

| | |
|--|---|
| Meeting of: | Cabinet |
| Date of Meeting: | Thursday, 23 June 2022 |
| Relevant Scrutiny Committee: | Corporate Performance and Resources |
| Report Title: | Draft Response to Welsh Government's Consultation Statutory Guidance and Directions made under the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local Government and Elections (Wales) Act 2021 |
| Purpose of Report: | To seek Cabinet approval for the submission of the Council's response to the above Welsh Government consultation. |
| Report Owner: | Executive Leader and Cabinet Member for Performance and Resources |
| Responsible Officer: | Chief Executive |
| Elected Member and Officer Consultation: | Head of Legal and Democratic Services/Monitoring Officer Section 151 Officer Head of Neighbourhood Services & Transport Director of Corporate Resources Operational Manager, Democratic Services |
| Policy Framework: | This is a matter for decision by Cabinet. |
| Executive Summary: | <ul style="list-style-type: none"> • The Local Government and Elections (Wales) Act 2021 (the 2021 Act) contains a number of provisions to promote diversity, involvement and participation in County and County Borough (Principal) Councils. • The Act creates standalone provision for some of these measures but also amends, sometimes extensively, previous legislation in the Local Government Act 2000 (the 2000 Act) and the Local Government (Wales) Measure 2011 (the 2011 Measure). • Statutory guidance issued under these Acts on matters such as Executive arrangements, constitutions, scrutiny, training and development for elected Members and the timing of meetings was issued several years ago and now not only does not reflect the legislative changes in the 2021 Act, it also does not recognise wider legislative change such as the Equality Act 2010 |

and the Well-being of Future Generations (Wales) Act 2015 or other changes in the 2021 Act itself such as the creation of Corporate Joint Committees and the duty placed on a Principal Council to keep its performance under review through the use of and reporting on self and panel assessments.

- This report seeks endorsement from Cabinet of the Council's response (Appendix A) to the latest consultation regarding Statutory Guidance and Directions made under the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local Government and Elections (Wales) Act 2021.

Recommendations

1. That Cabinet considers the contents of the report and the draft response to the consultation (attached at Appendix A) and agrees the same for submission to Welsh Government, subject to referral to Scrutiny Committee (Corporate Performance and Resources) for the Committee's consideration.
2. That Scrutiny Committee (Corporate Performance and Resources) considers the content of this report and Appendix A and refers any comments back to Cabinet for consideration.
3. That should Scrutiny Committee (Corporate Performance and Resources) have no comments, that the consultation response be agreed for submission.
4. That, subject to recommendations 1,2 and 3, authority is granted to the Director of Corporate Resources to submit the Council's consultation response to the Welsh Government by the deadline of 22nd July, 2022.

Reasons for Recommendations

1. To enable the Council to respond to the Consultation on Statutory Guidance and Directions made under the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local Government and Elections (Wales) Act 2021.
2. To enable the view of the Scrutiny Committee to be sought prior to submission.
3. To enable the recommendations to be agreed, without reference back to Cabinet if appropriate.
4. To enable the response to be submitted by 22nd July, 2022.

1. Background

- 1.1 The Local Government and Elections (Wales) Act 2021 (the 2021 Act) contains a number of provisions to promote diversity, involvement and participation in County and County Borough (Principal) Councils. These include:
 - Duty to encourage local people to participate in decision making (section 39);
 - Strategy on decision making (section 40);
 - Duty to make a petition scheme and the abolition of certain community polls (section 42, section 162 and schedule 13);
 - Duty on Principal Councils to publish an official address for Members (section 43);
 - Duty to publish a constitution guide (section 45);
 - Electronic broadcasting of meetings (section 46);
 - Provision for multi-location meetings (sections 47, 49 and 50 and schedule 4);
 - Appointment of assistants to the Executive (section 57 and schedule 6);
 - Job sharing for Executive Leaders and Members of the Executive (section 58 and schedule 7);
 - Provision to issue guidance to the Executive in relation to equality and diversity of its membership (section 59);

- Amendments to the family absence provisions for elected Members (section 61);
- Making information available to overview and Scrutiny Committees (section 65);
- Power to require authorities to appoint Joint Overview and Scrutiny Committees (section 66);
- The renaming of Audit Committees to Governance and Audit Committees and changes to their membership and remit (sections 115, 116, 117 and 118);
- Removal of the bar on Councils designating the same officer Head of Democratic Services and Monitoring Officer (section 161);
- The re-naming and reconstitution of Governance and Audit Committees (sections 116 to 118).

