



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 6

### PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS

#### CHAPTER 1

##### PERFORMANCE, PERFORMANCE ASSESSMENTS AND INTERVENTION

###### *Supplementary*

#### **108 Exercise of functions under this Chapter**

- (1) A function conferred on a principal council under or by virtue of this Chapter (other than functions expressly conferred on a governance and audit committee) may be exercised by the council or by its executive, as the council may determine.
- (2) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the council, section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to that function.
- (3) If a principal council determines that a function mentioned in subsection (4) is to be exercised by the executive, section 14 or (as the case may be) 15 of the 2000 Act (discharge of functions by executives) does not apply in relation to that function.
- (4) The functions are—
  - (a) section 91(1) (self-assessment report);
  - (b) section 91(8) (response to recommendations about report);
  - (c) section 92(1) (appointment of performance assessment panel);
  - (d) section 93(1) (response to report of panel performance assessment);

- (e) section 93(5) (response to recommendations about response to report of panel);
- (f) section 96(1) (response to recommendations from the Auditor General for Wales);
- (g) section 96(5) (response to recommendations about response to the Auditor General for Wales);
- (h) section 102(2) (request to the Welsh Ministers for support and assistance).

**109 Power of the Welsh Ministers to add to list of persons to whom reports etc. must be sent**

The Welsh Ministers may by regulations amend the following provisions to add a person to the lists in those provisions—

- (a) section 91(10)(c) (self-assessment report);
- (b) section 92(5) (report of panel performance assessment);
- (c) section 93(6)(b) (response to report of panel performance assessment);
- (d) section 95(7)(b) (report of special inspection);
- (e) section 96(7)(b) (response by principal council to recommendations from the Auditor General for Wales);
- (f) section 97(2)(b) (response by Welsh Ministers to recommendations from the Auditor General for Wales).

**110 Power of the Welsh Ministers to amend etc. enactments and confer new powers**

- (1) If the Welsh Ministers consider that an enactment (other than a provision of this Chapter) prevents or obstructs a principal council from complying with this Chapter, the Welsh Ministers may by regulations amend, modify, repeal, revoke or disapply that enactment in relation to—
  - (a) all principal councils,
  - (b) particular principal councils, or
  - (c) particular descriptions of principal council.
- (2) The Welsh Ministers may by regulations make provision conferring on—
  - (a) all principal councils,
  - (b) particular principal councils, or
  - (c) particular descriptions of principal council,
 any power which the Welsh Ministers consider necessary or expedient to permit or facilitate compliance with this Chapter by a principal council.
- (3) Regulations under subsection (2) may impose conditions on the exercise of any power conferred by the regulations (including conditions about consultation or approval).

**111 Guidance**

- (1) A person who has functions under or by virtue of this Chapter must have regard to any guidance issued by the Welsh Ministers about the exercise of those functions.
- (2) In exercising a function under this Chapter which relates to an assessment of the extent to which a principal council is meeting the performance requirements, a person must

have regard to any guidance issued by the Welsh Ministers about the performance requirements.

- (3) The requirements of this section do not apply to—
- (a) the Auditor General for Wales or a person exercising a function of the Auditor General for Wales under this Chapter (by virtue of a delegation made under section 18 of the [Public Audit \(Wales\) Act 2013 \(anaw 3\)](#));
  - (b) a principal council (see section 89(3) which deals with guidance to principal councils).

## 112 Interpretation

In this Chapter—

“document” (“*dogfen*”) includes information recorded in any form;

“performance requirements” (“*gofynion perfformiad*”) has the meaning given in section 89(2);

“special inspection” (“*arolygiad arbennig*”) has the meaning given in section 95.