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CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	STANDARDS COMMITTEE
DATE:	12 SEPTEMBER 2013
TITLE OF REPORT:	LOCAL GOVERNMENT (DEMOCRACY) (WALES) ACT 2013
PURPOSE OF THE REPORT:	TO UPDATE THE COMMITTEE ON THE OUTCOME OF THEIR CONSULTATION RESPONSE & OTHER RELATED ISSUES
REPORT BY:	HEAD OF FUNCTION LEGAL AND ADMINISTRATION/MONITORING OFFICER
CONTACT OFFICER:	LYNN BALL, HEAD OF FUNCTION LEGAL AND ADMINISTRATION/MONITORING OFFICER (ext 2586)

1. INTRODUCTION & BACKGROUND

On the 25th July 2012 the Standards Committee agreed on a consultation response to the Welsh Government's White Paper on Promoting Local Democracy. The Committee's response was restricted to those areas within the Committee's remit and attached at **Enclosures 1 & 2** respectively are the Report which was considered by the Committee on the 25th July 2012 and the response which was subsequently sent to the Welsh Government on behalf of the Committee.

2. CURRENT POSITION

The Act has now received Royal Assent. At **Enclosure 3** is a copy of the summary of the content of the new legislation, with those extracts of significance to the Standards Committee highlighted. With one exception, no commencement dates have yet been fixed. Matters in respect of which the Standards Committee was asked to provide a consultation response, and which are not referred to in **Enclosure 3** have not been included in the legislation.

3. RECOMMENDATION

To note the Report for information.

ATODIAD / ENCLOSURE

1

ISLE OF ANGLESEY COUNTY COUNCIL

MEETING:	STANDARDS COMMITTEE
DATE:	25 JULY 2012
TITLE OF REPORT:	TO CONSIDER THE WELSH GOVERNMENT'S WHITE PAPER ON PROMOTING LOCAL DEMOCRACY
PURPOSE OF THE REPORT:	TO AGREE CONSULTATION RESPONSE TO THE WELSH GOVERNMENT'S WHITE PAPER ON PROMOTING LOCAL DEMOCRACY
REPORT BY:	HEAD OF FUNCTION LEGAL AND ADMINISTRATION/MONITORING OFFICER

DOCUMENTS ENCLOSED

1. Welsh Government's White Paper on Promoting Local Democracy

BACKGROUND

- Consultees are required to respond to the Consultation by 3rd August 2012.
- Those sections of the White Paper which relate to the work of the Standards Committee are:-
 - paragraph 52 (question 29) and
 - paragraph 66 to 68 (questions 38, 39, 40, 41, 42, 43 and 44)
- In addition to the questions put, the Committee may also wish to include other related/connected issues in its formal response. The following issues are suggested for discussion, but should not restrict the Committee from putting forward additional proposals or observations:-
 - Whether any Local Resolution Protocol be national or local, should there be guidance, or criteria, issued to assist in identifying those matters which are suitable for referral to the PSOW, those matters which are suitable for local resolution and those matters which are not suitable for any consideration at all?
 - Alternatively, should the decision about suitability for local resolution be entirely discretionary?
 - If there is to be any element of discretion, how, and by whom, should it be exercised?

- If Regional Standards Committees are to be established, what do you think the geographical boundary should be e.g. Anglesey, Gwynedd and Conwy, or all six North Wales Authorities?
- If there is to be a Regional, or Sub-regional, Standards Committee, how should it operate in practice, what are the potential difficulties and how, if at all, can they be overcome?

RECOMMENDATION

The Standards Committee is asked to express views on the appropriate sections of the consultation document, as well as any other relevant and related issues, and to instruct the Monitoring Officer, in consultation with the Committee's Chairman, to finalise and submit the consultation response on behalf of the Standards Committee. Copies of the response will be circulated to all Members of the Committee for information.

ATODIAD / ENCLOSURE

2

**RESPONSE OF THE STANDARDS COMMITTEE IN RESPECT OF THE WELSH GOVERNMENT'S
WHITE PAPER ON PROMOTING LOCAL DEMOCRACY**

Question 29: Should the Panel be empowered to require local authorities to publish information relating to all remuneration received by individual councillors in connection with the performance of public duties?

Yes √

No

But it should include expenses and there should be clarity around the definitions of key elements like "publish", "remuneration", "public duties"; to ensure consistency and comparability.

Question 38: What are the practical barriers to extending the local resolution process to community and town councils and how might they be overcome?

Any process / mechanism for local resolution needs to remain within the relevant Town / Community Council as there are significant resource implications if Standards Committees and Monitoring Officers are required to support the process.

Question 39: To what extent is it desirable or necessary to modify the current statutory framework or model code of conduct to facilitate local resolution of complaints?

