



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 4

### LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES

#### *Overview of Part*

#### **53 Overview**

This Part makes provision—

- (a) requiring a principal council to appoint a chief executive (rather than designate a head of paid service), whose functions will include duties imposed under this Part;
- (b) about the remuneration of chief executives;
- (c) for the appointment of assistants to executives of principal councils;
- (d) about job-sharing of certain offices in principal councils;
- (e) for issuing guidance, including to elected mayors and executive leaders, on equality and diversity;
- (f) about the entitlement of members of local authorities to various kinds of family absence;
- (g) requiring leaders of political groups to take steps to promote and maintain high standards of conduct by members of their groups, and to co-operate with standards committees;
- (h) requiring standards committees to produce annual reports on the exercise of their functions;
- (i) amending the 2000 Act and other Acts to make provision about investigations by the Public Services Ombudsman for Wales into the conduct of members of local government;
- (j) about the provision of certain information to overview and scrutiny committees;

- (k) enabling the Welsh Ministers to require local authorities to appoint joint overview and scrutiny committees;
- (l) requiring community councils to make training plans.

*Chief executives*

**54 Chief executives**

- (1) A principal council must appoint a chief executive.
- (2) The chief executive of a principal council must—
  - (a) keep each of the matters specified in subsection (3) under review, and
  - (b) where the chief executive considers it appropriate to do so, make a report to the council setting out the chief executive’s proposals in respect of any of those matters.
- (3) The matters are—
  - (a) the manner in which the exercise by the council of its different functions is co-ordinated;
  - (b) the council’s arrangements in relation to—
    - (i) financial planning,
    - (ii) asset management, and
    - (iii) risk management;
  - (c) the number and grades of staff required by the council for the exercise of its functions;
  - (d) the organisation of the council’s staff;
  - (e) the appointment of the council’s staff;
  - (f) the arrangements for the management of the council’s staff (including arrangements for training and development).
- (4) As soon as reasonably practicable after preparing a report for the purposes of subsection (2)(b), the chief executive of a principal council must arrange for the report to be sent to each member of the council.
- (5) A principal council must consider a report made under subsection (2)(b) at a meeting held not more than three months after copies of the report are first sent to members of the council; and section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the duty imposed by this subsection.
- (6) A principal council must provide its chief executive with such staff, accommodation and other resources as are, in the chief executive’s opinion, sufficient to allow the chief executive’s duties under this section to be carried out.
- (7) Schedule 5 makes consequential amendments.

**55 Replacement of references to “salary” in section 143A of the 2011 Measure**

- (1) Section 143A of the 2011 Measure is amended as follows.
- (2) In subsections (1), (3), (3A), (3B), (5A) and (5B), for “salary” and “a salary” in each place they occur substitute “remuneration”.

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- (3) In subsection (3), for “salaries” substitute “remuneration”.
- (4) In subsection (3A), for “payable” substitute “provided”.
- (5) In subsection (5B), for “pay” substitute “provide” and for “paying” substitute “providing”.
- (6) In subsection (7)—
  - (a) omit the definition of “salary”, and
  - (b) at the appropriate place insert—

““remuneration” (“*cydnabyddiaeth ariannol*”) has the meaning given in section 43 of the Localism Act 2011;”.
- (7) In the heading, for “salaries” substitute “remuneration”.
- (8) In the 1972 Act, in section 112(2A) (appointment of staff) for “salaries” substitute “remuneration”.

## **56 Reconsideration of remuneration following direction by the Welsh Ministers**

In section 143A of the 2011 Measure (functions of Independent Remuneration Panel for Wales in respect of remuneration of chief executives), after subsection (5B) insert—

- “(5C) If the Welsh Ministers give a direction under subsection (5B) to a qualifying relevant authority—
- (a) the function of reconsidering the remuneration is not to be the responsibility of an executive of the authority under executive arrangements (within the meaning of section 10 of the Local Government Act 2000);
  - (b) an elected mayor (within the meaning of section 39(1) of that Act) is to be treated as a member of the authority for the purposes of that function, and
  - (c) section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to that function.”

### *Executives of principal councils*

## **57 Appointment of assistants to executive**

- (1) Schedule 1 to the 2000 Act (executive arrangements in Wales: further provision) is amended as follows.
- (2) Before paragraph 4 insert—

### *“Assistants to the executive*

- 3A (1) Executive arrangements by a local authority may make provision for councillors of the authority to be appointed to assist the executive in discharging functions which are the responsibility of the executive.

