

Meeting of:	Cabinet
Date of Meeting:	Monday, 10 February 2020
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Draft Response to Welsh Government Consultation Document: Changes to Executive Governance Arrangements in Principal Councils
Purpose of Report:	To consider a draft response to the Welsh Government's consultation document
Report Owner:	Cabinet Member for Legal, Regulatory and Planning Services
Responsible Officer:	Monitoring Officer / Head of Legal and Democratic Services
Elected Member and Officer Consultation:	Corporate Management Team
Policy Framework:	This is a matter for Executive decision
<p>Executive Summary:</p> <ul style="list-style-type: none"> • Current legislation provides that the executive governance arrangements of Principal Councils may take the form of a Leader and Cabinet model, an elected Mayor and Cabinet model or such other model as prescribed in regulations by the Welsh Ministers. • Current legislation also provides that should there be a wish to change to an elected Mayor and Cabinet model this requires a resolution of the relevant Principal Council, a petition by electors within the Principal Council area, a direction or order by the Welsh Minister; and thereafter a referendum is required to be held of local electors. • The consultation document proposes a revision to the current timescales for such a resolution, petition, order and direction to align with local government elections following the 2022 local government elections. • Linked to the above, the consultation document also consults on: <ul style="list-style-type: none"> - the introduction of a provision which ensures that if the executive governance arrangements of a Principal Council are to be changed, that the same arrangements must be in place for at least the next 2 electoral cycles; - the use of electronic petitions; - publication of notices; and - the number of electorate required to trigger a referendum. • A proposed draft response to the consultation document is attached at Appendix B. 	

Recommendation

1. That Cabinet considers this report, the contents of the Welsh Government consultation document (attached at Appendix A to this report) and approves the draft consultation response (attached at Appendix B to this report) for submission to Welsh Government by 27th February 2020.

Reason for Recommendation

1. To apprise Cabinet of the consultation document and to consider the draft consultation response for submission to Welsh Government.

1. Background

- 1.1 At present, all 22 Principal Councils in Wales operate a "Leader and Cabinet" model of executive governance arrangements. Such arrangements may be changed to an elected Mayor and Cabinet model if:
 - The Principal Council draws up proposals to vary or replace their executive governance arrangements with an elected Mayor and Cabinet model and this is approved by a resolution of Council;
 - Electors within a Principal Council area petition for such a change;
 - Welsh Ministers direct a Principal Council to hold a referendum on whether they should operate such a model; or
 - Welsh Ministers make an order requiring every Principal Council or every Principal Council falling within a description of authority specified in the order to hold a referendum on such a model.
- 1.2 Each of the above four triggers require a majority decision of a local referendum if either the existing form of executive or proposed form of executive is a Mayor and Cabinet model.
- 1.3 Given the existing statutory timescales relating to a resolution by a Principal Council, the submission of a petition, the issuing of a direction or order by the Welsh Ministers, (as referred to in paragraph 1.1 above) the holding of a referendum would not necessarily align with the date of an ordinary local government election. Therefore, the consultation document proposes setting a deadline of 18 months before the next set of ordinary elections (following the 2022 elections) for such a resolution, submission of a petition, order or direction. Any referendum would be held within 1 year from the deadline and a clear period of 6 months would then be allowed before the next set of ordinary local government elections thereby allowing sufficient time to ensure that a change in executive governance arrangements to a Mayor and Cabinet model would be held at the same time as the following ordinary elections.
- 1.4 The proposed statutory changes would not take effect until after the Local Government Elections being held in 2022.
- 1.5 The consultation document also consults on introducing a provision so that if the executive governance arrangements of a Principal Council have been changed,

the same executive arrangements must be used for at least the next two electoral cycles. This differs to the existing statutory period of 5 years.

- 1.6 Further, the consultation document proposes that public notice of a referendum is published on a Principal Council's website (in addition to the current requirement to publish public notice in a local newspaper) and requiring a Principal Council to accept electronic petitions to hold a referendum in the given context.
- 1.7 Currently the number of electorate required for a mayoral petition to trigger a referendum is 10% of the registered electors for the Principal Council; whereas in England the threshold is 5%. The consultation is seeking views on whether the 10% requirement should be changed.