- To achieve consistency, the first sift, currently required by statute, should remain. However, matters referred to the PSOW, which fail to meet his threshold test, should be referred back for a decision to be taken at local level as to whether or not the matter is suitable for local resolution. As things stand, that decision will be discretionary falling outside the statutory framework.
- However there is no statutory requirement for authorities to adopt a local resolution procedure, much less a requirement for consistency in local protocols. We consider that a model local resolution protocol would be desirable to ensure consistency, transparency and to avoid duplication. At the very least, guidance should be issued setting out the general principles, which would need to address key issues, such as :-
 - Local resolution protocols should relate only to Member / Member complaints;
 - Having completed the first sift, and failing to reach the PSOW's threshold, a matter referred back for local resolution must be capable of early rejection if spurious, trivial or time wasting. There needs to be clarity about who exercises that discretion, as well as how it is exercised, as the process may attract controversy. Our view is that the decision should be taken by an independent member of the Standards Committee, in consultation with the Monitoring Officer. We appreciate that there are other options.
 - There needs to be clarity around the role of the Standards Committee in any local resolution process.
 - There needs to be clarity around potential outcomes from such a process.

Question 40: Should the ethical framework in Wales be more radically modified (e.g. to introduce local assessment and investigation of all alleged breaches of the code of conduct) and, if so, how?

Yes

No

√

A first sift at national level is still desirable for fairness and consistency, and to avoid "tit for tat" complaints.

Question 41: Are the "call-in" arrangements sufficient, or should cases which fall just short of the Ombudsman's current criteria be routinely referred for local investigation and determination?

Yes

No

√

All cases of Member / Member complaints, which fall short of PSOW's current threshold, should be referred for local resolution but there must be a discretion at a local level about whether or not to pursue local resolution, or reject the complaint; a kind of informal second sift. Please see the response to question 39.

Question 42: Is the voluntary cap on indemnities provided for this purpose appropriate and sufficient?

Yes

No

√

Question 43: Should the Welsh Government introduce a statutory limit on indemnities through subordinate legislation?

Yes

√

No

We suggest there should be different caps for hearings before Standards Committees, Adjudication Panel for Wales or High Court, with an overall cap of 20k.

Question 44: What are the perceived barriers, if any, to the establishment of regional standards committees?

We favour maintaining local Standards Committees but providing power to "share" independent members, if and when required, on a sub-regional basis

ATODIAD / ENCLOSURE

3

Local Government (Democracy) (Wales) Act 2013

Section	Notes
PART 5	
OTHER CHANGES TO LOCAL GOVERNMENT	
<i>Presiding members</i>	
51 Presiding member of principal council	ss. 51 to 54 1/10/2013
<i>Private Bills</i>	
52 Promoting private Bills	
53 Opposing private Bills	
54 Restriction on payments in relation to promoting or opposing Bills	
<i>Access to information</i>	
55 Community council websites	No Commencement Date
56 Requirement to give public notices electronically	
57 Meetings and proceedings of communities	
58 Registers of members' interests	No Commencement Date
<i>Local Government (Democracy) (Wales) Act 2013 (anaw 4) v</i>	
<i>Remote attendance at meetings</i>	
59 Remote attendance at meetings of principal councils	ss. 59 to 62 1/10/2013
<i>Democratic services committees</i>	
60 Democratic services committees	
<i>Audit committees</i>	
61 Audit committees	
<i>Independent Remuneration Panel for Wales</i>	
62 Functions relating to payments to members	
63 Functions relating to salaries of heads of paid service	Note: s.63 needs commencement order
64 Relevant authorities	
65 Subsequent annual reports	
66 Consultation on draft reports	ss. 64-67 1/10/2013
67 Publicity requirements in reports	
<i>Joint standards committees</i>	
68 Joint standards committees	No Commencement Date
69 Referral of cases relating to conduct	No Commencement Date



Deddf Llywodraeth Leol (Democratiaeth)
(Cymru) 2013

2013 dccc 4

Local Government Democracy (Wales) Act
2013

2013 anaw 4

Access to information

55 Community council websites

- (1) A community council must make available electronically –
- (a) information on how to contact it and, if different, its clerk including –
 - (i) a telephone number;
 - (ii) a postal address;
 - (iii) an email address;
 - (b) information about each of its members, including –
 - (i) the member's name;
 - (ii) how the member may be contacted;
 - (iii) the member's party affiliation (if any);
 - (iv) the ward which the member represents (where relevant);
 - (v) any office of the council held by the member;
 - (vi) any committee of the council to which the member belongs;
 - (c) the minutes of the proceedings of the council's meetings and (in so far as is reasonably practicable) any documents which are referred to in the minutes;
 - (d) any audited statement of the council's accounts.
- (2) Nothing in this section authorises or requires a community council to make available any information that it is prevented from disclosing under any enactment.
- (3) In carrying out its duties under subsection (1), a community council must have regard to any guidance issued by the Welsh Ministers.
- (4) The requirement to make available the information listed in subsection (1)(c) and (d) relates only to information produced on or after the coming into force of this section.

