

**CYNGOR SIR YNYS MON / ISLE OF ANGLESEY COUNTY COUNCIL**

<b>MEETING:</b>	<b>Standards Committee</b>
<b>DATE:</b>	<b>16 September 2015</b>
<b>TITLE OF REPORT:</b>	<b>The Local Government (Democracy) (Wales) Act 2015</b>
<b>PURPOSE OF THE REPORT:</b>	<b>To report to the Standards Committee on legislative changes</b>
<b>REPORT BY:</b>	<b>Monitoring Officer</b>
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## **INTRODUCTION**

The Local Government (Democracy) (Wales) Act 2013 (“the 2013 Act”) received Royal Assent on the 30<sup>th</sup> July 2013. Its primary purpose was to reform the constitution and function of the Local Democracy and Boundary Commission for Wales. However, the 2013 Act also introduced other provisions connected with local government, some of which are indirectly relevant to the work of the standards committee.

## **RELEVANT STATUTORY CHANGES**

The Local Government (Democracy) (Wales) Act 2013 (Commencement No. 2) Order 2015 activates sections 55 to 58, 68 and 69 of the 2013 Act with effect from May 2015.

The relevant changes are:-

### **1. Community Councils – Electronic Publication of Information**

Community councils are now required to publish certain information on their websites. This includes information about the clerk, the members, minutes of meetings and any audited statements of accounts. Community councils are also required to publish public notices electronically and to make certain information about their meetings and proceedings available electronically.

Statutory Guidance has been issued to assist community councils in fulfilling their new obligations and a copy of the Guidance is attached at **Enclosure 1**.

### **2. Register of Members’ Interests**

Section 81(1) of the Local Government Act 2000 currently requires the monitoring officer of every relevant authority to establish and maintain a register of members’ interests. To maintain the distinction with declarations in meetings, this is sometimes called the “standing register” or “pre-registration”.

Prior to implementation of the new statutory requirements in May 2015, community councils did not hold a “standing” register as the wording in the legislation required the monitoring officer of each authority to retain such a register. As community councils are separate authorities in their own right, but do not engage monitoring officers, it was interpreted that the requirement for the standing register related to unitary authorities only.

The legislation has now been amended and it is clear that community councils are required to have “standing” registers of interests, as well as that containing interests declared during meetings. The legislation also makes it clear that community council clerks are the relevant officers for maintaining the register.

Following commencement of Section 58 of the 2013 Act, the requirements are amended/clarified as follows:-

- (i) There is a duty to establish and maintain a register of members’ interests. The responsibility is with the “proper officer” of the community council i.e. the council clerk.
- (ii) In addition to being available for public inspection, the register of members’ interests must be published electronically and should therefore be available on the website for each community council (each community council is now legally required to operate a website)

### **3. Standards Committee (Joint Committees)**

Section 68 of the 2013 Act amends the duty on the relevant authorities to establish a standards committee, empowering, but not compelling, two or more authorities to establish a joint standards committee.

### **4. Referral of misconduct cases/dispensation applications**

Section 69 of the 2013 Act provides power for local authorities to refer misconduct cases / dispensation applications between standards committees of different authorities.

## **RECOMMENDATION**

To note the changes listed in the report and to give particular consideration to paragraph 2 and whether or not compliance issues in relation to this new responsibility should form part of the standards committee’s next work programme.

ATODIAD / ENCLOSURE

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Statutory Guidance

# Access to Information on Community And Town Councils

May 2015



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# **WELSH GOVERNMENT GUIDANCE**

## **ACCESS TO INFORMATION ON COMMUNITY AND TOWN COUNCILS**

## **Status and Application**

This guidance applies to Community and Town Councils in Wales. It is issued, in part, under section 55 of the Local Government (Democracy) (Wales) Act 2013. Section 55 places duties on local authorities to make certain information available electronically. When carrying out their duties under section 55, Community and Town Councils have a statutory duty to have regard to this guidance.

This guidance also explains further provision made in the Local Government (Democracy) (Wales) Act 2013 concerning public notices, Council meetings and proceedings and registers of members' interests.