2. Key Issues for Consideration

- 2.1 The Welsh Government's consultation document for changes to executive governance arrangements in Principal Councils is attached at Appendix A to this report, together with the draft proposed response which is attached at Appendix B.
- 2.2 The Council's response is broadly supportive, however the response at 3(d) proposes to dispense with the publication of public notices in newspapers.
- 2.3 The closing date for replies to the consultation is 27th February 2020.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 Long term and collaboration
The consultation response will help shape the long-term legislative changes proposed by Welsh Government and ensure that the Council informs proposals relating to the term of a Mayor and Cabinet model should such a model be adopted.

4. Resources and Legal Considerations

Financial

- 4.1 There are no direct financial implications arising from the report.

Employment

- 4.2 There are no direct employment implications arising from the report.

Legal (Including Equalities)

- 4.3 Applicable statutory provisions are detailed in the Welsh Government consultation document attached at Appendix A.

5. Background Papers

Welsh Government Consultation Document: Changes to Executive Governance Arrangements in Principal Councils



Llywodraeth Cymru
Welsh Government

Proposals to amend provisions in primary legislation which provide for changes to executive governance arrangements in principal councils

We are writing to inform you that we have launched a consultation which proposes amendments to provisions in the *Local Government Act 2000* and the *Local Government (Wales) Measure 2011* which enable changes to the executive governance arrangements of principal councils.

The consultation proposes that petitions for referendums to change executive governance arrangements should be presented no later than eighteen months before the date of the next ordinary election. This would provide sufficient time for any referendum to take place and enable any mayoral elections to be held at the same time as the next set of ordinary elections. Changing these timescales will limit the disruptive impact of repeated changes of executive arrangements within a relatively short period. Therefore this deadline would also apply to other ways of triggering of a referendum such as an order or direction by the Welsh Ministers or a resolution of the principal council.

The consultation also proposes that, where the executive arrangements of a principal council have been changed, no further changes can be made to them until after the completion of two complete electoral cycles.

We are also seeking opinions on updating some of the regulations around petitions such as allowing for e-petitions, online notifications for petitions and whether the threshold required for signatures to a mayoral petition triggering a referendum should be amended.

The consultation, which runs until 27 February 2020, describes in more detail what we are proposing to do and sets out our reasons. We would welcome your input, the consultation can be accessed through the following links:

Welsh Language

<https://llyw.cymru/newidiadau-i-drefniadau-llywodraethu-gweithredol-prif-gynghorau-awdurdodau-lleo/>

English Language

<https://gov.wales/changes-executive-governance-arrangements-principal-councils-local-authorities>

Number: WG39641



Welsh Government
Consultation Document

Changes to executive governance arrangements in principal councils

Date of issue: 5 December 2019
Action required: Responses by 27 February 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Overview

This consultation is to gather views on amending provisions which govern mayoral elections.

How to respond

Please respond by completing the questionnaire at the back of this respond document and sending it to :

LGDTmailbox@gov.wales

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

More details about the Act can be found on the Welsh Government website:

Local Government (Wales) Measure 2011
Local Government Act 2000
Local Authorities (Conduct of Referendums) (Wales) Regulations 2008
Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007
Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001

Contact details

For further information please contact:

LGDTmailbox@gov.wales

Local Government Democracy Division
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail:
Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113
Website: <https://ico.org.uk/>

Introduction

Principal council executive governance arrangements

At present, all 22 principal councils in Wales operate a 'leader and cabinet' model of executive governance arrangements. Following a principal council election, the principal council will appoint a leader, who will normally then appoint a cabinet of members of the principal council.

Under current legislation, the executive governance arrangements of principal councils can be changed to a model with an elected mayor taking responsibility for the discharge of executive functions. An elected mayor would have the right to appoint a new cabinet and might choose to replace the cabinet, which was in place before they were elected.

