 Measure, after subsection (1) insert—
- “(1A) A local authority must have regard to any guidance issued by the Welsh Ministers about the local authority's function under subsection (1)(b).”
- (2) In subsection (4) of that section—
- (a) omit paragraph (b);
  - (b) in paragraph (c), for “that section” substitute “ section 5 of the Local Government and Housing Act 1989 ”.
- (3) In section 43(2) of the Localism Act 2011 (c. 20) (meaning of “chief officer” for the purposes of pay policy statements), at the end of paragraph (e) insert “;
- (f) its head of democratic services designated under section 8(1) of the Local Government (Wales) Measure 2011 (designation by council of a county or county borough in Wales).”

VALID FROM 05/05/2022

*Polls consequent on community meetings*

**162 Abolition of polls consequent on a community meeting**

Schedule 13 makes provision abolishing polls consequent on community meetings under the 1972 Act.

VALID FROM 01/04/2021

*Local Democracy and Boundary Commission*

**163 Appointment by Local Democracy and Boundary Commission of its chief executive**

- (1) Section 8 of the 2013 Act (chief executive) is amended as follows.
- (2) In subsection (2)—
- (a) for “Welsh Ministers” substitute “ Commission ”;
  - (b) for “they” substitute “ it ”.
- (3) After subsection (2) insert—
- “(2A) But if the office of chief executive has been vacant for more than six months, the Welsh Ministers may appoint a chief executive on such terms and

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conditions as they may determine (including conditions as to remuneration, pension, allowances and expenses).”

(4) In subsection (3) after “chief executive” insert “ under subsection (2A), ”.

(5) After subsection (3) insert—

“(4) The chief executive may not be—

- (a) a member of Parliament;
- (b) a Member of the Senedd;
- (c) a member of a local authority;
- (d) an officer of a local authority;
- (e) a member of a National Park authority for a National Park in Wales;
- (f) a police and crime commissioner for a police area in Wales.

(5) The Commission must, in exercising its functions under this section, have regard to any guidance issued by the Welsh Ministers.”

(6) In sections 4(3)(c) and (d) (membership) and 11(2)(c) and (d) (assistant commissioners) of the 2013 Act, omit “in Wales”.

#### **164 Directions under section 48 of the 2013 Act**

(1) Section 48 of the 2013 Act (directions and guidance relating to reviews under Part 3 of that Act) is amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a) for “(including, where the Commission has made recommendations or proposals to them, further reviews)” substitute “ (regardless of whether in the circumstances the Commission would have the power, or would be subject to a duty, to conduct the review) ”;
- (b) after paragraph (a) insert—
  - “(aa) where the Commission has made recommendations or proposals to the Welsh Ministers, to conduct a further review under this Part,
  - (ab) to stop conducting a review under this Part,”;
- (c) in paragraph (b) for “section 28” substitute “ this Part ”.

(3) In subsection (5)—

- (a) omit “to” in the first place it occurs;
- (b) in paragraph (a), at the beginning insert “ to ”;
- (c) after paragraph (a) insert—
  - “(aa) to stop conducting a review under section 25 or 31,
  - (ab) not to conduct a review under section 25 or 31 during a period specified in the direction,”;
- (d) in paragraph (b), at the beginning insert “ to ”.

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VALID FROM 20/03/2021

*Public services boards*

**165 Merging and demerging public services boards under the Well-being of Future Generations (Wales) Act 2015**

- (1) In Part 4 of the Well-being of Future Generations (Wales) Act 2015 (anaw 2), section 47 (merger of public services boards) is amended as follows.
- (2) Omit subsection (3) (requirement that the same Local Health Board is a member of each merging public services board).
- (3) After subsection (4) insert—
  - “(5) A merged board must, as soon as reasonably practicable after it is established, review—
    - (a) the local well-being plans in effect for its area immediately before it was established, and
    - (b) the local objectives set out in those plans.
  - (6) As soon as reasonably practicable after a review under subsection (5), the board must prepare and publish a local well-being plan for its area which may adopt the plans and objectives mentioned in subsection (5)(a) and (b)—
    - (a) to the extent the board considers appropriate, and
    - (b) subject to such amendments and revisions as the board considers appropriate.
  - (7) A merged board may, if it considers that it would assist in contributing to the achievement of the well-being goals—
    - (a) demerge, or
    - (b) partially demerge (if three or more separate boards merged in the creation of the merged board).
  - (8) The Welsh Ministers may, if they consider that it would assist in contributing to the achievement of the well-being goals, direct a merged board to—
    - (a) demerge, or
    - (b) partially demerge (if three or more separate boards merged in the creation of the merged board).
  - (9) For the purposes of subsections (7) and (8), a merged board—
    - (a) demerges if it ceases to exist and a separate public services board is established for the area of each local authority that was a member of the merged board;
    - (b) partially demerges if—
      - (i) it continues to exist as the public services board for the areas of two or more local authorities, and
      - (ii) a separate public services board is established for the area of each local authority that has ceased to be a member of the merged board.