## **Background**

1. The Local Government (Democracy) (Wales) Act 2013, referred to as “the Act” throughout this guidance, gained Royal Assent on 30 July 2013. Its primary purpose was to reform the constitution and functions of what is now known as the Local Democracy and Boundary Commission for Wales. The Act, however, introduced various other provisions connected with local government.

2. Sections 55 to 58 of the Act are concerned with access to information, and most particularly, access to information about Community Councils (section 58 applies also to County / County Borough Councils, Fire and Rescue Authorities and National Park Authorities in Wales). For the purposes of this guidance, any reference to a Community Council or Councils includes any Community, Town or City Council which serves a community or grouped community and was established in accord with Part II of the Local Government Act 1972.

3. In summary, the Act requires Community Councils to have websites; to publish notices and papers electronically; and to publish their register of members' interests electronically (those maintained under section 81 of the Local Government Act 2000).

### **Community Council websites – section 55**

4. Section 55 of the Act requires Community Councils to publish electronically information about how to contact it and, if different, its clerk. The information which

must be available electronically includes a telephone number, a postal address and an email address.

5. In addition, the council must publish electronically information about each of its members, including a list of the council's members, each member's name, information about how they may be contacted, party affiliation (if any) and any office held or committee they belong to within the Council. If the community concerned is divided into community wards, the ward each member represents must be shown.

6. The Community Council must also publish electronically the minutes of its meetings and, so far as reasonably practicable, documents referred to at those meetings. They must also publish their annual audited accounts electronically. In both these cases, Councils are only required to publish material produced after the date when section 55 came into force, i.e after 1 May 2015.

Community Councils are not required to publish any information they are prevented from disclosing by any other legislation.

7. In carrying out its duties under Section 55, Community Councils must have regard to this guidance.

### **Guidance about Community Council websites**

8. It is a decision for each Community Council to take as to whether they will operate their own, independent website, or whether they decide to link up with other Community Councils in their area, or the Principal Council, or some other body which is happy to host their site. It is, however, a requirement that there is a regularly updated website providing the public with the ability to access the information described above.

9. The Welsh Government intends to improve public engagement with local government generally and Community Councils in particular. We feel it necessary for all local authorities to be contactable electronically and to publish information on the Internet. Local residents would expect to be able to have this facility.



10. The majority of Community Councils in Wales already have a presence online and publish information electronically. Community Councils are urged to seek assistance from One Voice Wales, their Principal Council or other reliable sources if they need it to develop their web presence.

11. Under section 55, the Council must publish electronically its telephone number, postal address and e-mail address on the website. Councils should have a generic email address and not use a personal email address, enabling the Clerk to access messages. The information must be available for the Council Clerk if the Council does not have an office address or telephone number. In some cases, the Community Council will have its own, or a share of, offices and the telephone number, postal address and e-mail address for these premises would be appropriate. Councils will be expected, however, to have arrangements to ensure messages are regularly retrieved and responded to.

12. It is not obligatory for individual members to have e-mail addresses. In a Principal Council this would be expected because the Council itself can usually provide e-mail addresses on the Council's site. However, the members' names must be listed and details of how they may be contacted must be available online. Some Councils will wish to place photographs of each member but this is a decision for them.

13. The Act requires that the political affiliation of the members of the Council is published. Some Community Councils choose not to do this at present. However, the public has a right to know the political persuasions of those in elected office or whether they are independent of any group. It is unacceptable for a member to hide their political affiliation.

14. If the Community Council is divided into community wards, the ward the member represents must be published. If they hold office of some sort in the Council or belong to a council committee of some sort, it must be published on the site.

15. Co-opted members should be recorded in the interest of transparency to distinguish them from elected members.

16. Paragraphs 4 to 6 above describe the documents which need to be posted on the website. Councils should develop procedures for keeping their site in good order, with past documents archived for a reasonable period, but easily accessible from the front page.

17. If the Council has a Welsh Language Scheme and its practice under the Welsh Language Scheme is to produce material bilingually, then that applies the same to material that is produced electronically.