The executive governance arrangements of a principal council can be changed in the following ways:

1. Part 4 of the Local Government (Wales) Measure 2011 enables a principal council to draw up proposals to vary or replace their executive governance arrangements and to approve them by means of a resolution;
2. The Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001, made under section 34 of the Local Government Act 2000, enable electors within a principal council area to petition for a change in their principal council's executive governance arrangements;
3. The Local Authorities (Referendums) (Petitions and Directions) (Wales) Regulations 2001 also enable the Welsh Ministers to direct a principal council to hold a referendum on whether they should operate executive arrangements involving an elected mayor and cabinet; and
4. Section 36 of the Local Government Act 2000 enables the Welsh Ministers to make an order requiring every principal council or every principal council falling within any description of authority specified in the order to hold a referendum on whether they should operate executive arrangements involving an elected mayor and cabinet.

All four methods require approval in a referendum if either the existing form of executive or proposed form of executive is a mayor and cabinet executive.

What are we proposing?

We are proposing that petitions should be able to be presented, proposals for resolutions be drawn up by principal councils and directions and orders be made by the Welsh Ministers from the day following an ordinary election. We propose that the deadline should be eighteen months before the date of the next set of ordinary elections.

The intention is that, following a successful petition, resolution, direction or order, there would be sufficient time for a referendum to take place and enable any mayoral election to be held at the same time as the next set of ordinary elections.

We also want to introduce a provision which ensures that when the executive governance arrangements of a principal council have been changed, that same arrangement must be used for at least the next two electoral cycles.

Why do we want to make changes?

At present, a principal council is able to draw up proposals for a resolution proposing a referendum to change its executive governance arrangements at **any time** during the electoral cycle (subject to the restriction that having passed a resolution, the council may not re-visit the issue in that same electoral cycle). The Welsh Ministers may also direct or order principal councils to hold a referendum at any point during the electoral cycle.

Petitions for a change of executive governance arrangements in principal councils are subject to a strict timetable and must commence during a set window which opens at a specified point one year before the next anticipated ordinary elections and remains open for six months.

Following a successful resolution, a referendum must be held within the period that begins two months after, and ends six months after the day on which the principal council sends the Welsh Ministers the copy of the proposals. If the result of the referendum is to approve the change of arrangements, the change must happen within the period of six months beginning with the day on which the referendum is held.

Following a successful petition, a referendum must be held within six months from the date that the petition is submitted to the principal council, and if the Welsh Ministers direct a principal council to hold a referendum, the referendum must be held six months from the date the direction is made.

It is highly likely that the election of an elected mayor would not coincide with the date of ordinary election, potentially resulting in a leader and cabinet being appointed, only to be replaced by an elected mayor and a new cabinet a short time later.

This would be politically disruptive and costly.

It is not our intention to impede any proposals to change executive governance arrangements that might be planned for the next set of ordinary elections, therefore the policies outlined in this consultation will not commence until after the 2022 ordinary elections.

Introduce a deadline eighteen months before the next set of ordinary elections for petitions, resolutions, orders and regulations to change the executive governance arrangements of a principal council.

We propose that the existing window for a petition to change the executive governance arrangements of a principal council is replaced with a specific deadline eighteen months before the next set of ordinary elections. This would mean that a petition could be submitted between the day following ordinary elections until eighteen months before the next set of ordinary elections.

An equivalent deadline of eighteen months would also apply to resolutions to change a principal council's executive governance arrangements and also to orders and directions for the same purpose made by the Welsh Ministers.

Any referendum would be held within one year from the deadline and a clear period of six months would then be allowed before the next set of ordinary elections.

This would allow sufficient time to ensure that, in the event of either a petition, resolution, order or regulations for a referendum to change executive governance arrangements, any resulting mayoral elections would be held at the same time as the next set of ordinary elections.

Introduce a provision which ensures that when the executive governance arrangements of a principal council have been changed, that same arrangement must be used for at least the next two electoral cycles.

The number of referendums a principal council can hold is limited by section 45(1) of the Local Government Act 2000 to one in any period of five years. Also, the Local Government (Wales) Measure 2011 limits the number of times that a principal council can make a resolution to change its executive arrangements to one per electoral term. However, the current situation still has the potential to create considerable political instability with what could amount to a change of executive arrangements during each electoral cycle.