1.2 The Act creates standalone provision for some of these measures but also amends, sometimes extensively, previous legislation in the Local Government Act 2000 (the 2000 Act) and the Local Government (Wales) Measure 2011 (the 2011 Measure).

1.3 Statutory guidance issued under these Acts on matters such as Executive arrangements, constitutions, scrutiny, training and development for elected members and the timing of meetings was issued several years ago and now not only does not reflect the legislative changes in the 2021 Act, it also does not recognise wider legislative change such as the Equality Act 2010 and the Well-being of Future Generations (Wales) Act 2015 or other changes in the 2021 Act itself such as the creation of Corporate Joint Committees and the duty placed on a Principal Council to keep its performance under review through the use of and reporting on self and panel assessments.

1.4 To this end Welsh Government is proposing to revoke earlier guidance issued to Principal Councils and replace it with a refreshed set of statutory guidance which reflects not only the legislative changes but also changes in the ways in which people can engage with their elected Members and Councils and the changes in technology which enable Councils to conduct their business in different ways.

1.5 It is intended to review and consult on refreshed guidance for the annual reports Principal Councillors may make and the arrangements for their publication which must be put in place under section 5 of the Local Government (Wales) Measure 2011 later this year and for it to be available to support Councillors and officers for reports published relating to the 2022-23 municipal year.

1.6 A separate consultation is currently underway on guidance relating to changes introduced to the ethical standards framework in sections 62 and 63 of the 2021 Act, the duty on political group leaders in relation to standards of conduct in their political group and the duty of Standards Committees to make an annual report.

2. Key Issues for Consideration

2.1 The Local Government and Elections (Wales) Act 2021 (the 2021 Act) contains a number of provisions to promote diversity, involvement and participation in County and County Borough (Principal) Councils. These are a mix of new legislation and amendments to previous legislation. This consultation is therefore on a consolidated set of statutory guidance.

2.2 The consultation on Statutory Guidance and Directions made under the Local Government Act 2000, the Local Government (Wales) Measure 2011 and the Local Government and Elections (Wales) Act 2021 covers three broad areas:

- Section 1 – Statutory Guidance for Elected Members and their Support, Training and Development
- Section 2 – Statutory Guidance on Participation Strategies and Petition Schemes
- Section 3 – Statutory Guidance on Political Governance

2.3 In Section 1, relating to Statutory Guidance for Elected Members and their Support, Training and Development, this section covers the following statutory guidance:

- Timing of Council Meetings
- Training, Development and support for Elected Members
- Research Support and Services for Elected Members

In Section 2 – Statutory Guidance on Participation Strategies and Petition Schemes, this section covers the following statutory guidance:

- Participation Strategies
- Petition Schemes

In Section 3- Statutory Guidance on Political Governance, this section covers statutory guidance on:

- Constitutions
- Constitution Guide
- Exercise of Functions by Councillors
- Council Executives
- Securing Effective Overview and Scrutiny
- Appointment of Persons to Chair Overview and Scrutiny Committees
- Co-opted Members of Overview and Scrutiny Committees
- Call-in Arrangements
- Councillor Calls for Action
- Overview and Scrutiny Committees – Taking into Account the Views of the Public
- Joint Overview and Scrutiny Committees
- Democratic Services Committees
- Governance and Audit Committees
- The Constitution (Wales) Direction 2022
- Non Statutory guidance on Political Assistants