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- (2) Such a councillor is referred to in this Schedule as an assistant to the executive of the authority.
  - (3) Assistants to the executive of an authority are to be appointed—
    - (a) in the case of an authority operating a mayor and cabinet executive, by the elected mayor;
    - (b) in the case of an authority operating a leader and cabinet executive (Wales), by the executive leader or the authority.
  - (4) Executive arrangements which make provision for the appointment of assistants to an executive may include provision about—
    - (a) the number of assistants that may be appointed,
    - (b) their term of office, and
    - (c) their responsibilities.
  - (5) The assistants to the executive of a local authority may not include—
    - (a) the chairman and vice-chairman of the authority;
    - (b) the presiding member and deputy presiding member of the authority (if the authority has a presiding member).
  - (6) An assistant to the executive of an authority is not a member of the executive of the authority.
  - (7) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to a local authority’s function of making appointments under sub-paragraph (3)(b).”
- (3) In paragraph 5—
- (a) at the beginning insert—
    - “(1) An assistant to the executive of a local authority is entitled to attend, and speak at, any meeting of the executive or of a committee of the executive.
    - (2)”;
  - (b) for “not a member of the authority’s executive” substitute “neither a member of the authority’s executive nor an assistant to the executive”.
- (4) Schedule 6 to this Act makes consequential amendments.

## **58 Job-sharing: executive leaders and executive members**

Schedule 7 provides for amendments to the 2000 Act to make provision—

- (a) requiring local authorities to include in their executive arrangements provision enabling two or more councillors to share office on an executive, including the office of executive leader,
- (b) changing the maximum number of members of an executive when members of the executive share office, and
- (c) about voting and quorum where members of an executive share office.

**59 Content of, and duty to have regard to, guidance under section 38 of the 2000 Act**

- (1) Section 38 of the 2000 Act (guidance) is amended as follows.
- (2) In subsection (1), after “local authority” insert “, an elected mayor or an executive leader”.
- (3) After subsection (1) insert—

“(1A) The guidance may, among other things, include provision designed to encourage good practice in relation to equality and diversity (within the meaning of section 8(2) of the Equality Act 2006).”

*Entitlement of members to job-share and to family absence*

**60 Job-sharing: non-executive offices in principal councils**

- (1) The Welsh Ministers may by regulations make provision for the purpose of facilitating or enabling the sharing of a principal council office.
- (2) For the purposes of this section, “principal council office” means—
  - (a) chair of a principal council (see section 22 of the 1972 Act);
  - (b) vice-chair of a principal council (see section 24 of that Act);
  - (c) presiding member of a principal council (see section 24A of that Act);
  - (d) deputy presiding member of a principal council (see section 24B of that Act);
  - (e) chair of a committee or sub-committee of a principal council;
  - (f) vice-chair or deputy chair of a committee or sub-committee of a principal council;
  - (g) deputy mayor in a mayor and cabinet executive (see Schedule 1 to the 2000 Act (executive arrangements)).
- (3) Regulations under subsection (1) may, in particular—
  - (a) require principal councils to facilitate or enable the sharing of a principal council office (including by way of amending standing orders and other instruments);
  - (b) make provision about the appointment, election or nomination of a person to share a principal council office;
  - (c) make provision about the exercise of the functions of a principal council office which is shared;
  - (d) make provision about voting and quorum where a principal council office is shared.
- (4) Regulations under subsection (1) may amend, modify, apply (with or without modifications), disapply, repeal or revoke any enactment.
- (5) A principal council must have regard to any guidance issued by the Welsh Ministers for the purposes of regulations made under subsection (1).
- (6) In subsection (2), a reference to a committee or sub-committee includes a reference to a joint committee, or a sub-committee of a joint committee.

## 61 Family absence for members of local authorities

- (1) The 2011 Measure is amended as follows.
- (2) In section 24 (maternity absence)—
  - (a) for subsection (2) substitute—
    - “(2) Regulations must include provision for determining—
      - (a) the extent of a member’s entitlement to maternity absence in respect of a child;
      - (b) when maternity absence may be taken.”;
    - (b) omit subsections (3) and (4).
- (3) In section 25 (newborn absence), omit—
  - (a) subsection (4);
  - (b) subsection (6);
  - (c) subsection (9);
  - (d) in subsection (10), the definition of “week”.
- (4) In section 26 (adopter’s absence), omit subsection (3).
- (5) In section 27 (new adoption absence) omit—
  - (a) subsection (4);
  - (b) subsection (6);
  - (c) subsections (9) and (10).
- (6) In section 28 (parental absence), omit subsection (4).