56 Requirement to give public notices electronically

In section 232 of the 1972 Act (public notices), after subsection (1) insert –

“(1ZA) A public notice given by a community council must, in addition to the requirements imposed by subsection (1), be published electronically.”.

57 Meetings and proceedings of communities

In Schedule 12 to the 1972 Act (meetings and proceedings of local authorities) –

- (a) in paragraph 26(2) –
 - (i) in paragraph (a), after “be” where it first occurs insert “published electronically and”,

- (ii) after paragraph (a) insert—
 - “(aa) any documents relating to the business to be transacted at the meeting must be published electronically (in so far as reasonably practicable),”
- (b) after paragraph 26(2) insert—
 - “(2A) The duty of a community council under sub-paragraph (1)(aa) to publish documents relating to the meeting does not apply where—
 - (a) the documents relate to business which in the opinion of the council is likely to be transacted in private, or
 - (b) the disclosure of such documents would be contrary to any enactment.”
- (c) in paragraph 30B—
 - (i) for sub-paragraph (3) substitute—
 - “(3) The notice must be given—
 - (a) in writing (but not in an electronic form), or
 - (b) in an electronic form which meets the technical requirements set by the principal council under paragraph 30C.”
 - (ii) in sub-paragraph (7), after “principal council” insert “or community council”,
 - (iii) also in sub-paragraph (7), for “council” where it second occurs substitute “principal council”,
- (d) in paragraph 30C—
 - (i) for sub-paragraph (1) substitute—
 - “(1) For the purposes of paragraph 30B(1), each community council and principal council must provide a facility for notices to be given in electronic form (“electronic notices”).”
 - (ii) in sub-paragraph (2), for “The council must set” insert “A principal council must set for its area”,
- (e) in paragraph 30E(7), after paragraph (a) insert—
 - “(aa) by publishing the notice electronically, and”.

58 Registers of members' interests

- (1) Section 81 of the Local Government Act 2000 (c.22) (disclosure and registration of members' interests) is amended as follows.
- (2) In subsection (6)—
 - (a) the words from “copies” to the end become paragraph (a), and
 - (b) after that paragraph, insert—
 - “(b) the register mentioned in paragraph (a) is published electronically.”
- (3) In subsection (7), after paragraph (a)(ii), insert—

“(iii) states that the register is available to be viewed electronically, and

(iv) specifies how to access the electronic version.”.

(4) After subsection (7), insert—

“(7A) For the purposes of this section—

(a) section 83(13) does not apply, and

(b) in relation to a relevant authority which is a community council, the references in this section to a monitoring officer are to be read as references to the proper officer of that council (within the meaning of section 270(3) of the Local Government Act 1972).”.

Remote attendance at meetings

59 Remote attendance at meetings of principal councils

(1) Section 4 of the 2011 Measure (remote attendance at meetings) is amended as follows.

(2) In subsection (4), for the words from “remote” to the end substitute “actual attendance constitutes less than 30% of the total number of members in attendance at the meeting.”.

(3) After subsection (4), insert—

“(4A) Subsection (4) does not prevent a local authority from making standing orders which require more than 30% of the total number of members in attendance at a meeting to be in actual attendance for the meeting to be quorate.”.

Democratic services committees

60 Democratic services committees

(1) After section 11 of the 2011 Measure (local authorities to appoint democratic services committees) insert—

“11A Reviews at request of a local authority

(1) The democratic services committee of a local authority may, at the request of the authority, review any matter relevant to—

(a) the support and advice available to members of that authority, and

(b) the terms and conditions of office of those members.

(2) A democratic services committee must make reports and recommendations to the authority following a review.

(3) It is for a democratic services committee to determine how to exercise its functions under this section.”

(2) In section 19 (reports and recommendations by democratic services committees), after “11(1)(c)” insert “or 11A(2).”.

- (a) a local health board,
- (b) a police and crime commissioner panel,
- (c) a relevant authority,
- (d) a body designated as a public body in an order made by the Welsh Ministers."