- 2.4 This consultation is seeking views on this next stage of the Statutory Guidance with the intention of publishing the statutory guidance and constitution direction in the autumn of 2022.
- 2.5 Further detail can be found on the [Welsh Government's website](#).
- 2.6 The Council's draft response can be found in Appendix A to this report. The response is broadly supportive of the Guidance, drawing attention to some considerations relating to the Welsh language requirements and bilingual participation and Members wellbeing and work life balance.
- 2.7 Cabinet is recommended to consider and endorse the draft response and refer this report to Scrutiny Committee (Corporate Performance and Resources) for its consideration, with any views being referred back to Cabinet prior to submission by the Welsh Government deadline of 22nd July, 2022.

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

- 3.1 There are clear synergies between this consultation and many of the five ways of working.
- 3.2 The consultation focuses on promoting diversity, involvement and participation from a range of perspectives including elected member training/support, public participation and statutory guidance relating to the democratic process.
- 3.3 These provisions are consistent with the five ways of working. For example, the varying of the timing of meetings will help ensure more people are able to be involved in the democratic process, preventing exclusion and in the longer-term should encourage a greater number and diversity of candidates to stand for election.
- 3.4 The Council's Public Participation strategy enables us to improve public engagement with a view to increasing the involvement of more people in decision making, thereby ensuring our consultation and engagement is more meaningful and decisions are better informed.
- 3.5 This consultation reflects the work underway to progress a series of actions contained in the Council's Annual Delivery Plan 2022/23, including "Implement the requirements of the Local Government and Elections (Wales) Act 2021 including supporting the introduction of Corporate Joint Committees and embedding new arrangements" and " Publish a Public Participation Strategy that enables and encourages greater involvement for residents and other stakeholders in decision making as part of enhancing our understanding of community and customer needs and aspirations."

Resources and Legal Considerations

Financial

- 3.6** There are no direct financial implications arising as a result of this report. Support for elected members and the delivery of the Public Participation Strategy will be met from within existing budgets.

Employment

- 3.7** There are no direct employment implications arising as a result of this report.

Legal (Including Equalities)

- 3.8** The Local Government and Elections (Wales) Act 2021 (the 2021 Act) contains a number of provisions to promote diversity, involvement and participation in County and County Borough (Principal) Councils.
- 3.9** The Act creates standalone provision for some of these measures but also amends, sometimes extensively, previous legislation in the Local Government Act 2000 (the 2000 Act) and the Local Government (Wales) Measure 2011 (the 2011 Measure).
- 3.10** Statutory guidance issued under these Acts on matters such as Executive arrangements, constitutions, scrutiny, training and development for elected Members and the timing of meetings was issued several years ago and now not only does not reflect the legislative changes in the 2021 Act, it also does not recognise wider legislative change such as the Equality Act 2010 and the Well-being of Future Generations (Wales) Act 2015 or other changes in the 2021 Act itself such as the creation of Corporate Joint Committees and the duty placed on a Principal Council to keep its performance under review through the use of and reporting on self and panel assessments.

4. Background Papers

Existing Statutory guidance -

[Local Government \(Wales\) Measure 2011 Statutory Guidance June 2012](#)

[JOSC Statutory Guidance May 2013](#)

[Remote Attendance at Council Meetings 2014](#)

[Local Government Act 2000 Statutory Guidance 2006](#)

Draft Response to the Local Government Consultation on Guidance for Principal Councils

Q.1 Is the revised guidance on the timing of Council meetings sufficiently clear as to the purpose for regularly reviewing the timing, length and frequency of all Council meetings?

Yes however it is recommended that the timescale for consulting with Members is extended beyond the proposed 3 month period following an ordinary election.

Q.2 Has the guidance on the timing of Council meetings adequately addressed the context of multi-location meetings?

Yes, the Council intended to survey its new cohort of Members in the near future as it did post the LG elections in 2017. The Council also has a Multi-Location Meeting Policy in place, this will be reviewed on receipt of further guidance from WG.