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- (10) A public services board established after a demerger or partial demerger must, as soon as reasonably practicable after it is established, review—
- (a) the local well-being plan in effect for its area immediately before it was established, and
  - (b) the local objectives set out in that plan.
- (11) As soon as reasonably practicable after a review under subsection (10), the board must prepare and publish a local well-being plan for its area which may adopt the plan and objectives mentioned in subsection (10)(a) and (b)—
- (a) to the extent the board considers appropriate, and
  - (b) subject to such amendments and revisions as the board considers appropriate.
- (12) Before publishing a plan under subsection (6) or (11), a board must consult—
- (a) the Commissioner;
  - (b) the Welsh Ministers;
  - (c) such other persons as the board considers appropriate.
- (13) A board must send a copy of a local well-being plan published under subsection (6) or (11) to the persons mentioned in section 44(6).”
- (4) Schedule 14 makes amendments to Acts and Measures in consequence of subsection (3).

#### *Fire and rescue authorities*

### **166 Combined fire and rescue authorities: inquiries**

- (1) The Fire and Rescue Services Act 2004 (c. 21) is amended as follows.
- (2) In section 2 (power to create combined fire and rescue authorities)—
- (a) in subsection (8)—
    - (i) omit “must cause an inquiry to be held”;
    - (ii) in paragraph (a), at the beginning insert “ must cause an inquiry to be held ”;
    - (iii) at the end of paragraph (a), omit “or”;
    - (iv) for paragraph (b) substitute—
      - “(b) where a scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held before varying or revoking the scheme under this section, or”;
    - (v) after that paragraph insert—
      - “(c) where a scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held before—
        - (i) varying the scheme in a way which changes the combined area (and may cause an inquiry to be held before varying the scheme in any other way), or
        - (ii) revoking the scheme.”;

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- (b) in subsection (9)—
    - (i) in paragraph (b), after “(8)(b)” insert “ or (c) ”;
    - (ii) in paragraph (c), for “either” substitute “ any ”;
    - (iii) in that paragraph, after ”2007” insert “ or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021 ”;
    - (iv) in paragraph (d), for “either” substitute “ any ”;
  - (c) in subsection (10), after “2007” insert “ or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or regulations are made under Part 7 of the Local Government and Elections (Wales) Act 2021, ”.
- (3) In section 4 (combined authorities under the Fire Services Act 1947 (c. 41))—
- (a) in subsection (6), for “must cause an inquiry to be held” substitute “—
    - (a) where the scheme constituted a fire and rescue authority for an area in England, must cause an inquiry to be held, and
    - (b) where the scheme constituted a fire and rescue authority for an area in Wales, must cause an inquiry to be held if under the order—
      - (i) the scheme would be varied in a way which changes the combined area (and may cause an inquiry to be held if the scheme would be varied in any other way), or
      - (ii) the scheme would be revoked.”;
  - (b) in paragraph (b) of subsection (7), after ”2007” insert “ or Part 3 of the Local Government (Democracy) (Wales) Act 2013, or to regulations under Part 7 of the Local Government and Elections (Wales) Act 2021 ”.
- (4) In section 34(3) of the 2013 Act (pre-review procedure: mandatory consultees), after paragraph (b) insert—
- “(ba) any fire and rescue authority (constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21), or a scheme to which section 4 of that Act applies) for an area in Wales which may be affected by the review,”.

#### Commencement Information

- 14** S. 166(3)(a) in force at 20.3.2021, see s. 175(3)(r)
- 15** S. 166(3)(b) in force at 21.1.2021, see s. 175(1)(i)
- 16** S. 166(4) in force at 20.3.2021, see s. 175(3)(r)
- 17** S. 166(1)(2)(a)(b)(i)(ii) in force at 20.3.2021, see s. 175(3)(r)
- 18** S. 166(2)(b)(iii)(c) in force at 21.1.2021, see s. 175(1)(i)
- 19** S. 166(2)(b)(iv) in force at 20.3.2021, see s. 175(3)(r)

VALID FROM 20/03/2021

#### 167 Performance and governance of fire and rescue authorities

- (1) The Fire and Rescue Services Act 2004 (c. 21) is amended as follows.
- (2) After section 21 (fire and rescue national framework) insert—



