

## CHAPTER 1

## OVERVIEW OF PART

## 81 Overview

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In this Part—

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- (a) Chapters 2 to 4 impose duties upon members of a county council which relate to their performance, and make connected provision, including for the enforcement of those duties;
- (b) Chapter 5 makes provision—
  - (i) for objectives to be set relating to the performance of an executive of a council operating executive arrangements;
  - (ii) for candidates for election as executive leader of a council to produce written manifestos;
  - (iii) for the appointment of assistants to executives where a council is operating executive arrangements;
  - (iv) for issuing guidance to elected mayors and executive leaders on equality and diversity;
- (c) Chapter 6 makes provision—
  - (i) removing the requirement for a county council to designate a head of paid service and requiring instead that a chief executive be appointed for the council, whose functions will include duties imposed under that Chapter;
  - (ii) relating to the appointment of the head of democratic services of a county council, and a council's pay policy as it relates to that post;
- (d) Chapter 7 makes provision—
  - (i) in respect of the meetings and functions of overview and scrutiny committees;

- (ii) requiring standards committees to produce annual reports on the exercise of their functions;
- (e) Chapter 8 makes minor amendments to the 2000 Act and the Local Government (Democracy) (Wales) Act 2013 (anaw 4).

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## CHAPTER 2

## DUTIES ON MEMBERS OF COUNTY COUNCILS

*Performance duties***82 Members of county councils to attend meetings**

- (1) A member of a county council must attend all relevant meetings.
- 10 (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) For the purposes of subsection (1), each of the following is a relevant meeting—
  - (a) a meeting of the county council of which the person is a member;
  - 15 (b) a meeting of a committee or sub-committee of the county council, if the person is a member of that committee or sub-committee;
  - (c) a meeting of any joint committee, joint board or other body of which the person is a member, if that committee, board or body is discharging any of the functions of the county council, or has been appointed to advise the council on any matter relating to the discharge of its functions;
  - 20 (d) if a county council is operating executive arrangements and the person is a member of the executive, a meeting of the executive or of a committee of the executive of which the person is a member;
  - (e) any other meeting that the person would reasonably be expected to attend in the exercise of his or her functions as a member of the county council.
- 25 (4) Subsection (1) does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.
- (5) Nothing in this section affects the operation of section 85 of the 1972 Act (vacation of office because of failure to attend meetings for six months).

**83 Members of county councils to hold surgeries**

- 30 (1) A member of a county council must hold a surgery at least four times in every relevant 12 month period.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) A member holds a surgery if the member makes himself or herself available for at least 35 one hour to meet members of the public to discuss matters in private.
- (4) In complying with subsection (1), the member must ensure that the location, date and time of the surgery is published on the council's website and in any other manner he or she thinks appropriate more than seven days before the day of the surgery.

(5) For the purposes of this section, a relevant 12 month period is—

- (a) the period of 12 months starting with the day on which the member assumes office as member of the council, and
- (b) each subsequent period of 12 months.

(6) For the purposes of subsection (5), any period during which a member is exercising a right to a family absence under Part 2 of the 2011 Measure is to be disregarded; accordingly, the following two periods are to be treated as consecutive—

- (a) any part of a 12 month period that falls immediately before the period of family absence, and
- (b) the period that begins immediately after the period of family absence.

**84 Members of county councils to answer correspondence**

- (1) A member of a county council must respond to all correspondence sent to his or her official address within 14 days of receipt.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) A member's "official address" is any address (whether postal or electronic) which is published by the council under section 80.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

**85 Members of county councils to complete training**

- (1) A member of a county council must complete all compulsory training courses.
- (2) But a member is not in breach of the duty under subsection (1) if the member has a good reason for not complying with the duty.
- (3) Training is compulsory if the county council of which a person is a member has notified the person that he or she must complete it.
- (4) This section does not apply to a member of a county council who is exercising a right to a family absence under Part 2 of the 2011 Measure.

*Duty to make an annual report*

**86 Members of county councils to make annual reports**

- (1) A member of a county council must make a report—
  - (a) about his or her activities as a member of the council during the period of 12 months to which the report relates;
  - (b) setting out the results of those activities, if known to the member.
- (2) A member of a county council must submit his or her report made under subsection (1) (an "annual report") to the county council's head of democratic services in accordance with the council's standing orders made by virtue of subsection (3)(b).
- (3) A county council must specify in its standing orders—

- (a) the period to which annual reports must relate, and
  - (b) when annual reports must be submitted to the head of democratic services.
- (4) Standing orders made under subsection (3)(b) must not permit an annual report to be submitted after the end of the period of three months starting with the day of the annual meeting of the county council which follows the period to which the annual report relates.
- (5) A county council must publish the annual reports submitted by its members.