### *Conduct of members*

## 62 Duties of leaders of political groups in relation to standards of conduct

- (1) The 2000 Act is amended as follows.
- (2) After section 52 insert—
 

**“52A County and county borough councils: duties of leaders of political groups in relation to standards of conduct**

  - (1) A leader of a political group consisting of members of a county council or county borough council in Wales—
    - (a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and
    - (b) must co-operate with the council’s standards committee (and any sub-committee of the committee) in the exercise of the standards committee’s functions.
  - (2) In complying with subsection (1), a leader of a political group must have regard to any guidance about the functions under that subsection issued by the Welsh Ministers.
  - (3) The Welsh Ministers may by regulations make provision for the purposes of this section about the circumstances in which—

- (a) members of a county council or county borough council in Wales are to be treated as constituting a political group;
  - (b) a member of a political group is to be treated as a leader of the group.
- (4) Before making regulations under subsection (3), the Welsh Ministers must consult such persons as they think appropriate.”
- (3) In section 54 (functions of standards committees), after subsection (2) insert—
  - “(2A) A standards committee of a county council or county borough council in Wales also has the specific functions of—
    - (a) monitoring compliance by leaders of political groups on the council with their duties under section 52A(1), and
    - (b) advising, training or arranging to train leaders of political groups on the council about matters relating to those duties.”
- (4) In section 106 (Wales: orders and regulations)—
  - (a) omit subsection (5);
  - (b) in subsection (7) after “section 21G” insert “or regulations under section 52A(3)”.
- (5) In the 2013 Act, omit section 68(4)(a).
- (6) In this Act, omit section 63(2).

### **63 Duty of standards committee to make annual report**

- (1) In Part 3 of the 2000 Act, at the end of Chapter 1 insert—

#### **“56B Annual reports by standards committees**

- (1) As soon as reasonably practicable after the end of each financial year, a standards committee of a relevant authority must make an annual report to the authority in respect of that year.
- (2) The annual report must describe how the committee’s functions have been discharged during the financial year.
- (3) In particular, the report must include a summary of—
  - (a) what has been done to discharge the general and specific functions conferred on the committee by section 54 or 56;
  - (b) reports and recommendations made or referred to the committee under Chapter 3 of this Part;
  - (c) action taken by the committee following its consideration of such reports and recommendations;
  - (d) notices given to the committee under Chapter 4 of this Part.
- (4) An annual report by a standards committee of a county council or county borough council in Wales must include the committee’s assessment of the extent to which leaders of political groups on the council have complied with their duties under section 52A(1) during the financial year.

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- (5) An annual report by a standards committee of a relevant authority may include recommendations to the authority about any matter in respect of which the committee has functions.
  - (6) A relevant authority must consider each annual report made by its standards committee before the end of 3 months beginning with the day on which the authority receives the report.
  - (7) The function of considering the report may be discharged only by the relevant authority (and accordingly is not a function to which section 101 of the Local Government Act 1972 applies).
  - (8) In this section “financial year” means a period of 12 months ending with 31 March.”
- (2) Until section 62 comes into force, section 56B of the 2000 Act is to be read as if subsection (4) were omitted.

#### **64 Certain investigations by the Public Services Ombudsman for Wales**

Schedule 8 makes amendments to the 2000 Act and other Acts, about investigations by the Public Services Ombudsman for Wales concerning failures to comply with a code of conduct.

#### *Overview and scrutiny committees*

#### **65 Making information available to overview and scrutiny committees**

In section 22(10) of the 2000 Act (power to require information to be made available about decisions), for “or members of the authority” substitute “, members of the authority, an overview and scrutiny committee of the authority or a sub-committee of such a committee”.

#### **66 Power to require authorities to appoint joint overview and scrutiny committees**

- (1) Section 58 of the 2011 Measure (joint overview and scrutiny committees) is amended as follows.
- (2) In subsection (1), after “authorities may” insert “or must”.
- (3) In subsection (3), for paragraph (a) substitute—
  - “(a) provision about the circumstances in which arrangements may be made;
  - (aa) provision prescribing circumstances in which arrangements must be made;
  - (ab) provision for arrangements to be made subject to prescribed conditions or limitations;”.
- (4) In subsection (4)—
  - (a) omit “, in exercising or deciding whether to exercise any function conferred on it by or under this section,”;
  - (b) after “Welsh Ministers” insert “in relation to the exercise of any function it has under or by virtue of this section”.



*Training of members and staff of community councils*

**67 Community council training plans**

- (1) A community council must make and publish a plan (a “training plan”) setting out its proposals in relation to the provision of training for—
  - (a) the councillors of the community council, and
  - (b) the community council’s staff.
- (2) A community council must make its first training plan no later than six months after the date on which subsection (1) comes into force.
- (3) A community council must make a new training plan no later than three months after each ordinary election of community councillors to the council.
- (4) A community council must review its training plan from time to time.
- (5) If a community council revises or replaces its training plan, it must publish the revised or new plan.
- (6) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to a community council’s functions of—
  - (a) determining the content of a training plan or any revised plan, and
  - (b) reviewing the training plan.
- (7) A community council must have regard to any guidance issued by the Welsh Ministers about the exercise of functions under this section.