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### **“21A Fire and rescue authorities in Wales: performance and governance**

- (1) The Welsh Ministers may by regulations—
    - (a) require a fire and rescue authority for an area in Wales to make a plan in relation to the exercise of the authority's functions;
    - (b) impose requirements relating to such a plan.
  - (2) The requirements which may be imposed under subsection (1)(b) include requirements about—
    - (a) a plan's content;
    - (b) its preparation and revision;
    - (c) when it is to be made;
    - (d) the period to which it is to relate;
    - (e) its publication.
  - (3) Requirements about a plan's content include requirements to—
    - (a) set out an authority's priorities and objectives;
    - (b) describe and explain the extent to which the plan reflects the Framework prepared by the Welsh Ministers under section 21;
    - (c) set out actions the authority intends to take in relation to its priorities and objectives;
    - (d) set out how the authority intends to assess its performance.
  - (4) The Welsh Ministers may by regulations make provision (including imposing requirements on an authority) for the purposes of assessing or reporting on the performance of an authority.
  - (5) Before making regulations under subsection (1) or (4) the Welsh Ministers—
    - (a) must consult fire and rescue authorities for areas in Wales or persons who the Welsh Ministers consider represent those authorities;
    - (b) must consult persons who the Welsh Ministers consider represent employees of fire and rescue authorities for areas in Wales;
    - (c) may consult any other persons the Welsh Ministers consider appropriate.”
- (3) In section 60(6) (procedure for orders and regulations), after paragraph (c) and before the “or” which follows it insert—
- “(ca) regulations made by the Welsh Ministers under section 21A(1) or (4).”.

VALID FROM 20/03/2021

### **168 Fire and rescue authorities: disapplication of the 2009 Measure**

- (1) In the 2009 Measure omit—
  - (a) section 1(c) (meaning of “Welsh improvement authority”);
  - (b) section 4(3)(c) and (4)(b) (aspects of improvement);

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- (c) section 10 (powers of delegation);
  - (d) section 11(1)(d) (meaning of “powers of collaboration”);
  - (e) section 16(2)(c) (meaning of “relevant regulators” and “relevant functions”);
  - (f) in section 35 (interpretation of Part 1), the definition of “Welsh fire and rescue authority”;
  - (g) in Schedule 1 (minor and consequential amendments: Part 1)—
    - (i) paragraph 27;
    - (ii) paragraphs 32 and 33, and the heading which precedes them.
- (2) In section 93 of the Local Government Act 2003 (c. 26) (power to charge for discretionary services), in subsection (9)—
- (a) for paragraph (aa) substitute—
 

“(aa) a county council or county borough council in Wales;”;
  - (b) after paragraph (ab) insert—
 

“(ac) a National Park authority for a National Park in Wales;”.
- (3) In section 24 of the Fire and Rescue Services Act 2004 (c. 21) (best value), for subsections (3) to (5) substitute—
- “(3) This section does not apply to a fire and rescue authority in Wales.”.

#### Commencement Information

**I10** S. 168(1)(g)(i) in force at 20.3.2021, see s. 175(3)(t)

**I11** S. 168(2) in force at 20.3.2021, see s. 175(3)(t)

VALID FROM 01/04/2021

#### *National Park authorities*

#### **169 National Park authorities: disapplication of the 2009 Measure**

In the 2009 Measure omit—

- (a) section 1(b) (meaning of “Welsh improvement authority”);
- (b) section 4(3)(b) and (4)(c) (aspects of improvement);
- (c) section 11(1)(e) (meaning of “powers of collaboration”).

PROSPECTIVE

#### *Local Government (Wales) Measure 2009*

#### **170 Repeal of the 2009 Measure**

- (1) The 2009 Measure is repealed.
- (2) In consequence of subsection (1), omit the following provisions—

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- (a) in the 2011 Measure, section 161;
- (b) in the Public Audit (Wales) Act 2013 (anaw 3)—
  - (i) section 11(2);
  - (ii) in Schedule 4, paragraphs 83 to 88 (and the cross-heading which precedes them);
- (c) in the Well-being of Future Generations (Wales) Act 2015 (anaw 2), in Schedule 4, paragraphs 20 to 23 (and the cross-heading which precedes them);
- (d) in the Localism Act 2011 (c. 20), in the table in Part 1 of Schedule 25, the entry for the 2009 Measure;
- (e) in the Deregulation Act 2015 (c. 20), section 100(2)(h);
- (f) in this Act—
  - (i) sections 113, 168(1) and 169;
  - (ii) in Schedule 3, paragraph 4.

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**Changes to legislation:**

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