18. The Act's provisions should be viewed as outlining the minimum requirements. Many Councils will want to place far more information than this on their webpages and are encouraged to do so. Councils will need to have regard to the Code of Recommended Practice for Local Authority Publicity when considering the appropriateness of what they may wish to publish.  
<http://wales.gov.uk/topics/improvingservices/publicationevents/publications/local-authority-publicity-wales/?lang=en>

19. We would expect Community Councils to consider community needs including language, communication and accessibility. Attached is a link to Diverse Cymru's website which gives further guidance. <http://www.diversecymru.org.uk/>

20. All Community and Town Councils should register with the following website, if you would like Super Fast Broadband to be considered in your local community.  
<http://btsf-wales-uat.lbi.co.uk/home>

### **Information about meetings and proceedings**

21. Under existing legislation Community Councils are required to post any public notices in one or more conspicuous place within their area, and anywhere else which appears to be desirable for giving publicity to the notice (section 232 of the Local Government Act 1972). The Act places an additional requirement on Community Councils to publish any such notice electronically.

22. Existing legislation requires Community Councils to give notice of forthcoming Council meetings three clear days before the meeting is to be held by displaying a notice in a conspicuous place in the community. The Act places an additional

requirement for such notices to be published electronically. This must be done three clear days before the meeting. There is also a requirement to publish electronically, so far as is reasonably practicable, any documents relating to the business to be transacted at the meeting. This requirement does not apply where the documents relate to business which, in the opinion of the Council, is likely to be transacted in private or where the disclosure of such documents would be contrary to any other legislation.

23. Under Schedule 12 to the Local Government Act 1972 a community meeting may be convened at any time by a group of local government electors amounting to 10% of the local government electors for the community, or 50 of the electors (if 10% exceeds 50 electors). Those convening the meeting must give notice to the Community Council or, if there is no Community Council established in the area, notice must be given to the Principal Council in whose area the community lies. Under the new provisions, notice may be given to the Community Council either in writing or electronically. Where it is given in electronic form the notice must comply with the technical requirements set by the Principal Council.

24. The Act places a requirement on Community Councils and Principal Councils to provide a facility for notices to be given electronically and public notice of the community meeting must be published electronically as well as through traditional mediums.

25. Finally, the Act contains new requirements relating to the registration of members' interests. Section 81 of the Local Government Act 2000 requires a Community Council (as well as other authorities) to maintain and publish a register of members' financial and other interests as are specified in the model code of conduct (prescribed by Order under section 50 of the 2000 Act<sup>1</sup>). Prior to commencement of section 58 of the Act, the register needed to be available for inspection at Council offices at all reasonable hours. Section 58 of the Act requires that the register is also published electronically. In addition, the Act transfers responsibility for establishing and maintaining the register of interests from the principal authority's monitoring officer to the 'proper officer' of each Community Council. The 'proper officer' is the member of the Council's staff designated by the Council for this purpose.

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<sup>1</sup> Currently the 'Local Authorities (Model Code of Conduct) (Wales) Order 2008'



Status:  Law In Force

## **Local Government Act 2000 c. 22**

### **Part III CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES**

#### **Chapter V SUPPLEMENTARY**

##### **Disclosure and registration of members' interests etc.**

This version in force from: **May 1, 2015** to **present**

(version 6 of 6)

##### **81.— Disclosure and registration of members' interests etc.**

(1) The monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority.

(2) The mandatory provisions of the model code applicable to each relevant authority ("the mandatory provisions") must require the members and co-opted members of each authority to register in that authority's register maintained under subsection (1) such financial and other interests as are specified in the mandatory provisions.

(3) The mandatory provisions must also—

(a) require any member or co-opted member of a relevant authority who has an interest specified in the mandatory provisions under subsection (2) to disclose that interest before taking part in any business of the authority relating to that interest,

(b) make provision for preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed under paragraph (a) relates.

(4) Any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee [, or by the standards committee of another relevant authority,] <sup>1</sup> in accordance with regulations made under subsection (5).