### CHAPTER 3

#### BREACHES OF DUTIES UNDER CHAPTER 2

##### *Possible breach of performance duties*

#### **87 Complaints about a member's non-compliance with duties**

- (1) A person may make a complaint about a possible breach by a member of a county council of a duty imposed by section 82, 83, 84 or 85 to the monitoring officer of that council.
- (2) A complaint under subsection (1) must be made in writing.

#### **88 Deciding whether to investigate possible breach of performance duties**

- (1) If the monitoring officer of a county council –
  - (a) receives a complaint under section 87, or
  - (b) otherwise has reason to believe that a member has breached a duty under section 82, 83, 84 or 85,
 he or she must refer the matter to the chair of the standards committee of the county council.
- (2) The monitoring officer and the chair of the standards committee must together consider whether or not the matter should be investigated.
- (3) When considering whether a matter should be investigated, the monitoring officer and the chair of the standards committee must consider –
  - (a) in cases where the monitoring officer has received a complaint under section 87 –
    - (i) whether the complaint is frivolous or vexatious, and
    - (ii) whether the complaint relates to the same, or substantially the same, facts as a complaint that has already been disposed of, and
  - (b) in all cases, whether it is appropriate for the matter to be investigated.
- (4) If either the monitoring officer or the chair of the standards committee consider that a matter should be investigated, the monitoring officer must investigate the matter.
- (5) If the monitoring officer and the chair of the standards committee both consider that a matter should not be investigated, no investigation may take place; and, in cases where the monitoring officer has received a complaint under section 87, the monitoring officer must as soon as practicable take reasonable steps to –
  - (a) notify the person who made the complaint that the matter will not be investigated,

and

- (b) give reasons for that decision.
- (6) The monitoring officer and the chair of the standards committee may, for the purpose of deciding whether to investigate a matter, make such enquiries as they think necessary.

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*Possible breach of duty to make annual report*

**89 Deciding whether to investigate possible breach of duty to make annual report**

- (1) This section applies where the head of democratic services for a county council considers that a member of the county council may have breached the duty under section 86.
- (2) The head of democratic services may –
- (a) notify the monitoring officer of the council, who may investigate the matter;
- (b) if the head of democratic services is also the monitoring officer of the council, investigate the matter (in the exercise of his or her functions as monitoring officer).
- (3) When considering whether to conduct an investigation under this section, the monitoring officer must consult the chair of the standards committee of the county council on whether it is appropriate for the matter to be investigated.

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*Investigations, reports and sanctions*

**90 Investigation by monitoring officer**

- (1) This section applies if the monitoring officer of a county council investigates a matter under section 88 (possible breach of performance duties) or 89 (possible breach of duty to make annual report).
- (2) The monitoring officer must give the member who is the subject of the investigation an opportunity to respond to the matter being investigated.
- (3) The monitoring officer may –
- (a) ask any person for information relating to the matter being investigated, and
- (b) ask any person to assist him or her in conducting the investigation.

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**91 Monitoring officer's report**

- (1) After conducting an investigation under section 88 or 89, the monitoring officer of a county council must –
- (a) provide the standards committee of the county council with a report on the investigation,
- (b) make any recommendations to the standards committee that the monitoring officer considers appropriate,
- (c) send a copy of the report, and any recommendations made, to the member of the county council who was the subject of the investigation, and
- (d) if the investigation results from a complaint under section 87, take reasonable steps to send a copy of the report, and any recommendations made, to the person who made the complaint.

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- (2) The standards committee must allow the monitoring officer to appear before it for the purpose of presenting the report and any recommendations made.
- (3) The Welsh Ministers may by regulations make provision about the publicity to be given to reports and recommendations provided under this section.

5 **92 Consideration of matter by standards committee**

- (1) This section applies if the standards committee of a county council receives a report from a monitoring officer under section 91.
- (2) The standards committee must determine whether there is any evidence of a breach of the duty in question.
- 10 (3) If the standards committee determines that there is no evidence of a breach of the duty, it must—
  - (a) notify the member who is the subject of the report, and
  - (b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint.
- 15 (4) If the standards committee determines that there is evidence of a breach of the duty, it must give the member who is the subject of the report written notice that he or she may make representations to the standards committee, either orally or in writing, in respect of the report.
- 20 (5) The standards committee may, for the purposes of exercising its functions under this section—
  - (a) ask the monitoring officer to attend before it for the purposes of assisting it, and
  - (b) ask any person for information, or invite any person to make representations to it.
- (6) The monitoring officer may not unreasonably refuse a request made under subsection (5).
- 25 (7) The standards committee must determine the period within which a member may make representations under subsection (4); but the period must not be less than 28 days starting with the day on which the member is given notice under that subsection.