However the reference in the proposed survey to “whether meetings are to be multi-location” is potentially confusing given the provisions of Section 47 of the Local Government and Elections (Wales) Act 2021 (‘the 2021 Act’).

Q.3 Are there any other issues you would like the guidance on the timing of Council meetings to address?

It would be beneficial if the guidance could stipulate the maximum or ideal duration of meetings for Members in the context of the wellbeing agenda and work life balance.

Q.4 Has the revised guidance on training, development and support for elected Members addressed all of the relevant changes in legislation?

Yes

Q.5 Are the sections on focused support and support for the well-being of Members sufficient?

Yes, the Council will continue to provide and review its own tailored wellbeing support to its Members, but note the response to question 3 above.

Q.6 Do you have any comments on the view of the Welsh Government that whilst Members must register their home as a beneficial interest under the Code of Conduct, there is no statutory requirement for the Register of Members’ Interests to be published including the home addresses of Members?

Section 10(2)(a)(vi) of the Local Authorities (Model Code of Conduct)(Wales)(Amendment) Order 2016 requires the disclosure on the Register of Members’ Interest of “ any land in which (the Member has) a beneficial interest and which is in the area of your authority”; this usually will

include a Member's home address. The Public Services Ombudsman for Wales Guidance that the Street/ Road or postcode is provided as opposed to the full address is adhered to at the Vale of Glamorgan Council to strike the balance between openness and protecting the Member's personal information. Full home addresses are retained for internal Council use with a redacted version published on the Council's public website in line with the above; it being noted that if a Member satisfies the 'sensitive information' test set out in the Local Authorities (Model Code of Conduct) (Wales) Order 2008 that the Member's full home address is redacted from the Register of Members' Interest prior to publication on the Council's website.

Q.7 Are there any other issues you would like the revised guidance on training, development and support for Members to address?

No further comments.

Q.8 Does the guidance on research support and services for elected Members provide sufficient examples of the matters which should be taken into consideration by the DSC when considering whether the HDS has sufficient staff and resources to, in its opinion, discharge their functions?

Yes

Q.9 Does the guidance explain clearly that the intention is for capacity for research support to be built up over time and that the DSC and the HDS should have a strategy for this?

Yes

Q.10 Are there any other issues or comments you would like to make in relation to the guidance on research support and services for elected Members?

No

Q.11 Does the guidance in Section 1 of this consultation adequately address issues relating to equality and diversity, including the social model of disability?

Yes, though it assumes a prior knowledge of equality and diversity issues. Whilst it will be helpful that Council meetings will be timed to meet the needs of newly elected Councillors, it will be important to publicise this requirement in advance so that prospective candidates are encouraged to stand for election. Training on the risk of Councillors being victimised or harassed should be accompanied by signposting to support in dealing with it. It would be useful if the list of training subjects could specifically mention Welsh language awareness. Also, create a link within the document to an explanation of the social model of disability or explain what it is so that people have a clear understanding of what it is. Under research section, include in first bullet point reference to equality impact assessments.

Q.12 Is there anything further the guidance could suggest to strengthen the need to take account of equality and diversity, including the social model of disability when developing the public participation strategy?

A brief explanation of the equality and diversity issues to take into account including reference to protected characteristics and socio-economic disadvantage, intersectionality and the need to engage.

Promoting awareness through a range of information for the public needs to be done in an accessible way using plain language and style and somewhere prominent on a website.

Public Participation strategies and the mechanisms they will govern should seek to be inclusive, rather than simply representative. This means establishing a space where those with protected characteristics can share their views on what is important to them. The experience of living within a community and accessing public services is likely to be fundamentally different for many individuals with protected characteristics. Local authorities should seek to understand these differences by engaging with a broad remit, rather than seeking to retrospectively 'add' the views of these individuals to narrow public engagement exercises.

Q.13 Is there anything further the guidance could suggest to strengthen the need to take account of the Welsh language when developing the public participation strategy?