(5) The [Welsh Ministers]<sup>2</sup> may prescribe in regulations the [—]<sup>3</sup>

[

(a) circumstances in which standards committees may grant dispensations under subsection (4),

(b) procedure to be followed for the granting of dispensations.

]<sup>3</sup>

(6) A relevant authority must ensure that [—]<sup>4</sup>

[

(a) copies of the register for the time being maintained by their monitoring officer under this section are available at an office of the authority for inspection by members of the public at all reasonable hours,

(b) the register mentioned in paragraph (a) is published electronically.

]<sup>4</sup>

(7) As soon as practicable after the establishment by their monitoring officer of a register under this section, a relevant authority must—

(a) publish in one or more newspapers circulating in their area a notice which—

(i) states that copies of the register are available at an office of the authority for inspection by members of the public at all reasonable hours, and

(ii) specifies the address of that office, [ and ]<sup>5</sup>[...] <sup>6</sup>

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

(iv) specifies how to access the electronic version,

] <sup>7</sup>

[...] <sup>5</sup>

[

(c) [...] <sup>2</sup> inform the Public Services Ombudsman for Wales that copies of the register are so available.

] <sup>6</sup>

[(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](#)).

] <sup>8</sup>

[...] <sup>2</sup>

## Notes

1. Words inserted by Local Government (Democracy) (Wales) Act 2013 anaw. 4 [Pt 5 s.69\(3\)\(a\)](#) (May 1, 2015)
2. Amended by Localism Act 2011 c. 20 [Sch.4\(1\) para.48](#) (July 1, 2012: amendment has effect as SI 2012/1463 subject to transitional, transitory and savings provisions specified in SI 2012/1463 art.7(3) and (4))
3. Existing s.81(5) renumbered as s.81(5)(a) and s.81(5)(b) inserted by Local Government (Democracy) (Wales) Act 2013 anaw. 4 [Pt 5 s.69\(3\)\(b\)](#) (May 1, 2015)
4. Existing s.81(6) renumbered as s.81(6)(a) and s.81(6)(b) inserted by Local Government (Democracy) (Wales) Act 2013 anaw. 4 [Pt 5 s.58\(2\)](#) (May 1, 2015)
5. Repealed by Localism Act 2011 c. 20 [Sch.25\(5\) para.1](#) (January 31, 2012: repeal has effect as SI 2012/57 subject to transitional and savings provisions specified in SI 2012/57 arts 6 and 8)
6. Added by Public Services Ombudsman (Wales) Act 2005 c. 10 [Sch.4 para.22\(b\)](#) (April 1, 2006)
7. Added by Local Government (Democracy) (Wales) Act 2013 anaw. 4 [Pt 5 s.58\(3\)](#) (May 1, 2015)

8. Added by Local Government (Democracy) (Wales) Act 2013 anaw. 4 [Pt 5 s.58\(4\)](#) (May 1, 2015)

## Modifications

Pt III	Modified in relation to the shadow authority by <a href="#">Bedfordshire (Structural Changes) Order 2008/907, Pt 5 art. 16(8)</a>
	Modified in relation to each shadow authority by <a href="#">Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(5)</a>
	Modified in relation to a Welsh Part 3 panel and the members of such a panel by <a href="#">Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012/2734, reg. 6, reg. 5, Sch. 1(3) para. 33</a>
	Modified in relation to any allegation that a member or co-opted member of the London Assembly has failed, or may have failed, to comply with that authority's code of conduct by <a href="#">Police Reform and Social Responsibility Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2011/3019, art. 5(2)</a>
	Modified in relation to any allegation that a member or co-opted is not a member of the London Assembly has failed, or may have failed, to comply with that authority's code of conduct by <a href="#">Police Reform and Social Responsibility Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2011/3019, art. 5(3)</a>
	Modified in relation to references to the Local Commissioner in Wales by <a href="#">Public Services Ombudsman (Wales) Act 2005 (Transitional Provisions and Consequential Amendments) Order 2006/362, art. 4(5)</a>

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