30 **93 Standards committee's determination**

- (1) After the period determined under section 92(7) for making representations has ended, the standards committee must determine whether the member who is the subject of the report under section 91 has breached the duty in question.
- 35 (2) If the standards committee determines that the member has breached the duty, it may decide to—
  - (a) censure the member,
  - (b) suspend or partially suspend the member from being a member of the county council for a period not exceeding six months, or
  - (c) take no further action.
- (3) The standards committee must—
  - (a) notify the member of its determination under this section, and of any action that will follow, and

- (b) if the report results from a complaint under section 87, take reasonable steps to notify the person who made the complaint of those matters.
- (4) The Welsh Ministers may by regulations make provision about the publicity that is to be given to any determination under this section and to any action taken against a member.
- 5 (5) The Welsh Ministers must by regulations make provision conferring rights of appeal on members of a county council against any determination of a standards committee under this section.

## CHAPTER 4

### FURTHER PROVISION ABOUT DUTIES ON MEMBERS

10 *Regulations and guidance relating to Chapters 2 and 3*

#### 94 Regulations

- (1) The Welsh Ministers may by regulations make further provision about the way in which a possible breach of a duty imposed by Chapter 2 is to be dealt with.
- (2) Regulations under subsection (1) may, in particular, make provision—
- 15 (a) about matters to be taken into account in considering whether a possible breach of a duty should be investigated;
- (b) about matters to be taken into account in determining whether a member has breached a duty;
- 20 (c) enabling a monitoring officer or a standards committee to refer a possible breach of a duty, or any other matter that comes to the monitoring officer or the standards committee's attention in the course of an investigation, to the monitoring officer or the standards committee of another relevant authority;
- (d) about procedures to be followed by a monitoring officer or a standards committee;
- (e) about the disclosure of information;
- 25 (f) enabling sums to be paid to persons by way of expenses and allowances or costs;
- (g) about how appeals are to be made, considered and determined.
- (3) For the purposes of subsection (2)(c), a "relevant authority" means—
- (a) a county council;
- (b) a fire and rescue authority;
- 30 (c) a National Park authority for a National Park.

#### 95 Guidance

A person exercising functions under Chapter 2 or 3 must have regard to any guidance issued by the Welsh Ministers.

#### *Related amendments*

#### 35 96 Standards committee to provide training

In section 54 of the 2000 Act (functions of standards committees), before subsection (3)

insert—

5 “(2B) A standards committee of a county council in Wales also has the specific function of advising, training or arranging to train members of the council on matters relating to the duties imposed by sections 82 to 86 of the Local Government (Wales) Act 2017 (duties to attend meetings, hold surgeries, answer correspondence, complete training and make annual reports).”

97 **Amendments to the 2011 Measure**

(1) The 2011 Measure is amended as follows.

10 (2) Section 5 is repealed.

(3) In section 7, after subsection (1), insert—

“(1A) A local authority must—

15 (a) consider whether it should be compulsory for its members to complete any training under section 85 of the Local Government (Wales) Act 2017, and

(b) in exercising its functions under subsection (1), secure the provision of any training which it is compulsory for a member to attend under section 85 of that Act.”

*Role of leaders of political groups on county councils*

20 98 **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 councils: duties of leaders of political groups in relation to standards of conduct**

25 (1) A leader of a political group consisting of members of a county council in Wales—

(a) must take reasonable steps to promote and maintain high standards of conduct by the members of the group, and

30 (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 issued by the Welsh Ministers.

35 (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 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 consider appropriate."

(3) In section 54 (functions of standards committees), after subsection (2) insert—

"(2A) A standards committee of a county 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."

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

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

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(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.

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(3) In particular, it 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;

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(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 in Wales must include—

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(a) 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;

(b) a summary of—

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(i) matters referred to the chair of the committee under section 88 (possible breach of performance duties by members) of the Local Government (Wales) Act 2017, and

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(ii) matters considered under section 92 of that Act (consideration by standards committee of possible breaches of duties), and determinations made under section 93 of that Act (standards committee’s determination in relation to possible breaches of duties).

(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.

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(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 is accordingly not a function to which section 101 of the Local Government Act 1972 applies).

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(8) In this section “financial year” means a period of 12 months ending with 31 March.”