

MEETING	Council
DATE	4 March 2021
CABINET MEMBER	Councillor Nia Jeffreys
TITLE	Local Government and Elections (Wales) Act 2021
OBJECTIVE	<ol style="list-style-type: none"> 1. To accept the information 2. To ask the Audit and Governance Committee to approve and monitor a work programme in response to the provisions of the Act.
AUTHOR	Monitoring Officer

1. Introduction

- 1.1 There is considerable history to the Local Government and Elections (Wales) Act 2021, which stems from the Local Government (Wales) Bill introduced by the former Local Government Minister Leighton Andrews in 2015. Since then, there have been several changes and developments to the aim and emphasis of the Legislation. The main change is a step back from an Act, which focused, on reorganising Councils be that voluntarily or through statute. You may recall the consultations that were considered along the way.
- 1.2 By now, although there are provisions in the Act that create a framework for merging councils, they do not represent the main aim of the provision. There is now Legislation on the table that introduces a number of changes and powers in relation to the governance of Local Government in Wales. This is not to say that there are elements of the Act that are not far reaching; this is especially true in the area of Local Government franchise, Collaboration and Performance Management. It also includes provisions deriving directly from temporary arrangements put in place during the Coronavirus crisis. The aim of this report is to provide an overview to the Council on the content of the Act.

2. The Act

- 2.1 The Act received Royal Assent on 20 January 2021. It has nine main parts that relate to Principal Councils and Town and Community Councils. The report concentrates on the position of Principal Councils. We understand that the provisions will come into force during the next 12-15 months. There are some provisions that are already in force but await the publication of relevant regulations or guidance. Therefore, the following section contains a combination of anticipated and specific dates.

PART 1 - ELECTIONS

In force for the 2022 election.

- Extend the franchise to those aged 16 upwards and qualifying foreign citizens.
- The right for council officers to stand in an election without requiring them to resign if they are unsuccessful (with the exception of officers in politically restricted posts).
- The power of a Council to choose between the 'First Past the Post' and the 'single transferable vote' voting systems. **This power will come into force after the 2022 elections.**

PART 2 - GENERAL POWER OF COMPETENCE FOR LOCAL AUTHORITIES

Anticipated to be in force by October 2021

- Grants a general power of competence to Principal Councils and Eligible Town and Community Councils. A council is dependent on holding the statutory power to undertake any function and this provision provides a general power to act which is not confined to a particular function.
- However, it reflects a similar power which has been in for in England for some years. The experience in England suggests that the power does not provide such a change as might be implied by the description. Although the power gives the Councils additional flexibility it will be overridden by any statutory limits already in force or that will come into force and is accordingly constrained.

PART 3 - PROMOTING ACCESS TO LOCAL GOVERNMENT

Anticipated to be in force by May 2022

- Duty to encourage public participation in matters such as decision making
- Requirement to adopt a Participation Strategy
- Requirement to adopt a Petitions Scheme
- Requirement to publish Guidelines to the Constitution
- Statutory requirement to web-cast a range of meetings.
- Provide remote attendance for members on a statutory basis - **This will be in force for May 2021.**
- Incorporate changes in matters such as publishing meeting agendas and dealing with matters such as decision notices.

PART 4 - LOCAL AUTHORITY EXECUTIVES, MEMBERS, OFFICERS AND COMMITTEES

Anticipated to be in force by May 2022

- Establish a post under the specific description of "Chief Executive" on a statutory footing with specific responsibilities.
- Allow job-sharing for Cabinet members
- Allow appointing members as Cabinet Members' assistants
- Allow job-sharing for Chairs and Vice-chairs
- Group Leaders to have statutory responsibility for the conduct of their members
- Give the Annual Standards Committee report to the Council a statutory footing.

PART 5 - COLLABORATIVE WORKING BY PRINCIPAL COUNCILS

This part is in force and draft regulations have been subject to consultation. At present, it appears that the consultation has highlighted a range of matters that are being addressed further.

- Ministerial power to establish Corporate Joint Committees. These are a new type of local government body. They will be bodies in their own right with their own legal status.
- The core membership will consist of Council Leaders

- Power to mandate - Strategic Planning, Transportation, Economic Welfare and School Improvement. The draft regulations have identified the north Wales region as the Joint-committee area.
- Two or more councils have the right to request to establish through a statutory instrument .