In order to minimise the risk of political instability, we propose that where the executive arrangements of a principal council have been changed, no further changes can be made to them until two complete electoral cycles have passed.

Electronic Petitions and publication

We propose that legislation be amended to require local authorities to accept electronic petitions to hold a referendum to change executive arrangements.

Currently, the Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 specify that public notice of a forthcoming referendum must be published in a newspaper. To bring this in line with more up-to-date methods for publishing information, we propose that a notice of referendum should be published on a principal council's website, in addition to publication in a newspaper. This will help ensure that local referendums are more accessible to a wider range of constituents and that there is more openness and transparency.

Number of electorate required to trigger a referendum

Principal councils in England require 5% of registered electors to sign a petition to trigger a referendum for a change in executive governance arrangements. In Wales 10% of registered electors are required to trigger a referendum.

We are taking this opportunity to seek views as to whether the 10% requirement should be changed.

**Consultation
Response Form**

Your name: Vale of Glamorgan Council

Organisation (if applicable): as above

email / telephone number:

dmarles@valeofglamorgan.gov.uk 01446 709402

Your address: Civic Offices, Holton Road, Barry, Vale
of Glamorgan, CF63 4RU

1. Limiting the timeframe for the introduction of proposals to change executive governance arrangements

- a. Do you agree that petitions, resolutions, directions and orders to change executive governance arrangements should all be subject to a deadline?

Yes

No

- b. If so, do you agree that the deadline should be set to eighteen months before the next set of local elections, therefore facilitating any referendum to take place before the next ordinary elections?

Yes

No

- c. If no to any of these questions, why not? Please provide further details

2. Change of governance arrangements

- a. Do you agree that, where the executive governance arrangements of a principal council have been changed, the principal council must maintain those arrangements for two full electoral cycles?

Yes

No

- b. If no, why not? Please provide further details

3. Electronic petitions

a. Do you agree that legislation should be amended to require principal councils to accept petitions in electronic format?

Yes

No

b. Do you also agree that the notice of referendum should be published on a principal council's website, in addition to publication in a newspaper?

Yes

No

c. Are you content with the current bilingual provisions for petitions?

Yes

No

d. If no, why not? Please provide further details

Publication on a Principal Council's website combined with a social media campaign would have wider reach and would dispense with the cost of publication in a newspaper which is regarded by the Vale of Glamorgan Council as an outdated and costly method of providing notification to the public. By way of comparison notices for local elections are only published on a Principal Council's website and displayed at the Council offices.

4. Number of electorate required to trigger a referendum

Principal councils in England require 5% of registered electors to sign a petition to trigger a referendum for a change in executive governance arrangements. In Wales 10% of registered electors are required to trigger a referendum.

a. Do you believe that the threshold to trigger a referendum needs to be changed?

Yes

No

b. If you would like to express any views on this, please provide further details:

Having regard to the number of electorate in some Local Authorities, and the significance of the decision to change executive governance arrangements (which it is proposed will be in place for 2 electoral cycles), the requirement of a minimum of 10% of the electorate for the Local Authority to trigger a referendum is considered appropriate.

5. We would like to know your views on the effects that proposals to amend primary legislation which enables principal councils to change executive governance arrangements would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

It is anticipated that there would be no effect.

6. Please also explain how you believe the proposed policy on proposals to amend primary legislation which enables principal councils to change executive governance arrangements could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

It is anticipated that there would be no effect.

7. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Returning this form

The closing date for replies is **27 February 2020**

Please send this completed form by email to

LGDTmailbox@gov.wales

If you are sending your response by email, please mark the subject of your e-mail: **Consultation on proposals to amend primary legislation which enables principal councils to change executive governance arrangements**

Publication of responses

Responses to consultations may be made public – on the internet or in a report. Normally the name and address (or part of the address) of its author will be published along with the response, as this helps to show the consultation exercise was carried out properly.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: