



Local Government (Wales) Measure 2011

2011 nawm 4

PART 1

STRENGTHENING LOCAL DEMOCRACY

CHAPTER 2

LOCAL AUTHORITY DEMOCRATIC SERVICES

8 Head of democratic services

- (1) A local authority must—
 - (a) designate one of its officers to discharge the functions in section 9 (“democratic services functions”);
 - (b) provide that officer with such staff, accommodation and other resources as are, in its opinion, sufficient to allow his or her functions to be discharged.
- (2) A head of democratic services may arrange for the discharge of democratic services functions by staff provided under this section.
- (3) An officer designated by a local authority under this section is to be known as the head of democratic services.
- (4) A local authority may not designate any of the following under this section—
 - (a) the head of the authority’s paid service designated under section 4 of the Local Government and Housing Act 1989;
 - (b) the authority’s monitoring officer designated under section 5 of that Act;
 - (c) the authority’s chief finance officer, within the meaning of that section.

9 Democratic services functions

- (1) The functions of the head of democratic services are—

Status: This is the original version (as it was originally enacted).

- (a) to provide support and advice to the authority in relation to its meetings, subject to subsection (2);
 - (b) to provide support and advice to committees of the authority (other than the committees mentioned in paragraph (e)) and the members of those committees, subject to subsection (2);
 - (c) to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to subsection (2);
 - (d) to promote the role of the authority’s overview and scrutiny committee or committees;
 - (e) to provide support and advice to—
 - (i) the authority’s overview and scrutiny committee or committees and the members of that committee or those committees, and
 - (ii) the authority’s democratic services committee and the members of that committee;
 - (f) to provide support and advice in relation to the functions of the authority’s overview and scrutiny committee or committees to each of the following—
 - (i) members of the authority;
 - (ii) members of the executive of the authority;
 - (iii) officers of the authority;
 - (g) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to subsection (3);
 - (h) to make reports and recommendations in respect of any of the following—
 - (i) the number and grades of staff required to discharge democratic services functions;
 - (ii) the appointment of staff to discharge democratic services functions;
 - (iii) the organisation and proper management of staff discharging democratic services functions;
 - (i) such other functions as may be prescribed.
- (2) The references to “advice” in paragraphs (a) to (c) do not include advice about whether or how the authority’s functions should be, or should have been, exercised.
- (3) The following kinds of support and advice are not to be considered as support and advice for the purposes of subsection (1)(g)—
- (a) support and advice to a member of the authority in discharging that member’s functions as part of the executive of the authority (except as provided for under subsection (1)(f));
 - (b) advice about whether or how the authority’s functions should be, or should have been, exercised in relation to any matter under consideration, or to be considered, at a meeting of the authority, a committee referred to in subsection (1)(b) or a joint committee which a local authority is responsible for organising.
- (4) Nothing in subsection (1)(h) affects the duty of the head of paid service in section 4(2) of the Local Government and Housing Act 1989.
- (5) In this section, references to a committee (or joint committee) include references to any sub-committee of that committee.

10 Duty to adopt standing orders about management of staff

- (1) The Welsh Ministers may by regulations require a local authority—
 - (a) to incorporate prescribed provision relating to the management of staff provided under section 8(1)(b) in its standing orders;
 - (b) to make other modifications of those of its standing orders which relate to the management of staff.
- (2) In this section “management of staff” does not include appointment of staff or dismissal of staff or the taking of other disciplinary action against staff.

11 Local authorities to appoint democratic services committees

- (1) A local authority must appoint a committee (“a democratic services committee”) to—
 - (a) exercise the function of the local authority under section 8(1)(a) (designation of head of democratic services),
 - (b) review the adequacy of provision by the authority of staff, accommodation and other resources to discharge democratic services functions, and
 - (c) make reports and recommendations to the authority in relation to such provision.
- (2) It is for a democratic services committee to determine how to exercise those functions.

12 Membership

- (1) A local authority is to appoint the members of its democratic services committee.
- (2) A local authority must secure that—
 - (a) each member of its democratic services committee is a member of the authority;
 - (b) no more than one of the members of its democratic services committee is a member of the authority’s executive;
 - (c) in the case of a local authority which operates a leader and cabinet executive (Wales), the executive leader is not a member of its democratic services committee.
- (3) The appointment of a person as a member of a democratic services committee has no effect if the membership of the committee breaches subsection (2) immediately after the appointment (whether or not by virtue of the appointment).
- (4) In a case where one or more persons are to become, or to cease to be, members of a democratic services committee at a particular time, all those changes of membership are to be taken into account in determining whether the membership of the committee breaches subsection (2).
- (5) A democratic services committee of a local authority is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

13 Sub-committees

- (1) A democratic services committee—
 - (a) may appoint one or more sub-committees, and

- (b) may arrange for the discharge of any of its functions by such a sub-committee.
- (2) A sub-committee of a democratic services committee may not discharge functions other than those conferred on it under subsection (1)(b).

14 Proceedings etc

- (1) A local authority is to appoint the person who is to chair the democratic services committee (who must not be a member of an executive group).
- (2) If there are no opposition groups, the person who is to chair the democratic services committee may be a member of an executive group but must not be a member of the local authority's executive.
- (3) A democratic services committee is to appoint the person who is to chair any sub-committee of such a committee.
- (4) All members of a democratic services committee, or of a sub-committee of such a committee, may vote on any question that falls to be decided by the committee.
- (5) A democratic services committee of a local authority, or a sub-committee of such a committee—
 - (a) may require members and officers of the authority to attend before it to answer questions, and
 - (b) may invite other persons to attend meetings of the committee.
- (6) It is the duty of any member or officer of a local authority to comply with any requirement imposed under subsection (5)(a).
- (7) A person is not obliged by subsection (6) to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.
- (8) A democratic services committee, or a sub-committee of such a committee, is to be treated as a committee, or sub-committee, of a principal council for the purposes of Part 5A of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).
- (9) For the purposes of subsections (1) and (2), the expressions “executive group” and “opposition group” have the same meaning as in section 75.

15 Frequency of meetings

- (1) A democratic services committee must meet once in every calendar year.
- (2) The democratic services committee of a local authority must also meet if—
 - (a) the local authority resolves that the committee should meet, or
 - (b) at least one-third of the members of the committee requisition a meeting by one or more notices in writing given to the person who chairs the committee.
- (3) It is the duty of the person who chairs a democratic services committee to secure that meetings of the committee are held as required by subsections (1) and (2).
- (4) This section does not prevent a democratic services committee from meeting otherwise than as required by this section.

16 Discharging functions

- (1) A democratic services committee may not exercise any functions other than its functions under this Chapter.
- (2) In exercising, or deciding whether to exercise any of its functions, a democratic services committee, or a sub-committee of such a committee, must have regard to guidance given by the Welsh Ministers.

17 Termination of membership on ceasing to be member of authority

- (1) This section applies to a person (P) who is—
 - (a) appointed to be a member of a democratic services committee of a local authority, or of a sub-committee of such a committee, and
 - (b) is a member of the authority at the time of that appointment.
- (2) If P ceases to be a member of the authority, P also ceases to be a member of the democratic services committee or sub-committee.
- (3) But subsection (2) does not apply if P—
 - (a) ceases to be a member of the authority by reason of retirement, and
 - (b) is re-elected a member of the authority not later than the day of retirement.
- (4) Subsection (3) is subject to the standing orders of the authority or the democratic services committee or sub-committee.

18 Reports and recommendations by head of democratic services

- (1) The head of democratic services for a local authority must, as soon as practicable after preparing a report or making a recommendation under section 9(1)(h), send to each member of the authority's democratic services committee a copy of the report or recommendation.
- (2) A democratic services committee must consider any report or recommendation sent to the members of the committee under this section at a meeting held not more than three months after copies of the report are first sent to members of the committee.

19 Reports and recommendations by democratic services committees

- (1) A democratic services committee for a local authority must, as soon as practicable after it has prepared a report or made a recommendation under section 11(1)(c), arrange for a copy of it to be sent to each member of the authority who is not a member of the committee.
- (2) A local authority must consider any report or recommendations at a meeting held not more than three months after copies of the report or recommendation are first sent to members of the authority.

20 Local authority functions not to be delegated

The functions of a local authority under sections 8(1), 11, 12(1) and (2), 14(1), 15(2) (a) and 19(2) are not to be delegated under section 101 of the Local Government Act 1972.

Status: This is the original version (as it was originally enacted).

21 Head of democratic services to be a politically restricted post

(1) Section 2(1) of the Local Government and Housing Act 1989 is amended as follows.

(2) In paragraph (f) omit “and”.

(3) After “delegated)” in paragraph (g) insert—

“; and

(h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011”.