Make specific reference to Welsh language requirements and bilingual participation within the guidance (for instance, in design section and promoting awareness bilingually). There is a section on ensuring equality and diversity but not on the Welsh language.

Q.14 Is the guidance sufficiently clear that the public participation strategy is intended to work in harmony with existing statutory duties relating to public involvement and participation by in particular focusing on public participation in the democratic processes of the council as set out in section 40(2) of the 2021 Act?

This point is recognised but what is not clear is how any strategy should link to the various statutory duties placed on local authorities, often within complex legislative functions, while also improving practice within local government. Public Participation Strategies should provide a new lens through which to view existing statutory duties and allow for the development of new mechanisms through which to discharge them.

Q.15 Are there any other matters you would like to see included in the guidance on public participation strategies?

No further comments.

Q.16 Is the balance in the guidance on petition schemes between guiding principles and local discretion helpful?

Yes

Q.17 Are there any other matters you would like to see included in the guidance on petition schemes?

No

Q.18 Does the revised guidance on constitutions and the revised constitution direction contain references to all of the legislative changes you would expect to be included?

Yes

Q.19 Does the guidance on the constitution guide strike the right balance between guiding principles and local discretion?

Yes

Q.20 Do you have any other comments or suggestions in relation to the guidance on the constitution, the constitution guide or the constitution direction?

No

Q.21 Is there anything further that should be included in the guidance on the exercise of functions by Councillors?

No further comment

Q.22 Are there further references to legislation made since the guidance on the exercise of functions by Councillors was issued which should be included?

No

Q.23 Is there anything further you would like to see included in the guidance on job sharing for Executive Members?

No

Q.24 Is there anything further you would like to see included in the guidance on assistants to the Executive?

No

Q.25 Is there anything further you would like to see included in the guidance to Cabinets on effective overview and scrutiny?

No

Q.26 Does the revised set of guidance relating to overview and scrutiny reflect all of the legislative changes that are relevant to the context in which scrutiny operates?

Yes

Q.27 Are there any other issues that should be reflected in any of the guidance on scrutiny, for example, would further guidance in respect of corporate joint committees be helpful?

The Council has responded to the separate consultation on CJs.

Q.28 Are there any further references to relevant legislation that should be included in the guidance on Democratic Services Committees?

No further comments

Q.29 Is there anything further you think should be included in the guidance on Democratic Services Committees?

No

Q.30 Does the revised guidance on Governance and Audit Committees reflect all of the relevant legislative changes?

Yes

Q.31 Does the revised guidance reflect changes in the context in which Governance and Audit Committees now operate?

Yes

Q.32 Is the advice on the guidance on the new duty on Governance and Audit Committees relating to section 89 of the 2021 Act sufficient?

There is a reference to a Corporate Governance Strategy in para 14.22. Councils have a Local Code of Corporate Governance and produce an Annual Governance Statement so, the need for another Strategy is questioned.

Q.33 Is the guidance on the new duty on Governance and Audit Committees to review and assess the effectiveness of the arrangements for handling service and corporate complaints sufficient?

Yes

Q.34 Is there anything else you would like to see included in the guidance on Governance and Audit Committees?

No

Q.35 Is the non-statutory guidance on political assistants helpful in highlighting the relevant legislation?

Yes

Q.36 Is there anything further than you would like to see included in the non-statutory guidance on political assistants?

No further comments.

Q.37 We would like to know your views on the effects that the statutory and non-statutory guidance 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?

There needs to be more reference to communicating and participation through the Welsh language.

Q.38 Please also explain how you believe the proposed policy the statutory and non-statutory guidance 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.

There needs to be more reference to communicating and participation through the Welsh language. Make specific reference to Welsh language requirements and bilingual participation within the guidance (for instance, in design section and promoting awareness bilingually). There is a section on ensuring equality and diversity but not on the Welsh language.

Q.39 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:

Please enter here:

No further comments.