Joint standards committees

68 Joint standards committees

- (1) The Local Government Act 2000 (c.22) is amended as follows.
- (2) In section 53 (standards committees) –
 - (a) in subsection (1), for "(referred to in this Part as a standards committee)" substitute "or, with one or more other relevant authorities, a joint committee",
 - (b) after subsection (1) insert –
 - "(1A) In this Part, a reference to a "standards committee" is a reference to a committee or a joint committee established under subsection (1)."
 - (c) in subsection (11) –
 - (i) in the opening words, for "National Assembly for Wales" substitute "Welsh Ministers",
 - (ii) in paragraph (a), after "authority" insert "or authorities",
 - (iii) after paragraph (d) insert –
 - "(da) about establishing a standards committee which is a joint committee (including, in particular, provision about any restrictions on the number or types of relevant authority that may establish a joint committee),"
 - (iv) in paragraph (e), for "such" substitute "standards",
 - (d) after subsection (12) insert –
 - "(13) A relevant authority which is considering establishing a joint committee must have regard to any guidance issued by the Welsh Ministers about establishing joint committees and the circumstances in which it is appropriate to do so."
- (3) In section 54 (functions of standards committees) –
 - (a) in subsection (5), for "National Assembly for Wales" substitute "Welsh Ministers",
 - (b) after subsection (5) insert –
 - "(5A) Regulations made under subsection (5) may modify any provision of this Part, or any other enactment relating to a standards committee or to any functions of a standards committee, in relation to cases where a function of a standards committee is exercisable by a joint committee.
 - (5B) In subsection (5A) "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)), whenever passed or made."

(c) for subsection (7) substitute –

“(7) A standards committee must, in exercising any of its functions, have regard to any relevant guidance issued by the Welsh Ministers.”.

(4) In section 106 (Wales) –

(a) in subsection (5), after “section 21G” add “or regulations under section 53(11) or 54(5)”,

(b) in subsection (6), after “section 21A(13)(b)” insert “or regulations made under section 53(11) or (subject to subsection (6A)) section 54(5)”,

(c) after subsection (6) insert –

“(6A) Where a statutory instrument contains regulations made under section 54(5) which include provision adding to, replacing or omitting any part of the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales, the instrument may not be made unless a draft of it has been laid before, and approved by a resolution of, the National Assembly for Wales.”.

69 Referral of cases relating to conduct

(1) The Local Government Act 2000 is amended as follows.

(2) In section 73 (matters referred to monitoring officers) –

(a) in subsection (2) –

(i) in paragraph (b), after “authority” where it second occurs insert “, or to the standards committee of another relevant authority,”,

(ii) after paragraph (b), insert –

“(ba) enabling a standards committee of a relevant authority to refer a report or recommendations made by its monitoring officer to the standards committee of another relevant authority,”,

(b) for paragraph (c) substitute –

“(c) enabling a standards committee of a relevant authority to consider any report or recommendations made or, as the case may be, referred to it by –

(i) a monitoring officer of a relevant authority, or

(ii) the standards committee of another relevant authority.

(ca) the procedure to be followed by a standards committee as respects a report or recommendation made or referred to it,”,

(c) in paragraph (d), for “the authority” substitute “a relevant authority”,

(d) in subsection (4) –

(i) in paragraph (a), omit “of the authority,”, and

(ii) in paragraph (b), after “the authority” insert “of which they are a member”.

(3) In section 81 (disclosure and registration of members’ interests) –

- (a) in subsection (4), after “standards committee” insert “, or by the standards committee of another relevant authority,”,
- (b) in subsection (5) –
 - (i) the words from “circumstances” to the end become paragraph (a), and
 - (ii) after that paragraph, insert –
 - “(b) procedure to be followed for the granting of dispensations.”.

PART 6

MISCELLANEOUS AND GENERAL PROVISION

70 Ancillary provision

- (1) The Welsh Ministers may by order make such incidental, consequential, supplemental, transitional, transitory or savings provision as they consider appropriate for the purposes of, or in connection with, giving full effect to, any provision made by or under this Act.
- (2) An order under this section may modify this or any other enactment.

71 Orders and regulations

- (1) Any power of the Welsh Ministers to make an order or regulations under this Act (other than an order under section 47) is exercisable by statutory instrument and includes power to –
 - (a) make incidental, consequential, supplemental, transitional, transitory or savings provision as the Welsh Ministers consider necessary or expedient for the purposes of, or in connection with, this Act,
 - (b) modify any enactment (including this Act), and
 - (c) make different provision for different purposes and areas.
- (2) A statutory instrument which contains –
 - (a) an order under section 34(3)(e) or 70(1),
 - (b) an order under section 37(1) which includes provision altering the area of a principal council or a preserved county or which abolishes a principal area, or
 - (c) regulations under section 41(1),is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Despite subsection (2), any statutory instrument containing an order or regulations made under this Act which includes provision adding to, replacing or omitting any part of the text of an Act of Parliament or a Measure or Act of the National Assembly for Wales is not to be made until a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
- (4) This section does not apply to an order made under section 45 or 75.