PART 6 - PERFORMANCE AND GOVERNANCE OF PRINCIPAL COUNCILS

Will come into force April 2021 with some exceptions - below

- Establish the concept of statutory annual performance reports and consultation as part of the process
- Appoint a "Panel" for assessing Council performance - **Will come into effect in May 2022**
- The need to set Improvement Objectives (Best Value) is being removed
- Require that 1/3 of the members of the Audit and Governance Committee are lay members to include the Chair - **Will come into effect in May 2022**
- Establishing and naming an Audit and Governance Committee is now statutory
- Audit Committee to adopt the function of complaints procedure overview

PART 7 - MERGERS AND RESTRUCTURING OF PRINCIPAL AREAS

In force with a few technical exceptions

- Establish a framework for a process of merging councils should such plans come forward

PART 8 - LOCAL GOVERNMENT FINANCE

In force two months following Royal Assent

- Power to require information relating to hereditaments, relevant information in determining whether a person is liable to pay non-domestic rates.
- Removal of power to provide for the Imprisonment of Council Tax Debtors which places into the Act a provision which is already in effect through Regulations.

PART 9 - MISCELLANIOUS

Anticipated to be in force by May 2022

- Afford the Head of Democratic Services post statutory chief officer protection status.
- Removal of the restriction that prevents the Monitoring Officer from being the Head of Democratic Services.
- Provisions relating to merging and demerging Public Services Boards.

3. The Next Steps

Attached is a table (Appendix 1) outlining how the work will be allocated over the following months. . The range of provisions in the Act means that a series of reports will be submitted to the appropriate Committees. Elements of the work are already underway. Therefore, the intention would be to prepare reports for the appropriate Committees on the next steps as the Act comes into effect. The timetable for these provisions to come into force, and their diverse range, leads to this type of process. An officer working group has started on this work and the recommendation is that the Audit and Governance Committee approves a detailed work programme and maintains an overview on the progress of this work.

DECISION SOUGHT

- 1. To accept the information.**
- 2. To ask the Audit and Governance Committee to approve and monitor a work programme in response to the provisions of the Act.**

Monitoring Officer Comments

Report Author

Chief Finance Officer Comments

There are elements of the Elections and Local Government Act which do nothing more than formalise or impose existing arrangements such as naming the Audit and Governance Committee by law whilst there will be a need to plan for other aspects such as appointing lay members to a third of the membership of the Audit and Governance Committee from May 2022.

Appendix 1

(Council = Full Council, Cab=Cabinet, AGC=Audit and Governance Committee, DSC=Democratic Services Committee SC=Standards Committee)

Provisions	Leading Department / Service	Preparatory Steps / Resources	Principal Meetings
Part 1 Elections	Legal Services	Matter for nominations for elections. And administrating electoral registration Awareness raising	Blends with the DSC's work to promote democratic involvement
Part 2 Chapter 1 General Power of competence for Local Authorities	Legal Services	Briefing note on the powers explaining their nature etc. <u>Departmental Briefing Note -</u> Brief the Council and Cabinet as part of awareness of the Act.	
Part 3 Promoting Access to Local Government,	Corporate Support	Legal Services to lead on reviewing the Constitution	Council, DSC AGC
Part 4 - Local Authority Executives, Members, Officers and Committees	Corporate Support Service	Legal Services to lead on reviewing the Constitution and Code of Conduct issues, The Democratic and Language Service to lead on matter relating to remote attendance and publication of agendas etc.	Report to AGC, DC and Council
Part 5 Collaborative Working by Principal Councils	Leadership Team	Brief Council and Cabinet as part of awareness of the Act. Report on the implications of establishing regulations to Cabinet and Scrutiny Committees	Cabinet and Scrutiny
part 6 - Performance and Governance of Principal Councils and the Duty of a Principal Council to Continuously Review its Performance	Leadership Team and Finance Service in terms of Audit Committee arrangements	Brief Council and Cabinet as part of awareness of the Act. AGC to lead	AGC and Council
Part 7 - Mergers and Restructuring of Principal Areas	Leadership Team	Brief Councillors and Cabinet as part of awareness for information	
Part 8 - Local Government Finance	Finance Service		
Part 9 - Miscellaneous	Corporate Support Service		Report to the Appointments Committee and the Council as appropriate